



INTEGRITY IN PUBLIC LIFE

COUNCILLORS' CODE OF CONDUCT GUIDANCE

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CONTENTS

Section 1:	<u>Introduction to the Code of Conduct</u>	3
Section 2:	<u>Key Principles of the Code of Conduct</u>	4
Section 3:	<u>General Conduct</u>	5
	<u>Relationship with Other Councillors and Members of the Public</u>	5
	<u>Relationship with Council Employees</u>	7
	<u>Bullying and Harassment</u>	7
	<u>Conduct at Meetings</u>	7
	<u>Gifts and Hospitality</u>	9
	<u>Confidentiality Requirements</u>	10
	<u>Use of Council Facilities</u>	11
	<u>Appointments to Partner Organisations</u>	13
	<u>Dealings with the Council</u>	13
Section 4:	<u>Registration of Interests</u>	14
Section 5:	<u>Declaration of Interests</u>	16
	<u>Your Financial Interests</u>	16
	<u>Your Non-Financial Interests</u>	17
	<u>The Non-Financial Interests of Other Persons</u>	18
	<u>Making a Declaration</u>	19
	<u>Frequent Declarations of Interest</u>	19
	<u>Dispensations</u>	20
	<u>Definition of Exclusions</u>	20
Section 6	<u>Lobbying and Access to Councillors</u>	22
Section 7:	<u>Taking Decisions on Quasi-Judicial or Regulatory Applications</u>	23
	<u>Fairness and Impartiality</u>	23
	<u>Decisions on Planning Matters</u>	24
Annex C	<u>Protocol for Relations between Councillors and Employees in Scottish Councils</u>	27

GUIDANCE ON THE COUNCILLORS' CODE OF CONDUCT

SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

The Councillors' Code of Conduct originally came into force in 2003, before being reviewed and re-issued in 2010. The latest version of the Code was issued by the Scottish Government in July 2018, with the approval of the Scottish Parliament.

The Standards Commission has produced Guidance on the Councillors' Code of Conduct, in a document which also contains the Code. The document also contains case illustrations and examples of factors councillors may wish to consider when applying the requirements of the Code. Councillors should be mindful, when seeking to apply the Code of Conduct to their own situation or circumstances, that the lists of factors in the guidance and examples provided are not exhaustive. It is a councillor's personal responsibility to ensure that he or she complies with the provisions of the Code.

Paragraph 1.5 of the Code provides that while councillors must observe any guidance from the Standards Commission, it is not a substitute for the Code. The purpose of the Guidance is to provide supplementary information to aid Councillors in interpreting the Code. Councillors are, therefore, obliged to ensure they have read and understood the provisions of the Code itself. Reading the Guidance should in no way be considered a substitute for doing so.

This document is a standalone version of the Guidance, without the Code embedded. It is intended to provide easy access to the Guidance itself.

The Standards Commission will continue to review the Guidance on a regular basis to ensure it is relevant and fit for purpose. As such, any feedback, comments or suggestions for improvements are welcome.

Using this Guidance:

- Guidance points are listed under the Headings to the relevant paragraphs of the Code to which they refer.
- Case illustrations are included in italics (with a purple background).

GUIDANCE

- 1 The revised Councillors' Code of Conduct was approved by the Scottish Parliament and is effective from 9 July 2018.
- 2 This Guidance Note also comes into effect on 18 December 2018 and replaces the previous version, which came into effect on 9 July 2018.
- 3 This guidance is for Councils and councillors. It is also directed to co-opted members of committees and sub-committees who are not elected councillors. All references to 'you' in the Guidance are directed specifically at councillors and co-opted members of committees and sub-committees.
- 4 Councils should make arrangements to deliver training and induction sessions on ethical standards and they should strongly encourage attendance by all their councillors and senior officers at each session. The Standards Commission is willing to support any such programs wherever practical.

- 5 You should attend training and induction sessions on ethical standards and should ensure you are familiar with, and understand, the provisions and principles of the Code and this Guidance Note. You should seek assistance before you act if you are unsure as to how the Code should be interpreted and applied.
- 6 You are encouraged to promote and support the Code at all times and to encourage others to follow your example in doing so. Experienced councillors should consider whether they can act as a mentor to others to help them to understand the Code.
- 7 The Code should be read as a whole. It may be necessary to cross reference different provisions.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

- 8 The key principles themselves are for guidance and you should ensure that you have regard to and follow these principles. However, a breach of one or more of the key principles does not in itself constitute evidence of a breach of the Code.
- 9 The key principles are there to help you interpret and apply the Code. However, it is your personal responsibility to make sure you are complying with the provisions of the Code. In doing so, you may need to exercise your judgement and consider how a member of the public, with knowledge of the relevant facts, would reasonably regard your actions or decision making in your role as a councillor. This is not the same as members of the public not liking a decision you have made or an opinion you have expressed legitimately in the course of your work; it is about whether you have acted properly.

SECTION 3: GENERAL CONDUCT

Relationship with other councillors and members of the public

- 10** You must treat everyone you come into contact with in the course of your work as a councillor with courtesy and respect, even if you disagree with their views.
- 11** It is very important to note that the rules of good conduct set out in Section 3 must be observed in all situations where councillors are acting as councillors, including representing the Council on official business. 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 how it is viewed by a member of the public. You may wish to treat the Code as being applicable in all situations in which you might be perceived to be acting as a councillor. Factors to consider include whether:
- you are clear about the capacity in which you are acting;
 - you describe yourself as a councillor or are otherwise readily identifiable as a councillor in the situation / circumstances;
 - you are on Council premises or at a Council event;
 - you are using social media where you are identifiable as a councillor;
 - your conduct could reasonably be regarded as bringing your position as a councillor, or your Council, into disrepute;
 - you are engaged in political activity, or comment on political matters and whether these fall within or outwith the scope of the council's functions;
 - you are representing the Council or speaking on behalf of the Council.
- 12** You should always think ahead. If you have any concerns about a potential problem, speak to the Monitoring Officer or Chief Executive so that advice can be sought and /or action can be taken before a situation becomes a serious problem. This could avoid or reduce the likelihood of an inadvertent breach of the Code and / or complaint being made about you.
- 13** The rules of good conduct can apply when you are engaging in media activity including using social media. Social media is a term used to describe on-line technologies, applications and practices that are used to share information, knowledge or opinions. These can include, but are not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites. 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. Factors to consider when using social media include whether:
- you are identifiable as a councillor by directly referring to yourself as such or indirectly by referring to the Council or through information or images posted;
 - you are using Council equipment and / or your Council's information technology network or your own;
 - you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions;
 - you have complied with any policy your Council has produced on the use of social media;
 - information you are posting is confidential and you only have access to it because you are a councillor;
 - you are demonstrating bias or pre-determination – do not express an opinion on an application you will be determining;
 - you have considered the immediate and permanent nature of the contribution you are about to make.

