



Proposed amendments to the Model Code of Conduct for Members of Devolved Public Bodies

RESPONDENT INFORMATION FORM

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Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

CONSULTATION QUESTIONS

The consultation questions set out below focus on changes that have been made to the Model Code.

We are specifically seeking your views on the amendments that have been made to the Model Code. However, your views on any aspect of the revised Model Code are welcome. When making general comments please specify which sections of the Model Code you are commenting on. If your response refers to a particular paragraph, rather than the section as a whole, please provide a reference to that paragraph(s) following your response i.e. (paragraph 3.10).

General questions

1. Have you used the Code before?

Yes

2. If Yes, in what capacity have you/do you use the Code? If you used the Code as a Board Member could you please name the public body?

Please provide your comment

SEStran Board Members

3. Do you agree that there is a need to review and update the current Model Code?

Yes

Could you provide information to support your response?

The Code has not been significantly reviewed since 2010 and (amended 2014) this provides an opportunity to update the Code to make it more user-friendly for Board Members and the public. The use of the first person and plain English is welcomed.

A review also provides an opportunity to take account of developments in our society such as the role of social media and strengthen key areas including bullying and harassment.

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4. In Section 1, and throughout the Model Code, we have removed unnecessary information to make it easier to understand. Do you have any comments on the changes proposed for Section 1: Introduction to the Code?

Yes

Please provide your comment

The proposed removal of guidance, explanatory and background information from the existing Code is welcome to make the Code more user-friendly, however it should be included in the Standards Commission's guidance on the revised Code. We support the use of case examples within this guidance and within support and training materials provided by the Standards Commission.

5. In Section 2, the Model Code has a new heading "My Responsibilities" which aims to ensure that members accept and endorse that it is their personal responsibility to be aware and comply with the provisions in their Board's Code of Conduct. Do you have any comments on this change in Section 2: Key Principles?

Yes

Please provide your comment

SEStran welcome the changes in this section. The 'My Responsibilities' section clearly sets out Board Members' responsibilities and distinguishes responsibilities from background/introductory information as set out in the current version.

SEStran supports the inclusion and wording of the key principles of the Code of Conduct, as set out in the consultation.

6. In Section 3, General Conduct, the respect provision has been extended to everyone that a member could come into contact or engage with when acting as such, e.g. employees of other public bodies as well as other board members and the general public. We have also included information relating to the use of social media and highlighted that bullying and harassment is totally unacceptable.

This section also cover Gifts and Hospitality. These provisions have been amended to make it clear that they should not be sought or accepted with the exception of minor gifts or hospitality that a member would normally be expected to be offered in their everyday role.

Do you have any comments on the proposed changes in Section 3?

Yes

Please provide your comment

SEStran supports the intention to strengthen this section of the Code. The wording proposed is an improvement of the current content. We have made comments below to further strengthen the proposed wording.

Respect and Courtesy

3.1 SEStran welcomes the expansion of this provision but should read I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am representing my public body and when I am online and/or using social media.

3.2 This provision may benefit from being simplified to: I will advance equality of opportunity; not discriminate unlawfully and will seek to foster good relations between different people.

Gifts and Hospitality

SEStran suggests a full redraft of this section. It is confusing and contradictory at points. For example:

3.12 I will never ask for any gifts or hospitality including money raised via crowdfunding or sponsorship, material benefits or services.

3.19 I will refuse any hospitality offered other than that which would normally be associated with my duties as a board member

3.17(a) Guidance should include a description and examples of minor items

There is also a question on what the benefits are of not including a gifts and hospitality register in the revised Code. This seems to provide little benefit to the Board Member, public body or the public and risks undermining confidence in a public body or individual. SEStran believes the current practice of recording gifts and hospitality should remain.

Confidentiality

SEStran is supportive of the further clarity provided concerning the obligation to keep certain information confidential and the clarity that the provisions apply to all to all confidential information, not just information deemed to be confidential by statute.

SEStran also welcomes the clarity for Board Members' that the onus is on the Board Member to check whether they have consent to disclose such information and that they cannot assume it can be disclosed if they are unable to obtain such consent.

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7. Section 4 has been amended to reflect the changes made throughout the Model Code and to make clearer what kind of information needs to be registered. Do you have any comments on the changes proposed for Section 4: Registration of Interests?

No

Please provide your comment

SEStran is supportive of the changes set out in this section.

8. Do you have any comments on the changes proposed for Section 5: Declaration of Interests? The changes have been made to make it clearer that members need to take responsibility for declaring matters of interest.

Yes

Please provide your comment

If the Connection – Interest – Participation approach is pursued, the Code should clarify that a connection must include the Board Members' consideration of their being a *reasonable perception* of a connection.

Supporting guidance should also make clear the meaning of 'leaving the room' in an online meeting e.g. disconnecting from the meeting or simply turning camera and sound off.

9. Public bodies aim to be open and accessible to the views and opinions of others, and to make their decisions based on the widest possible evidence and arguments. As a Member you will probably be approached by those wishing to make their views known. This is perfectly legitimate but care is needed. We have looked to simplify the Model Code in Section 6 covering Lobbying and Access. Do you think the proposed changes achieve this aim?

Yes

Please provide your comment

SEStran welcomes the changes in this section. This section provides Board Members with additional clarity and examples of different types of lobbying that may take place.

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10. The information in Annex A has been extended to include information about the role of the Ethical Standards Commissioner and the sanctions available to the Standards Commission following a finding of a breach of the Code and what these mean. Do you have any comments on the changes proposed to Annex A?

No

Please provide your comment

N/A

11. Overall, how clear and easy to understand do you find the revised Model Code?

Sometimes unclear

Please tell us where you think the clarity of the code could be improved, and how?

Section 3 - General Conduct, Gifts and Hospitality

This section should receive a full re-draft. The current wording (and layout) is confusing and is contradictory.

SEStran believes the current practice of recording gifts and hospitality should remain.

12. Do you have any other comments on the proposed revisions to the Model Code?

No