

REPORT TO: East Lothian Integration Joint Board

MEETING DATE: 29 October 2015

BY: Chief Officer

SUBJECT: Members' Code of Conduct

1 PURPOSE

To approve the Integration Joint Board Members' Code of Conduct for submission to the Scottish Ministers for approval.

2 RECOMMENDATIONS

It is recommended that the IJB:

- 2.1 To approve the draft Integration Joint Board Members' Code of Conduct for submission to the Scottish Ministers for approval.
- 2.2 To agree that members should abide by the terms of the draft Integration Joint Board Members' Code of Conduct on an interim basis, pending approval and formal adoption.
- 2.3 To agree to respond to the Scottish Government's Consultation on the amendment to The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 by agreeing to the proposed changes in relation to Conflict of Interest.
- 2.4 To note that procedures and forms have been prepared to assist members in completing and maintaining their Registers of Interests and complying with the statutory obligations arising from their appointment to the IJB.
- 2.5 To agree the appointment of the Chief Officer as the Standards Officer for the IJB.

3 BACKGROUND

- 3.1 The Public Bodies (Joint Working)(Scotland) Act 2014 (Consequential Amendments and Savings) Order 2015 has determined that Integration

Joint Boards are 'devolved public bodies' for the purposes of the Ethical Standards in Public Life etc (Scotland) Act 2000.

- 3.2 The Ethical Standards in Public Life etc (Scotland) Act 2000 (the 'Act') requires that Scottish Ministers provide a model code for devolved public bodies, This was first produced in 2002 and was subsequently revised in December 2013 to ensure consistency with Councillors Code of Conduct.
- 3.3 As a devolved public body, the IJB is required to prepare its own Code of Conduct, based on the Model Code issued by the Scottish Ministers. The draft Code of Conduct then has to be submitted to the Scottish Ministers for approval before it is formally adopted and applied to the members of the body concerned.
- 3.4 Work has been undertaken between NHS Lothian and four Lothian local authorities to produce a revised Members' Code of Conduct ('Members' Code') based on the model code but that takes into account the specific aspects of the IJB.
- 3.5 The proposed changes to the model code are contained as tracked changes in Appendix One. If the IJB is minded to approve the Members' Code, it will be submitted to the Scottish Ministers for approval. The Scottish Ministers will then determine when the Members' Code will come into effect.
- 3.6 The general contents of the Members' Code will be familiar to voting members as it shares similar characteristics with NHS board members and the Councillors' Code of Conduct. It is important to note that the Members' Code applies to all members of the IJB, the voting and non-voting. Its main features are:-
 - A list of key principles which govern all conduct – duty, selflessness, integrity, objectivity, accountability and stewardship, openness, honesty, leadership and respect
 - Provision that those principles apply to all conduct when acting as a member of the IJB, in dealings with fellow members, employees, stakeholders and the public in general
 - Rules about the acceptance of gifts and hospitality
 - Confidentiality requirements
 - A duty to complete and maintain a Register of Interests, open to the public, recording significant interests in relation to remuneration; related undertakings; contracts; houses, land and buildings; shares and securities; gifts and hospitality; and non-financial interests
 - An obligation to declare any interests at meetings of the IJB and its committees which the member considers may fall foul of the "objective test" – whether a member of the public, with knowledge

of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice discussion or decision-making

- A process whereby the rest of the voting members present are to decide if the member declaring an interest should withdraw or may remain (this is based on the current provisions in the regulations which are to be amended at a future date to leave the decision about withdrawal to the declaring member as his or her personal responsibility as per the Councillors and NHS Board members code of conduct. There is a current consultation on this issue where the IJB is asked whether or not it agrees with this amendment to the legislation. Appendix 2 contains the Consultation Letter)
- Guidance on lobbying
- The Code makes it explicit that IJB members do not require to declare at meetings their membership of or employment by the council or the health board as a matter of routine, unless there are particular circumstances which go beyond the simple fact of that membership or employment. This matches the position for IJB members when they attend internal health board or council meetings – dispensations have been granted by the Standards Commission to avoid that happening