14 As a councillor, your right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) attracts enhanced protection when your comments are political in nature. However, you may also wish to think about:

- whether your comments are likely to bring your office or the local authority itself into disrepute;
- 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 perceived in the circumstances as endorsing the original opinion, comment or information, including information on other sites;
- whether to allow disagreement on your social media pages;
- tone can be harder to convey online so consider whether humour, irony and sarcasm can be perceived as such;
- whether you have to respond;
- the stricter rules that apply to election publicity;
- whether anything you post could be considered obscene.

The Standards Commission has produced an Advice Note that outlines the approach it will take when issues that concern the application of Article 10 of the ECHR and the right to freedom of expression arise. It also suggests issues councillors should consider in order to ensure compliance with the provisions concerning courtesy, respect and confidentiality in the Code. The Advice Note is available on the Standards Commission's website.

Complaint alleged that the councillor had posted a homophobic comment on the complainer's Facebook page and that he had accessed his account using a Council issued mobile phone when doing so. The councillor had not distinguished between his personal and public role when accessing the Facebook account. It was found that the comment made by the councillor had clearly been intended to impugn and demean the complainer. The councillor was found to have breached the respect provisions in the Code.

Complaint alleged that a councillor made a number of allegations and critical comments on his online blog about the complainer, who was a fellow councillor, which were of a personal and insulting nature. It was found that the comments had been made without factual basis, were disrespectful and were clearly intended to impugn and demean the complainer in a public forum. The councillor was found to have breached the Code.

Complaint alleged that a councillor had made remarks of an abusive, insulting and personal nature to the complainer, a police officer, and also made a number of unfounded allegations about him during two telephone calls to a Police Station. It was found that the councillor had made the telephone calls in his capacity as a ward councillor and concluded that the provisions of the Code applied to him at the time of the events in question. It was further found that the comments made by the councillor in the telephone conversations amounted to an unacceptable personal attack on the complainer and that he had breached the respect provisions in the Code.

Relationship with Council Employees (including those employed by contractors providing services to the Council)

- 15** It is understood that in the political environment of local government there may be tensions between individual councillors and between party groups. Factors such as minority Administrations, coalitions and multi-member wards may have a bearing on such tensions but it is essential to ensure that the interests of the electorate are represented as effectively as possible. Respect by councillors for one another and for the Council's employees plays a key role in this. The requirement to respect all Council employees includes employees of contractors providing services to the Council.

Complaint alleged that a councillor had become involved in a social care case on behalf of a constituent during which time he had inappropriately sought to influence operational decision-making. In doing so, he lost sight of his overall responsibility to the Council to allow its officers to perform their statutory functions. He had also been discourteous and disrespectful in certain correspondence with Council officers. He was found to have breached the Code.

Complaint alleged that a councillor engaged in public criticism of the Chief Executive of his Council by posting information and comments on the opposition councillors' Facebook pages. The Councillor did not give the Chief Executive an opportunity to respond before publishing the comments on the Facebook page.

A councillor made comments in the press which were publicly critical of the capability of a newly appointed Council employee. It was found that the councillor had been disrespectful to the new employee and had breached the Code.

Bullying and Harassment

- 16** The Standards Commission has produced an Advice Note for Councillors on Bullying and Harassment. The Advice Note is available on the Standards Commission's website. It should be noted that bullying and 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.

Complaint alleged that a councillor had behaved in a disrespectful manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be disrespectful and in breach of the Code.

Conduct at Meetings

- 17** The word 'Chair' in paragraph 3.7 is not restrictive to that specific term. The provision also applies to anyone holding a similar chairing or convening role.
- 18** The role of the Chair in any Council meeting, which includes a Committee meeting or a meeting of a working group or similar forum, is to ensure that the agenda of business is properly dealt with and clear decisions are reached. To do this, the Chair has a responsibility to ensure that the views and opinions of other participants (including the advice of officers) are allowed to be expressed and, at the same time, they have a

responsibility for proper and timely conduct of the meeting and for helping to ensure the meeting is conducted in compliance with the Council's Standing Orders. This includes determining the point at which conclusions should be reached. It requires a balanced approach to ensure fairness to participants while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting. If you are present, you share the responsibility for the proper and expeditious discharge of business. The role of the Chair in reaching such judgements should be supported and respected.

- 19** You are accountable for your own individual conduct at all times in terms of the Code when you are in the Chamber or Committee and at meetings where you are representing the Council, irrespective of the conduct of others. Abusive or offensive language and / or unnecessarily disruptive behaviour should not be tolerated. It is a matter for the Chair to rule on the acceptability of language used during the course of a meeting and to take appropriate action as necessary, including requiring the withdrawal of a remark, requiring an apology, or any other action required to allow the meeting to properly proceed. Factors to consider include whether:
- your behaviour, including your body language, is courteous and respectful even when you hold a different view;
 - you are treating others with respect and consideration;
 - your choice of language in meetings is appropriate and meets the high standards expected by the general public;
 - it is appropriate to refer to other councillors by nicknames or by referring to them in the second person by using terms such as 'you';
 - newspapers, mobile phones and other tablet devices are being used appropriately or whether their usage could be perceived as you not being engaged in the meeting or listening to what others are saying;
 - your conduct could diminish the public's opinion of, and trust and confidence in, its elected representatives.

Complaint alleged that a councillor had been disrespectful during a meeting of the Council's Regulation and Licensing Committee towards an applicant who was looking to renew his taxi licence. It was found that the councillor's remarks amounted to a personal attack and were not relevant or appropriate comments and questions to use in determining whether the applicant was a fit and proper person to hold the licence. He was found to have breached the Code.

Complaints alleged that a councillor had failed to comply with the provisions of the Code by behaving in a disrespectful manner towards the Provost and other elected members at a meeting of the Council. This had included talking and shouting over the Provost, who was chairing the meeting, on several occasions in an aggressive manner, despite the Provost making it clear she wished him to stop. It was found that the councillor had breached the Code by failing to show respect to the Chair at the meeting of the Council by repeatedly ignoring her directions, by challenging her decisions, by speaking over her and by failing to comply with a ruling she had made.

At a meeting of the Council, a councillor had accused a senior officer of collusion with the Council's Administration and had challenged the officer's integrity. He was found to have breached the Code.

At a meeting of a Planning Committee a councillor made inappropriate comments about a planning application in that she made reference to 'lining developers' pockets'. While she had apologised unreservedly both publicly and privately, she was found to have breached the Code.

