
To: Council

On: 16 December 2021

Report by: Director of Finance and Resources

Heading: Revised Councillors' Code of Conduct

1. Summary

- 1.1 The single Code of Conduct, approved by the Scottish Parliament, is applied to every Scottish councillor in all 32 Local Authority areas within Scotland. The original Councillors' Code of Conduct came into force in May 2003 and was revised in 2010 and 2018.
- 1.2 The Finance, Resources and Customer Services Policy Board considered a report at its meeting held on 3 February 2021 relative to the Scottish Government's consultation on its most recent review of the Councillors' Code of Conduct. The Board noted that elected members would be advised of the final version of the revised Code, once that had been approved by the Scottish Ministers.
- 1.3 On 24 November 2021 the Minister for Social Security and Local Government wrote to all Council Chief Executives advising that the revised Councillors' Code of Conduct would come into force on 7 December 2021.
- 1.4 The Standards Commission has sent the final version of the Revised Code together with guidance on the revised Code and these two documents have already been issued to elected members.

- 1.5 A briefing on the revised Code will be provided to elected members in early 2022.
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2. Recommendations

- 2.1 That the revised Councillors' Code of Conduct and Guidance be noted; and
- 2.2 That it be noted that a briefing on the revised Code would be provided to elected members in early 2022.
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3. Background

- 3.1 All elected members are required to agree to be bound by and comply with the Councillors' Code of Conduct issued in terms of the Ethical Standards in Public Life etc (Scotland) Act 2000. The aim of the Code is to set out clearly and openly the standards that councillors must comply with when carrying out their duties.
- 3.2 The last time the Code was fully reviewed was in 2010 although there have been some minor changes since then with the current version of the Code being implemented in 2018.
- 3.3 The purpose for the review was to bring the Code up to date, to make the Code easier to understand and to take into account developments in society such as the increased use of social media. It also proposed to strengthen the Code to reinforce the importance of behaving in a respectful manner and to make it clear that bullying and harassment was completely unacceptable and should not be tolerated. The aim was to produce a Code that was fit for purpose and would ensure the highest standards of conduct by councillors to maintain and strengthen the trust of those they were elected to serve.
- 3.4 The Minister for Social Security and Local Government, Ben Macpherson MSP has advised all Scottish Council Chief Executives that the revised Councillors' Code of Conduct will come into force on 7 December 2021. This follows the laying of the SSI covering the revised Register of Interests on 8 November and which was cleared by the Scottish Parliament on 6 December.
- 3.5 The main areas of change are:
- A general rewrite changing the Code to the first person and adopting plain English wherever possible. This makes it easier to understand and encourages councillors to take ownership.

- A greater emphasis on addressing discrimination and unacceptable behaviour.
- Stronger rules around accepting gifts, both to protect councillors and to build confidence in their impartiality amongst the general public.
- A substantial rewrite of Section 5 which deals with declarations of interest establishing three clear and distinct stages to determine a declaration – Connection – Interest – Participation. This is a major departure from the current narrative style setting out declaration of financial and non-financial interests of councillors, their spouses/partners and close relatives and associates. There are also changes to the provisions concerning the registration of interests. In particular they no longer require Councillors or the Council to publish a Councillor's home address.
- The revised Section 5 significantly liberalises the guidance/rules around being a council-appointed representative on an outside body. The exceptions to this are for quasi-judicial matters and other situations where such appointments would create a clear conflict of interest.
- Makes clearer the rules around access and lobbying.
- Section 7 which deals with decisions on planning and regulatory matters has been substantially reworked in order to provide a more generic approach that can cover all types of applications and decisions, and not be so heavily focussed on planning matters.

3.6 It should be noted that the date any alleged misconduct occurs is the key date for considering whether the new Code applies, not the date any complaint was actually made. Any alleged misconduct that occurring up to and including 6 December will be considered against the existing Code, and any allegation of misconduct that occurs on or after 7 December 2021 will be considered against the revised Code.

3.7 The Revised Code of Conduct has already been circulated to Councillors along with the Guidance which accompanies the Revised Code. These documents can also be accessed on the Standards Commission website through the undernoted links:-

Revised Code of Conduct -

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

Revised Guidance -

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

The Standards Commission has also updated and revised its Advice Notes in light of the changes to the Code. The revised Advice Notes can be found at;-

<https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>

Implications of the Report

1. **Financial** – none
2. **HR & Organisational Development** – none
3. **Community/Council Planning** – none
4. **Legal** – The report concerns changes to the Councillors Code of Conduct, which is a statutory code governing behaviour and conduct of all elected members.
5. **Property/Assets** – none
6. **Information Technology** – none
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – none
9. **Procurement** – none
10. **Risk** – none
11. **Privacy Impact** - none

12. **COSLA Policy Position** – none

13. **Climate Change** - none

List of Background Papers: Letter dated 24 November 2021 from Ben Macpherson MSP, Minister for Social Security and Local Government to Council Chief Executives

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