- 3.7 Complaints can be made to the Commissioner for Ethical Standards who investigates and determines if there has been a breach and so whether a reference to the Standards Commission for Scotland is necessary. The Commission may then hold a hearing, and can apply sanctions including censure, suspension and disqualification as a matter of routine
- 3.8 Upon appointment, IJB members were provided with a form to complete to populate their Register for the first time. Regular reminders will be issued to ensure members keep their register up to date, but members have personal responsibility to declare any changes or additions as they occur. The Register will be published and made available to the public through the internet and on request.
- 3.9 The agenda for every IJB meeting will include “Declarations of Interest” as a standing item, and even where no declarations are made the minute will record that. Both are intended to assist members in keeping the Members; Code in the forefront of their minds and to demonstrate to the public awareness of and compliance with the Code.
- 3.10 Initial advice will be made available to members as they are appointed, both in relation to populating their Registers and compliance at meetings. *Ad hoc* advice will be available on request to members in relation to the Register, and declarations and withdrawal from meetings.

- 3.11 The Act requires that the IJB appoints a Standards Officer. It is proposed that the Chief Officer will be the Standards Officer at this time.
- 3.12 Compliance with the Members' Code is a matter that will be significant to the corporate governance of the IJB and may be subject to audit when arrangements are made for the provision of an internal audit service and possibly an Audit & Governance Committee.
- 3.13 There will be a lapse of time between the IJB's agreement to the terms of the Members' Code and its approval and formal adoption. It is therefore proposed that members should agree to observe and abide by the Members' Code as if it were already approved and adopted.

4 POLICY IMPLICATIONS

- 4.1 The Members' Code is required by legislation and the IJB would not comply if it did not adopt the code.

5 EQUALITIES IMPLICATIONS

- 5.1 There are no equalities issues arising from any decisions made on this report.

6 RESOURCE IMPLICATIONS

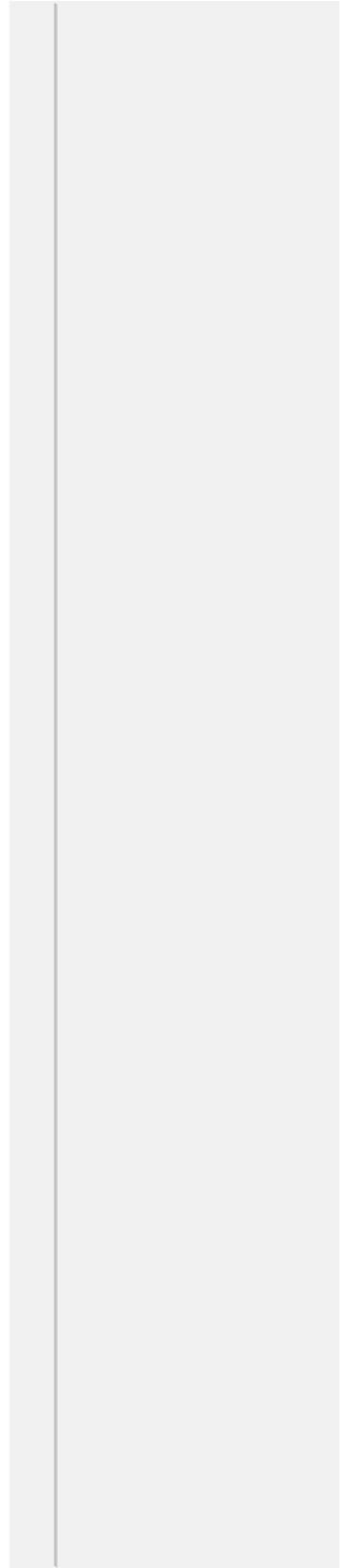
- 6.1 There are no resource implications arising from the consideration of this report.