Gifts and Hospitality

- 20** When considering whether an offer of hospitality is normal hospitality associated with duties as a councillor in terms of paragraph 3.11(b) and which would reasonably be regarded as appropriate, you should consider all the surrounding circumstances, including the value of the hospitality offered. It is also appropriate for you to consider the nature of your role within the Council e.g. the normal hospitality associated with a councillor's duties may be different to the normal hospitality associated with the duties of a Lord Provost, Provost, Council Leader or Convener.
- 21** While the Code seeks to provide clear guidance about the type of gifts and hospitality councillors should normally avoid, the question of whether to accept a particular offer of a gift or hospitality is your personal responsibility. When considering whether or not it would be appropriate to accept an offer of a gift or hospitality, you should carefully consider factors such as:
- all the circumstances in which the gift or hospitality is being offered;
 - the value or cost of the gift or hospitality;
 - how a member of the public would view the nature of the gift or hospitality;
 - whether the offer is from any individual or organisation who is an applicant awaiting a decision from the Council or who is seeking to do business or to continue to do business with the Council;
 - whether the invitation is to attend something you would not normally attend;
 - whether you would potentially be influenced to show favour to whoever has offered the gift or hospitality;
 - whether acceptance of the gift or hospitality would place you under an obligation or which a member of the public, with knowledge of all the relevant facts, would reasonably regard as having placed you under an obligation;
 - whether you should register gifts and hospitality you have declined in order to demonstrate transparency and provide perspective to what has been accepted;
 - your Council's guidelines or policy on the acceptance of gifts and hospitality.
- 22** Further, you must not accept repeated gifts or hospitality from the same source. With the exception of gifts and hospitality as defined in paragraph 3.11(b) and (c), you should consider very carefully whether it is appropriate to accept a second (and, if accepted, any subsequent) offer of gifts or hospitality from the same source. Factors to consider include:
- the value or cost of the gift or hospitality offered;
 - the time period between the acceptance of the first offer and the second or subsequent offer.
- 23** If you do accept any gifts or hospitality, you must make an entry in the Register of Interests (with the exception of gifts and hospitality as defined in paragraph 3.11(a) – (c)) within one month of receipt.
- 24** In terms of the Bribery Act 2010 the following cases are offences:
- Case 1** is where:
- (a) P offers, promises or gives a financial or other advantage to another person, and
 - (b) intends the advantage
 - (i) to induce a person to perform improperly a relevant function or activity, or
 - (ii) to reward a person for the improper performance of such a function or activity.
- Case 2** is where:
- (a) P offers, promises or gives financial or other advantage to another person, and
 - (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

An example of this might be where a windfarm operator promises to pay community benefit to an organisation in your ward, if you grant planning permission in circumstances where it would not otherwise be granted (i.e. not applying the proper statutory test of considering the provisions of the development plan and all material planning considerations or wrongly taking community benefit into account in determining a planning application).

In other words, while you are only required to declare gifts under this Code of Conduct, a gift to someone else which induces you to improperly undertake a statutory duty, such as granting a planning permission, is still likely to fall foul of the provisions of the Bribery Act 2010. This could result in a criminal prosecution against you.

Complaint alleged a councillor had failed to declare a gift or hospitality received from a recipient of planning permission who was to make further applications for the same development, during a site visit. However, there was no evidence to suggest that any Council representative, including the councillor in question, received any gift or hospitality other than being provided with light refreshments mid-morning. Evidence suggested that these had been provided by the developers, in responding to a Council request. This was not regarded as inappropriate for the purposes of the Code and no breach was found by the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS).

Complaint alleged that councillors who had been appointed by the Council as members of a racecourse committee had failed to declare benefits in the form of entrance badges. It was determined that while these entries had not been declared, the 'benefits' fell within the exception of paragraph 3.11(b) as they could reasonably be regarded as appropriate to the councillors' roles given the Council's promotion and support of the venue as a key partner. No breach was found by the CESPLS.

Confidentiality Requirements

- 25** You have a statutory right, subject to certain statutory exemptions, to Council information under Access to Information rules and the Freedom of Information (Scotland) Act 2002. You also have a right under the common law to request information but only where you can show a need to know that information in order to perform your duties as a councillor. You may be provided with some documents and information, in your capacity as a councillor, for which it is legitimate for a Council to require this to be treated in a confidential way. Given the potential damage that the unauthorised disclosure of confidential material can do to the standing and integrity of a Council, it is essential that you respect the provisions in 3.16 and 3.17. You are also a data user and must not breach the data protection principles in handling information. Council information provided to you must only be used by you for the purpose for which it was provided. Information so held must therefore not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This also applies to instances where you hold the personal view that such information should be publicly available.
- 26** Councillors should be aware that a breach of confidentiality could result in them being personally liable under the Data Protection legislation. This may result in a potential criminal prosecution, civil liability for damages and the power of the Information Commissioner to impose fines as well as the more obvious reputational damage to both you or the Council which may follow.
- 27** You must not provide the media with off the record briefings on the general contents or 'line' of confidential material or information. Disclosures of this kind can also seriously undermine and devalue the work of the Council and its committees.

- 28** Sometimes the confidential nature of the material will be explicit, such as if the document is marked 'confidential'. In other cases, it will be clear from the nature of the information or from the circumstances in which it was provided to you that it is confidential. This may include the following types of information.
- commercial information such as information relating to a contract or a contractor's business;
 - personal information such as information relating to an individual's employment;
 - information which is confidential as a result of a statutory provision;
 - information discussed in closed or private sections of meetings;
 - legal advice obtained by the Council (either provided by officers or external legal advisers). This will be covered by legal privilege and should not be disclosed without the Council's permission;
 - information which is received as a result of a relationship where there is an obligation of confidence, such as between a councillor and a constituent.
- 29** You should be aware of the provisions in relation to disclosure of information contained within Council papers exempt from publication under paragraph 1 schedule 7A of the Local Government (Scotland) Act 1973.
- 30** Sometimes it is a matter of timing in that information may eventually be released. However, you must respect the requirement for confidentiality even if you do not agree with it.
- 31** In the case of other documents and information, you should seek advice if you are in any doubt as to whether they are confidential. You should exercise your judgement on what should or should not be made available to outside bodies or individuals.
- 32** As a councillor, you are in a position of trust and members of the public may provide you with information that could reasonably be regarded as confidential. If the status of any discussion is unclear, you should establish at the earliest possible opportunity, whether some or all of the matters being discussed are to be treated as being confidential.
- 33** You should be aware of the provisions of the Data Protection legislation. If you hold personal information (such as details of constituent enquiries), you will require to be registered under the Data Protection legislation. When holding such personal information you must abide by the following rules:
- You must only use the information for the purposes for which it was given.
 - You must not share this information with anyone without the consent of the person giving the information. If a constituent or other member of the public asks you to resolve an issue you are allowed to contact officers to attempt to resolve the issue on behalf of your constituent.
 - You should not keep the information any longer than you need to.

Complaint alleged that the councillor disclosed confidential information relating to the health of an officer of the Council to a third party. It was found that the councillor had breached the Code by disclosing information about the officer to a third party which was private, personal and sensitive and that was, by its very nature, confidential.

Use of Council Facilities

- 34** As a general rule, facilities paid for by the public purse, and provided for use in Council business, should only be used for Council business unless otherwise expressly permitted by the Council itself. However, it is recognised that some Councils may allow councillors

occasional personal use of Council provided facilities such as laptops, mobile telephones, tablets etc.

- 35** Incidental personal use of Council facilities is permissible provided that it is authorised by the Council and permitted under the Council's policies. You should make yourself aware of your own Council's policy.
- 36** Facilities must never be used for party political or campaigning purposes. You are reminded of the relevant provisions of section 2 of the Local Government Act 1986, as amended by the Local Government Act 1988, which are as follows:
2. Prohibition of Political Publicity
- (i) A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.
- (ii) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters -
- (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;
- (b) where material is part of a campaign, the effect which the campaign appears to be designed to achieve.
3. A local authority shall not give financial or other assistance to a person for the publication of material which the authority is prohibited by this section from publishing themselves.
- 37** Councils and councillors should take into account and adhere to the terms of the Code of Recommended Practice on Local Authority Publicity issued in terms of section 4 of the 1986 Act.
- 38** The provisions under paragraph 3.18 apply at all times and not just when you are acting as a councillor. Other factors to consider include:
- whether you are either explicitly or impliedly consenting or allowing others to use Council facilities improperly;
 - how the resource you are using is funded – e.g. any transport or administrative support;
 - whether the resource is being used for carrying out official Council business or for activity which has expressly been authorised by the Council or whether you are using it for something else as well;
 - whether you are asking officers to act in any way which would conflict with or call into question their political impartiality, or which could give rise to criticisms that people paid from public funds are being used for party political purposes.

Complaints alleged that the councillor had used council facilities to send an email in relation to an application for planning permission submitted by his own company. He was found to have breached the provision in the Code concerning the use of Council facilities.

Complaint alleged that the councillor used his Council email account and computer to send an email asking for help in delivering party political campaign leaflets. It was found that the councillor had breached the provision in the Code which prohibits the use Council facilities for party political or campaigning purposes.

Appointments to Partner Organisations

- 39** Authorities will frequently appoint councillors onto outside bodies. If you are appointed to an outside body, you are still bound by the Code but you will also have responsibilities as a member of the outside body. These responsibilities will potentially include personal liabilities and may also raise questions of conflict of interest. Conflicts of interest may arise through competing personal interests, or the competing interests of the respective organisations of which you are a member. Councils will therefore need to consider this issue carefully when appointing councillors to outside bodies. You need to consider carefully whether you can accept such appointments in each case. The Standards Commission has produced an Advice Note for Councillors appointed to Arm's Length External Organisations (ALEOs). The Advice Note is available on the Standards Commission's website.
- 40** You are reminded of the specific exclusions detailed within paragraph 5.18. As a member or director of an outside body you need to consider whether the outside body falls within one of these. You are reminded to be aware of how membership of other bodies impacts on your need to declare interests. However, membership of statutory joint boards or joint committees composed exclusively of councillors does not raise any issue of declaration of interests.
- 41** You should ensure you are clear about the different roles and responsibilities on the different bodies – including Companies Act and the Office of the Scottish Charity Regulator (OSCR) requirements and being bound by provisions in Codes that may cover the other bodies as well.
- 42** If you have any doubts about your responsibilities or the impact of an appointment on other areas of the Code, you should seek early advice in advance of accepting appointment or meetings. Advice can be sought from Council officers or, if appropriate, from officers of the outside body.

Complaint alleged that a councillor sought preferential treatment when contacting officers about a planning application his neighbour had submitted and, in particular, had sought information, which would not normally be available to members of the public. The councillor had also sought to exert influence in asking that the matter be dealt with urgently. It was found that his actions amounted to attempts to seek preferential treatment and that he was in breach of the Code.

Dealings with the Council

- 43** As a councillor, you must not only avoid conduct which seeks to further your own particular interests, or the personal interests of others, but you must also avoid conduct that may give the impression you are seeking preferential treatment. The test is not only whether it is your intention to seek preferential treatment but also whether a member of the public, with knowledge of all the relevant facts, would reasonably consider that preferential treatment was being sought.

SECTION 4: REGISTRATION OF INTERESTS

- 44 The requirements of this part of the Code are intended to give members of the public confidence that decisions are being taken in the best interests of the public and not those of councillors or their family, friends or personal associates.
- 45 The Register should cover the period 12 months prior to you being elected and continues throughout your term of office. For example, if you were newly elected or re-elected to office in May 2017, your Register should cover the period commencing May 2016 and include the subsequent term of office. Should an interest no longer apply (for example if you cease to receive remuneration through employed work during your term of office), the entry should still be listed in the Register and retained for the whole term of office.
- 46 You should be aware that the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 indicates that officers of the Council must retain the record for a period of five years after the date a councillor ceases to be in office.
- 47 In terms of 2003 Regulations, you are required to update your entries in the Register of Interests within one month of your circumstances changing. This includes registering the receipt of gifts and hospitality. While the Guidance for Councillors and Local Authorities in Scotland states that Councils should issue a reminder to you every six months, it is nevertheless your personal responsibility to ensure your entry is updated within one month of a new interest arising or your circumstances changing.
- 48 Under Category One: Remuneration, the level of remuneration does not matter in terms of registration, the question is only whether you have received remuneration. This means paid work, no matter how casual or trivial in nature, requires to be registered.
- 49 For categories where the Code does not specifically mention the level of detail to be registered, it is for you to decide. In making such a decision, you should observe the key principles and, in particular, those of selflessness, integrity, openness and honesty. In terms of paragraph 4.20, you are required to provide the full address of the houses, land and buildings or sufficient information to allow them to be identified. This is for the purpose of the official register. What is published on the Council's website does not necessarily require to be as detailed (for example it might just say you own a residential property in Glasgow).
- 50 In relation to paragraph 4.19 of the Code, there is no requirement to register residences outwith Scotland. In exceptional circumstances where such an interest may affect a matter before the Council, it will be for you to declare that interest in terms of the requirements of the Code. However, you must register houses, land and buildings in Scotland even if they are outwith your council area.
- 51 When considering whether you have a registerable non-financial interest, you should bear in mind that the test is whether the interest is one which members of the public might reasonably think could influence your actions, speeches or votes in the Council. An example of this might be membership of a society. You should consider whether such membership might lead members of public to reasonably think it could influence your actions, speeches or votes in terms of paragraph 4.23. If so, you should register the interest
- 52 You should consider erring on the side of caution. This may mean you register a large number of non-financial interests. If so, you are reminded that where a non-financial interest has been registered under Category eight of the Code, you must then declare this

interest under section 5.7 of the Code (unless the interest is so remote or insignificant that it would not reasonably be taken to fall within the objective test). There is no suggestion in the Code that failing to register a non-financial interest that should be registered under Section 4 can be remedied by declaring it.