7 BACKGROUND PAPERS

- 7.1 Ethical Standards in Public Life etc. (Scotland) Act 2000
- 7.2 Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003
- 7.3 Model Code of Conduct
<http://www.gov.scot/Resource/0044/00442087.pdf>
- 7.4 Guidance on the Model Code Of Conduct for Members of Devolved Public Bodies
http://www.standardscommissionscotland.org.uk/webfm_send/392

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DATE	19 October 2015

**CODE OF CONDUCT FOR MEMBERS OF
THE INTEGRATION JOINT BOARD**



CODE OF CONDUCT FOR MEMBERS OF THE INTEGRATION JOINT BOARD

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SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

- 1.1 The Scottish public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. You must meet those expectations by ensuring that your conduct is above reproach.
- 1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000, "the Act", provides for Codes of Conduct for local authority Councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland, "The Standards Commission" to oversee the new framework and deal with alleged breaches of the codes.
- 1.3 The Act requires the Scottish Ministers to lay before Parliament a Code of Conduct for Councillors and a Model Code for Members of Devolved Public Bodies. The Model Code for ~~members~~ Members of Devolved Public Bodies was first introduced in 2002 and has now been revised in December 2013 following consultation and the approval of the Scottish Parliament. These revisions will make it consistent with the relevant parts of the Code of Conduct for Councillors, which was revised in 2010 following the approval of the Scottish Parliament. The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Amendments & Savings) Order 2015 has determined that integration joint boards are "devolved public bodies" for the purposes of the Ethical Standards in Public Life etc (Scotland) Act 2000.
- 1.4 As a member of the Integration Joint Board (IJB), it is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct which has now been made by the ~~Board~~ IJB.

Appointments to the Boards of Public Bodies

- 1.5 Public bodies in Scotland are required to deliver effective services to meet the needs of an increasingly diverse population. In addition, the Scottish Government's equality outcome on public appointments is to ensure that Ministerial appointments are more diverse than at present. In order to meet both of these aims, a board should ideally be drawn from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. It is crucial to the success of public bodies that they attract the best people for the job and therefore it is essential that a board's appointments process should encourage as many suitable people to apply for positions and be free from unnecessary barriers. You should therefore be aware of the varied roles and functions of the public body on which you serve and of wider diversity and equality issues. You should also take steps to familiarise yourself with the appointment process that your board will have agreed with the Scottish Government's Public Appointment Centre of Expertise.
- 1.6 You should also familiarise yourself with how the public body's policy operates in relation to succession planning, which should ensure public bodies have a strategy to make sure they have the staff in place with the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively.

Guidance on the Code of Conduct

- 1.7 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change. You must not at any time advocate or encourage any action contrary to the Code of Conduct.
- 1.8 The Code has been developed in line with the key principles listed in Section 2 and provides additional information on how the principles should be interpreted and applied in practice. The Standards Commission may also issue guidance. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from the public body. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.
- 1.9 –You should familiarise yourself –with the Scottish Government publication "On Board - a guide for board members of public bodies in Scotland". This publication will provide you with information to help you in your role as a member of a public body in Scotland and can be viewed on the Scottish Government website.

Enforcement

- 1.10 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of this Code of Conduct and where appropriate the sanctions that will be applied if the Standards Commission finds that there has been a breach of the Code. Those sanctions are outlined in **Annex A**.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

- 2.1 The general principles upon which this Code is based should be used for guidance and interpretation only. These general principles are:

Duty

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

Selflessness

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

Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

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

Accountability and Stewardship

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

Openness

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

Honesty

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

Leadership

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

Respect

You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of your public body.

- 2.2 You should apply the principles of this Code to your dealings with fellow members of the public body, its employees and other stakeholders. Similarly you should also observe the principles of this Code in dealings with the public when performing duties as a member of the public body.

SECTION 3: GENERAL CONDUCT

- 3.1 The rules of good conduct in this section must be observed in all situations where you act as a member of the public body.

Conduct at Meetings

- 3.2 You must respect the Chair, your colleagues and employees of the public body in meetings. You must comply with rulings from the chair in the conduct of the business of these meetings.

Relationship with Board Members and Employees of the Public Body (including those employed by contractors providing services)

3.3 You will treat your fellow board members and any staff employed by the body with courtesy and respect. It is expected that fellow board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a board member you should be familiar with the policies of the public body in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

Remuneration, Allowances and Expenses

3.4 You must comply with any rules of the public body regarding remuneration, allowances and expenses.

Gifts and Hospitality

3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions or provision of services at a cost below that generally charged to members of the public.