- 53 You should bear in mind that the examples of possible non-financial interests given under paragraph 4.23 of the Code are illustrative only and do not represent an exhaustive list of potential non-financial interests.
- 54 In relation to paragraph 4.21 of the Code you will have a registerable interest as a trustee, whether or not jointly with other trustees, where you have an interest as a beneficiary of the trust and where the benefit is greater than 1% of the trust's value or the value of that benefit is greater than £25,000. An interest under shares and securities will also include investments made under self-invested pension plans.
- 55 It is open to you to also declare what gifts and hospitality you decline, if you consider it may help put the gifts and hospitality you have accepted into perspective.
- 56 Annex B of the Code contains definitions of various terms used in Section 4, including 'remuneration', 'undertaking' and 'related undertaking'.
- 57 Where you have been appointed as a member of outside bodies (including where you have been nominated or appointed by the Council), you should ensure that such membership is registered in your Register of Interests either under Category one: Remuneration (if the position is remunerated) or Category eight: Non- Financial Interests (where the position is not remunerated).
- 58 There is no need to register being a councillor or a member of a joint board, a joint committee or of COSLA.

A councillor failed to ensure his 33% shareholding in a company was registered correctly and timeously. While the Hearing Panel accepted that there was no intention to mislead or deceive, and that neither the councillor nor the company had gained any benefit from the oversight, he was nevertheless found to have breached the Code.

Complaint alleged that a councillor failed to register a financial interest in respect of her remunerated employment as an office manager with a MSP. The Hearing Panel noted that the councillor had publicly announced, via a posting on a social media site, that she would be working for the MSP. While it was accepted that this demonstrated there was no evidence of any deliberate attempt to conceal the employment, the councillor was nevertheless found to have breached the Code.

Complaint alleged that a councillor failed to include in her Register of Interests part ownership of a property. It was found that while the councillor's interest in the property was limited until the end of the life-rent, the land register title nevertheless demonstrated that she was a part owner and, as such, should have registered her interest in it. She was found to have breached the Code.

SECTION 5: DECLARATION OF INTERESTS

- 59 Where your only interest is in relation to an item included in a committee minute which is being laid before the Council for formal approval, no declaration is required unless the item proceeds to be discussed or debated as a substantive issue.
- 60 The **objective test** outlined in paragraph 5.3 assumes that a member of the public has knowledge of the relevant facts. The question you need to consider is whether a member of the public, with this knowledge, would reasonably regard the interest as so significant that it would be likely to prejudice your discussion or decision-making in your role as a councillor. Whenever you are considering potential declarations of interest, you should also apply the objective test.
- 61 Paragraph 5.4 makes it clear that you must disclose or declare your personal interests both in formal and informal dealings with Council officers and other councillors, not just in formal Council or committee meetings. This is an important consideration especially when you are seeking advice from Council officers or other sources.

Your Financial Interests

- 62 In cases where no general or specific exclusion applies, if you consider the objective test is met, you should declare your interest and leave the meeting for the duration of the item under discussion / decision. You must NOT remain in the room once you have made your declaration
- 63 If you consider the objective test is not met, you do not need to make a declaration and can take part in the discussion / decision.
- 64 Occasionally, in the interests of transparency you may decide that you wish to explain to the meeting that you have considered the matter in question and reached the conclusion that the objective test is not met and therefore you can take part in the item under discussion / decision. For example, if you are aware that a member of the public could have an incorrect perception that you have a conflict of interest when you are satisfied that you do.

Complaint alleged a councillor who had been appointed to represent the Council on a stakeholder group had participated in a discussion on review of child health and medical services in the Council area at a meeting of the stakeholder group, despite being aware that his employer, who was a MSP, had an interest in retaining certain services under consideration, which had included raising the issue in the Scottish Parliament and making public statements in the press. The councillor had failed to apply the objective test as, had he done so, he would have realised that in raising issues and concerns that were similar to those raised by his employer, a member of the public might have perceived him as being influenced by this employer. It was determined that the nature of an employee / employer relationship could not reasonably be considered to be remote or insignificant. The councillor should have had regard to the objective test and declared a financial interest under paragraph 5.6. He should also have declared the non-financial interest of his employer, as required under paragraph 5.12. The councillor was found to have breached the Code through his failure of not applying the objective test and also not declaring his employer's non-financial interest.

Complaint alleged that a councillor had failed to declare the financial interest of her employer at a Council meeting where it was decided to divert funds to a social enterprise network, despite her employer being a member of the network and a potential recipient of the additional funding. It was found that the councillor should have declared the financial interest of her employer and taken no further part in the discussions and decision-making. The councillor was found to have breached the Code.

Your Non-Financial Interests

- 65** You should be aware that you may have a non-financial interest if the organisation you are associated with has a financial interest, even if you do not have a personal one.
- 66** When deciding whether or not to make a declaration about a direct non-financial interest you should determine:
- Does a general exclusion apply? If so, there is no need to declare.
 - Does a specific exclusion apply? If so, you must declare and consider whether the matter being discussed is regulatory or quasi-judicial in nature before deciding whether or not you need to withdraw.
 - Is the interest too remote or insignificant to fall within the objective test? If so, there is no need to declare.
 - Have you checked the status of the other body you are serving on? Have you registered the interest? If so, you must declare it. You must also withdraw unless the interest is too remote or insignificant to fall within the objective test.
- 67** If you are unclear as to whether another body you are appointed to and / or serve on falls within the specific exclusions outlined in paragraph 5.18(2) of the Code (and, for example, is a devolved public body, is a public body established by enactment or is a company established wholly or mainly to provide services to the Council), you should seek advice from the Council's Monitoring Officer. An up to date list of devolved public bodies as defined in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 can be found at:
www.legislation.gov.uk/asp/2000/7/contents.
- 68** You should declare your interest even if the body you are appointed to and / or serve on falls within the specific exclusions unless you believe, in the particular circumstances, the nature of the interest is so remote or insignificant it should not be declared. However, you only need to withdraw from the meeting if the matter being discussed is quasi-judicial or regulatory in nature (see paragraph 5.18(2)).
- 69** In terms of paragraph 5.9, you should be aware of the impact of any membership of other bodies, societies and organisations. You should consider whether your membership could lead members of public to reasonably think it might influence your actions, speeches or votes in terms of paragraph 4.23. Unless you consider the interest to be so remote or insignificant, you should declare the membership.
- 70** Unless covered by a specific exclusion under paragraph 5.18(2), in issues involving funding from the Council to another body, society or organisation there can be no dubiety. You must declare an interest if you are a member of the body receiving the funding.
- 71** You should not rely on Council officers to remind you of the need to declare interests. It is not always apparent to officers when councillors are appointed to or serve on other groups and / or they may not remember all individual councillors' individual appointments. It is your own personal responsibility to ensure you declare any interests as required by the Code. If you are in any doubt, you should ask for help.

72 Factors to consider:

- Do you know the current status of the other organisation you are appointed to and / or serve on (for example, is it a charity or a Schedule 3 public body)? Has this changed?
- Do you know the composition of the organisation and how it is funded?
- Do you know whether the organisation was established wholly or mainly for the purpose of providing services to the council?
- If you are appointed to an ALEO, are you still able to undertake the scrutiny role?
- Have you considered the different responsibilities of being a member of both organisations and whether there are any conflicts?
- Could a decision coming before a meeting of the Council reasonably be considered by a member of the public to benefit or disadvantage you to a greater extent than other constituents?

Complaint alleged that a councillor had failed to register her non-financial interest as a member of a local Steering Group set up in support of a Business Improvement District (BID). The BID process was a matter of public interest due to the use of public funds and the public ballot of the business community. It was found that as the councillor was a member of the Steering Group prior to, during and after the ballot, members of the public might reasonably have considered that her interest in the organisation could influence her actions, speeches or votes in the Council and, as such, her interest should have been registered. The Councillor was found to have breached the Code.

Complaint alleged that a councillor participated in the consideration of a planning application without declaring his interest as a member of an organisation that would derive a benefit from the development. It was found it would be reasonable for a member of the public to conclude that the councillor's close association with the organisation meant that he may have had an interest in the outcome of the specific planning application, which could prejudice his decision-making. The councillor was found to have breached the Code.

Complaint alleged that a councillor had not declared any interest at three meetings of a policy and scrutiny panel of the Council during which reports were presented about voluntary organisations, including her employer, despite her employer having been mentioned specifically in reports considered at the meetings in question. It was found that the councillor should have applied the objective test, declared a non-financial interest and taken no further part in the discussions and decision-making at the meetings. She was found to have breached the Code

Complaint alleged that a councillor had participated in discussion and voting on an application, when he should not have, due to a registered financial interest and a registered non-financial interest. It was considered that the objective test would have applied and, indeed the councillor confirmed that his voting on the decision was directly related to his interest. It was determined the councillor had breached the Code.

The Non-Financial Interests of Other Persons

- 73** You should consider whether a decision coming before a meeting of the Council might reasonably be considered by a member of the public to benefit or disadvantage a person or body who falls within one of the categories under paragraph 5.12 to a greater extent than other constituents.

- 74 You should be mindful of the need to protect the confidentiality of another person's business or financial interests when making a declaration. You are only required to provide enough information to make it clear why you consider you have a clear and substantial interest.

Complaint alleged a councillor failed to declare an interest in a planning application at a meeting of the Council's Planning Board despite having a close and long-standing friendship with the family who were seeking the planning consent. While the Hearing Panel recognised that there was no personal gain by the councillor, he was nevertheless found to have breached the Code.

Complaint alleged a councillor had failed to declare his non-financial interests and the non-financial interest of close relatives in relation to involvement with a school lobbying group after a planning application to build a new school had been submitted and the formal planning process was underway. The councillor had incorrectly assumed that officers were fully aware of his interests, and also the interests of his family in the lobbying group. It was noted that councillors should ensure that all the relevant information is provided to officers when advice is sought so councillors can be assured that advice given is fully informed and comprehensive. The councillor was found to have breached the Code.

Making a Declaration

- 75 When making a declaration and / or deciding whether or not to do so you should consider the following factors:
- Is the information you are giving sufficient for those at the meeting to understand why you are making a declaration. For example, it may be sufficient to say I declare an interest as my spouse a member of the organisation making the application. You might not necessarily need to provide details about how long your spouse has been a member and in what capacity.
 - Transparency. For example, you may wish to think about whether you should indicate why you have considered making a declaration but have chosen not to on the grounds it is not clear and substantial. If you only realise a declaration is necessary when the discussion in respect of a matter is underway, you may wish to consider whether you should provide a brief explanation why you had not realised you had an interest at the outset of the meeting.

Frequent Declarations of Interest

- 76 Where the only interest is in relation to an item included in a committee minute which is being laid before the Council for formal approval, no declaration is required unless the item proceeds to be discussed or debated as a substantive issue.
- 77 You are reminded that, when considering whether a declaration of interest is appropriate or the effect of making a declaration in terms of the actions you are then required to take, you should refer to the full provisions of the Code. The Standards Commission has produced an Advice Note for Councillors on How to Declare Interests. The Advice Note is available on the Standards Commission's website.

Complaint alleged that, in view of the frequency of declarations of interest made by a councillor, he should have declined to sit on the Planning Applications Committee. In the 12 months since the councillor had been nominated to sit on the Planning Applications Committee he had attended 16 meetings, considered 93 planning applications and declared an interest in eight of these. It was determined that the number of declarations made by the councillor was not such as to prevent him voting on a regular basis on the Planning Applications Committee. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS).

Dispensations

- 78** In such circumstances, applications should be submitted to the Executive Director, The Standards Commission for Scotland, Room T2.21, The Scottish Parliament, Edinburgh, EH99 1SP, setting out in detail all the relevant information including the reasons why a dispensation is sought. Factors to consider before making the application include whether:
- it would be in accordance with both the spirit and intent of the Code of Conduct to grant the dispensation; and
 - you have provided sufficient reasons for the request, including what the effect or consequence would be if it was not granted.
- 79** The Standards Commission will respond as soon as it reasonably can after receipt of all information and will normally be able to provide a response within 20 working days. Where an application for dispensation relates to a specific item of business, the Standards Commission will endeavour to respond before the meeting in question. However, Standards Commission Members only work on a part time basis so this may not always be possible and, therefore, applications should be submitted to the Standards Commission as soon as the relevant information / circumstances are known.