3.6 You must never ask for gifts or hospitality.

3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in your public body. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of the public body.

3.8 You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision your body may be involved in determining, or who is seeking to do business with your organisation, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of your public body then, as a general rule, you should ensure that your body pays for the cost of the visit.

- 3.9 You must not accept repeated hospitality or repeated gifts from the same source.
- 3.10 Members of devolved public bodies should familiarise themselves with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

Confidentiality Requirements

- 3.11 There may be times when you will be required to treat discussions, documents or other information relating to the work of the body in a confidential manner. You will often receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.
- 3.12 It is unacceptable to disclose any information to which you have privileged access, for example derived from a confidential document, either orally or in writing. In the case of other documents and information, you are requested to exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event, such information should never be used for the purposes of personal or financial gain, or for political purposes or used in such a way as to bring the public body into disrepute.

Use of Public Body Facilities

- 3.13 Members of public bodies must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with the public body's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of the public body.

Appointment to Partner Organisations by the IJB

- 3.14 You may be appointed, or nominated by your public body, as a member of another body or organisation. If so, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.
- 3.15 Members who become directors of companies as nominees of their public body will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and the public body. It is your responsibility to take advice on your responsibilities to the public body and to the company. This will include questions of declarations of interest.

SECTION 4: REGISTRATION OF INTERESTS

- 4.1 The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called "Registerable Interests". You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the body's Register. It is your duty to ensure any changes in circumstances are reported within one month of them changing.
- 4.2 The Regulations¹ as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

Category One: Remuneration

- 4.3 You have a Registerable Interest where you receive remuneration by virtue of being:
- employed;
 - self-employed;
 - the holder of an office;
 - a director of an undertaking;
 - a partner in a firm; or
 - undertaking a trade, profession or vocation or any other work.
- 4.4 In relation to 4.3 above, the amount of remuneration does not require to be registered and remuneration received as a member does not have to be registered.
- 4.5 If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two, "Related Undertakings".
- 4.6 If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.
- 4.7 When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.
- 4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

¹ SSI - The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135, as amended.

- 4.9 Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.
- 4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.
- 4.11 Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

- 4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.
- 4.13 You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration .
- 4.14 The situations to which the above paragraphs apply are as follows :
- you are a director of a board of an undertaking and receive remuneration declared under category one - and
 - you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

- 4.15 You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.19 below) have made a contract with the public body of which you are a member:
- (i) under which goods or services are to be provided, or works are to be executed; and
 - (ii) which has not been fully discharged.
- 4.16 You must ~~register~~ a description of the contract, including its duration, but excluding the consideration.

Category Four: Houses, Land and Buildings

- 4.17 You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed.

4.18 The test to be applied when considering the appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision making.

Category Five: Interest in Shares and Securities

4.19 You have a registerable interest where you have an interest in shares comprised in the share capital of a company or other body which may be significant to, of relevance to, or bear upon, the work and operation of (a) the body to which you are appointed and (b) the nominal value of the shares is:

- (i) greater than 1% of the issued share capital of the company or other body;
or
- (ii) greater than £25,000.

4.20 Where you are required to register the interest, you should provide the registered name of the company in which you hold shares; the amount or value of the shares does not have to be registered.

Category Six: Gifts and Hospitality

4.21 You must register the details of any gifts or hospitality received within your current term of office. This record will be available for public inspection. It is not however necessary to record any gifts or hospitality as described in paragraph 3.7 (a) to (c) of this Code.

Category Seven: Non-Financial Interests

4.22 You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

4.23 In the context of non-financial interests, the test to be applied when considering appropriateness of registration is to ask whether a member of the public might reasonably think that any non-financial interest could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision-making.

SECTION 5: DECLARATION OF INTERESTS

General

5.1 –The key principles of the Code, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for

~~you to declare certain interests in proceedings of the public body. Together~~ with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.

5.2 Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances ~~in~~ which a business or personal interest must be declared. Public confidence in the public body and its members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason.

5.3 In considering whether to make a declaration in any proceedings, ~~you~~ must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must, however, always comply with the objective test ("the objective test") which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of a public body.