Definition of Exclusions

- 80** The list of bodies to which a councillor may have been nominated or appointed and to which the specific exclusions apply is exhaustive (set out in paragraph 5.18(2)(a)-(d)). This means that a declarable interest would require a withdrawal from the meeting if not covered by an exclusion. For example, if you have been appointed by your Council as a member of a charity, you cannot claim the benefit of a specific exclusion (as the specific exclusions do not include appointments to charities), unless the charity in question also falls within one of the exclusions (for example if it is also a company established wholly or mainly for the purpose of providing services to the your local authority).
- 81** If you have any doubts about whether a body you have been appointed to is covered by a specific exclusion (for example whether it is a public body established by enactment or in pursuance of statutory powers or whether it is a company which has entered into a contractual arrangement with your local authority for the supply of services to your local authority), you should always check before accepting an appointment.
- 82** You should be mindful of the specific responsibilities you have to different bodies and be aware of the potential for conflicts of interests between your different roles, even if another body you sit on is covered by a specific exclusion.
- 83** You should always declare the interest in all meetings where matters relating to or concerning the body in question are to be discussed. However, you can take part in the consideration and discussion of, and to vote upon, any matter relating to the body in question provided you are satisfied the matter is not quasi-judicial or regulatory in nature.

You should nevertheless be mindful that even if a specific exclusion applies, you are still required to declare any other personal interest you may have other than the interest that arises simply through your membership of a body covered by a specific exclusion. If you do have any other interest, you must comply with the objective test.

- 84** If you are a member of a Regional Transport Partnership (RTP) you should be mindful that the specific exclusion that applies to you is different to the specific exclusion under paragraph 5.18(2)(a)-(d) in that it includes quasi-judicial and regulatory matters except where the RTP has made an application to the council, has formally objected to an application made by another party, or is the subject of an order made or proposed to be made by the Council.

SECTION 6: LOBBYING AND ACCESS TO COUNCILLORS

- 85** As a councillor you will probably be approached by those wishing to make their views known. This is perfectly legitimate, and should be encouraged, in that it is an essential part of the democratic process that any individual should be allowed to lobby a council or councillor.
- If you choose to be an advocate for or against a particular cause, you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause. If you are approached, you can listen to views expressed but you must make it clear that you cannot lend support or make a decision until the appropriate meeting, when you have heard all the evidence you can:
 - make it known to officers what representations you have received;
 - assist constituents in making their views known to the relevant officer;
 - seek factual information about the progress of a case;
 - advise those that are lobbying who they can contact (i.e. the relevant officer or a councillor who is not on the decision-making committee).
- 86** You must not, however, accept any paid work in which you give advice on how to influence the Council. In other situations, care is needed and you should be guided by the Code and, in particular, consider:
- Could anything you do or say be construed as being improperly influenced to take a particular stance on an issue?
 - Are you giving or could you be perceived as giving preferential access to any one side of an argument?
 - When seeking information on the progress on a case or particular matter are you doing so in a factual way or could you instead be perceived as making representations or lending support?
 - Are you reaching your own view on an application or staffing matter having heard all the relevant arguments and evidence (including the guidance of Council officials) and not simply agreeing or complying with any view expressed by your political group.

Complaint alleged that a councillor failed to engage with, and denied access to, a constituent who had sent an email to the Council seeking information on a motion which had been promulgated by the councillor and approved by the full Council. The Council had referred the individual's email to the councillor for response. The individual considered that the councillor's response and subsequent comments in the press indicated that he did not want to engage with her. However, the Code does not impose specific obligations on individual councillors requiring that a response is made to all who would lobby them. In this case the councillor had responded, albeit that his response made in terms which the complainant found unacceptable. The Commissioner for Ethical Standards in Public Life in Scotland (CESPLS) found that there had not been a breach of the Code.

Complaint alleged that a councillor had been involved in a 'secret' meeting with some local residents. The outcome of the meeting resulted in a Traffic Regulation Order (TRO) which ultimately led to the introduction of parking restrictions. The complainer alleged that by attending the meeting the councillor had failed to be accessible to the public and had demonstrated bias in favour of some residents. The CESPLS established the councillor had been accompanied at the meeting by an officer from the Council's Roads Services and it was the officer's suggestion of implementing a TRO which resulted in the road traffic controls being introduced. No evidence was found that the councillor had indicated support for or against the making of the TRO. The councillor's only role was to attend the meeting with some local residents with a Council Officer. The CESPLS found that no breach of the Code had occurred.

SECTION 7: TAKING DECISIONS ON QUASI-JUDICIAL OR REGULATORY APPLICATIONS

87 The list under paragraph 7.1 is illustrative and not exhaustive. If you are in any doubt about whether an application or matter you are being asked to decide on is quasi-judicial or regulatory in nature, you should seek advice before taking part in any discussion or vote. While the focus of the following paragraphs is primarily on planning matters, the provisions contained within them also apply to other regulatory applications where statutory approval or consent applies.

Fairness and Impartiality

- 88 When making quasi-judicial or regulatory decisions, you must do so objectively and with an open mind. Factors to consider include:
- Am I acting fairly?
 - Have I taken proper account of the public interest?
 - Have I taken account of all the material and relevant facts, evidence, opinions and policies?
 - Have I taken account of advice from council officers who are exercising their statutory duties and functions?
 - Am I able to give clear and adequate reasons for my decision if required?
 - Have I indicated, outwith the committee forum, my support for, or opposition to, the matter which I am due to make a decision on?
- 89 If you have been appointed to an outside body you may – in certain circumstances – be entitled to participate in discussion and voting on matters relating to that body through the application of a specific exclusion as defined in paragraph 5.18(a)-(d) of the Code. It should be emphasised, however, that the specific exclusion does not apply in respect of any matter of a quasi-judicial or regulatory nature, where the body in question is applying to the local authority for a licence, a consent or an approval, is making an objection or representation or has a material interest concerning such a licence, consent or approval or is the subject of a statutory order of a regulatory nature, made, or proposed to be made, by the local authority. For example, if you have been appointed by your council to an outside body and that body has submitted an application to the Council for a theatre licence, you cannot take advantage of the specific exclusion. You must declare your interest and withdraw from the room.

A councillor, as a member of the Council's licensing committee, made comments to the press which demonstrated that he had pre-judged, a House of Multiple Occupation (HMO) license application, before it had been heard by the Committee. The councillor had voted against the license being granted at the Licensing Committee meeting and in doing so had failed to avoid any appearance of improper conduct, which would have reduced the risk of the Council's decision being legally challenged. The councillor had also taken a vote, at a later meeting, on whether the Council should defend its decision to refuse the HMO application, despite knowing that officers and the Convener had expressed concerns about his participation in the item at the initial meeting, and that as he had been individually identified in the subsequent appeal, he was perceived as having pre-judged the matter. The councillor should, therefore, have withdrawn from both meetings and taken no part in the discussion or decision-making on the item at either. He had failed to do so and, was found to have breached the Code.

Complaint alleged that a councillor, in his role as a member of a Licensing Board, stated that he was minded to support the application before the Board had heard all submissions, which indicated he had pre-judged the matter. He was also disrespectful of member of the public who were present as objectors when he questioned them in a confrontational and adversarial manner and was dismissive of their views. Following the Licensing Board decision, a petition for Judicial Review was made seeking reduction of that decision. The petition, which included an account of the conduct of the councillor, was based on grounds that objectors were not afforded a fair hearing. The petition was granted by the Court and legal costs awarded against the Licensing Board. It was found the councillor had breached of the Code.

Decisions on Planning Matters

Policy and Strategic Issues

- 90** Where a Council has been asked to provide a provisional view on whether, in respect of a proposal for a major development, it might be minded in principle to consider granting planning permission, you are entitled to express an opinion in advance of the statutory application being submitted. However, you may only do so as part of the Council's procedures for forming such a provisional view. You must not express a view or an opinion once a planning application has been received as this could be determined to having compromised your impartiality.
- 91** You should ensure that you are familiar with your council's policy on forming provisional views and that you adhere to this.
- 92** You can adopt an advocacy role by, for example, saying you would welcome planning applications or the redevelopment of an area, or would like to preserve greenbelt land or promote industry. However, you cannot then comment on a specific application, once lodged, before the meeting to determine it.

General

- 93** The prohibition on pressuring planning officers or lobbying other councillors in private under paragraph 7.5 applies to all correspondence, not just discussions. For example, it would be a breach of the Code to send an email to other councillors indicating that you are against plans for a stadium development once a planning application had been lodged.
- 94** If you have an interest as outlined in paragraph 7.12, you must declare that interest, take no part in the decision and withdraw fully from the room. If you remain in the room, you could be perceived as trying to influence others. However, having declared your interest in the matter, you are entitled under paragraph 7.15 to make representations on behalf of constituents or other parties before you fully retire from the meeting room.
- 95** Although you are entitled to hold a preliminary view on a matter in advance of a meeting at which a decision will be taken, you must keep an open mind and be prepared to consider the merits of all views and representations made about the matter under consideration before making your decision. You must not make your mind up about a particular matter before you have had the opportunity to consider all the evidence.
- 96** Pre-judging or making a pre-determination may invalidate the Council's decision and leave it open to challenge as well as being a breach of the Code. For example, if you state that 'wind farms are blots on the landscape and I will oppose each and every one

that comes before the committee', you cannot claim to have retained an open mind on the issue or that you are prepared to determine each application on its merit. If, however, you say 'some people find wind farms ugly and noisy so I will need to be persuaded we should allow more in this area', you should not be accused of having pre-judged the application as you have demonstrated you are willing to listen to the merits of an application.

Complaint alleged that a councillor had sent emails from his Council email account to certain members of an Area Committee, making representations in support of a planning application made by a company in which he was a partner. It was found that he had made the representations outwith the Committee forum and not in accordance with the correct procedure. The councillor was found to have breached the Code.

Representations

- 97** Paragraph 7.15 applies to all councillors, irrespective of whether or not they are part of the decision-making process. Where you wish to make representations on behalf of constituents or other parties, you may do so providing that all the conditions outlined above are met, including that you declare your interest in the matter and, having made any representations, you retire fully from the meeting room (it is not sufficient to retire to a public gallery situated within the meeting room).
- 98** If you are making representations and, for example, you wish to support your constituents' views regarding a planning application, you should make this position clear as soon as possible to the chair of the committee and officers. Your declaration of interest should be recorded in the minutes of the meeting.

Complaint was at a meeting of a Planning Committee, a councillor attempted to influence other member of the committee in their consideration of the application by suggesting a site visit. It was found that the councillor had simply suggested a site visit and there was no evidence he had attempted to influence other members of the planning committee in their consideration of the application. Suggesting a site visit in itself did not constitute inappropriate lobbying or influence. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS).

Full Council Decisions

- 99** Where the decision in respect of a planning application or other regulatory decision has to be made by the full Council and you have expressed opinions on the application at a pre-determination hearing or at a previous planning committee, you are entitled to take part in the decision making by the full Council provided you do so with an open mind. However, this applies only to opinions expressed at a pre-determination hearing or at a previous planning committee.

Local or Area Planning Committees

- 100** Where Council procedures allow for decisions to be referred for final decision by a planning committee, including a local or area planning committee, to the full Council or other committee, you may make your provisional views known but only as part of the discussions during the earlier meetings.
- 101** As a member of a planning committee you should make a decision in the public good and not represent any private interest.

102 You should familiarise yourself with the Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures which can be found at <http://www.gov.scot/Topics/Built-Environment/planning/Roles/Planning-Authorities/Documents>

Other Interests

103 The Code recognises that individual Councils will have their own procedures for site visits and does not attempt to be prescriptive about what these procedures should include. However, when attending site visits, you must follow your Council's own procedures for such visits.

Unauthorised developments

104 You must not organise support or opposition, lobby other councillors or put pressure on planning officers to either take or not take investigative or enforcement action. This applies to all councillors, whether members of the planning committee or not.

ANNEX C

PROTOCOL FOR RELATIONS BETWEEN COUNCILLORS AND EMPLOYEES IN COUNCILS

Public comment

105 Councillors should avoid raising any adverse matters about the conduct or capability of employees in public. This includes repeating or purporting to repeat criticisms of officers publicly.

Employees supporting councillors

106 Councillors should not become involved in issues relating to individual employees' pay or terms and conditions of employment, except while serving on a committee delegated to deal with such matters.

Data control and version information				
Date	Action by	Version Updated	Current version	Brief Description
12/07/2018	LJ	N/A	V1.0	Guidance on the Councillors Code of Conduct updated to reflect the amended Councillors' Code of Conduct issued on 9 July 2018.
13/11/2018	EM	V1.0	V1.1	Page 3, Para 2 – date correction
18/12/2018	LJ	V1.1	V1.2	Addition of recent case illustrations and expansion of guidance points 16 and 105.



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