5.4 As a member of a public body you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between your public body and another body. Keep particularly in mind the advice in paragraph 3.15 of this Code about your legal responsibilities to any limited company of which you are a director.

5.45 –It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. If you are unsure as to whether a conflict of interest exists, you should seek advice from the IJB chair.

5.6 The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) (Order) 2014 states:

“5.—(1) A member must disclose any direct or indirect pecuniary or other interest in relation to an item of business to be transacted at a meeting of the integration joint board, or a committee of the integration joint board, before taking part in any discussion on that item.

(2) Where an interest is disclosed under sub-paragraph (1), the other members present at the meeting in question must decide whether the member declaring the interest is to be prohibited from taking part in discussion of or voting on the item of business.”

5.7 The above provision makes this Code of Conduct different from the codes of conduct for councils and other devolved public bodies. Once you have declared an interest, it is not for you to determine whether or not you may remain in the meeting and participate in the discussion and voting (should you be a voting member). The other voting members will determine this.

5.8 Only if you believe that, in the particular circumstances, the nature of the interest is

~~you to declare certain interests in proceedings of the public body. Together so remote or without significance, should it not be declared. The following section describes the interests which are not subject to your own judgement and must always be declared.~~

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~~If you feel that, in the context of the matter being considered, your involvement is neither capable of being viewed as more significant than that of an ordinary member of the public, nor likely to be perceived by the public as wrong, you may continue to attend the meeting and participate in both discussion and voting. The relevant interest must however be declared. It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. If a board member is unsure as to whether a conflict of interest exists, they should seek advice from the board chair.~~

~~5.5 As a member of a public body you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. Only if you believe that, in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between your public body and another body. Keep particularly in mind the advice in paragraph 3.15 of this Code about your legal responsibilities to any limited company of which you are a director.~~

Interests which ~~Require Declaration~~ must be declared

~~5.6—8~~ Interests which ~~require to~~ **must** be declared if known to you may be financial or non-financial. They may or may not cover interests which are ~~registerable under the term~~ **to be registered under Section 4** of this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. The ~~following~~ paragraphs ~~which follow~~ deal with (a) your financial interests (b) your non-financial interests and (c) the interests, financial and non-financial, of other persons.

~~5.7—9~~ You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private

~~and~~ personal interests and not because of your role as a member of a public body. In the context of any particular matter you will need to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a member of a public body as opposed to the interest of an ordinary member of the public.

~~5.8 — There is no need to declare an interest in your capacity as:~~

~~5.8.1 An employee of NHS Lothian or the Council;~~

~~5.8.2 A councillor; and~~

~~5.8.3 A board member of NHS Lothian.~~

a) Your Financial Interests

~~5.10 5.89~~—You must declare, if it is known to you, any financial interest (including any financial interest which is registerable under any of the categories prescribed in Section 4 of this Code).

~~5.11 If under Category One (“Remuneration”) or Category Seven (“Non Financial Interests”) you have registered an interest as :~~

- ~~a) An employee of the IJB, or one of its constituent authorities (i.e. Lothian NHS Board or the relevant local authority)~~
- ~~b) A councillor from the local authority or a member of Lothian NHS Board which has appointed you as a voting member of the IJB~~

~~then you do not, for that reason alone, have to declare that interest. You should however always consider whether your activities in the above roles have a direct bearing on a specific item of business that the integration joint board or one of its committees is considering, e.g. you may have had a high degree of personal involvement in preparing or approving the item before it was presented. In those circumstances you are advised to declare the interest.~~

~~You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.~~

~~If a member of the Board declares an interest, the IJB must determine whether that individual member should be prohibited from taking part in the discussion and consideration of that item.~~

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b) Your Non-Financial Interests

5.910 You must declare, if it is known to you, any non-financial interest if:

- (i) that interest has been registered under category seven (Non- Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

~~You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.~~

~~If a member of the Board declares an interest, the IJB must determine whether that individual member should be prohibited from taking part in the discussion and consideration of that item.~~

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c) The Financial Interests of Other Persons

5.10—11 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you any financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable expenses.

~~You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded. There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.~~

~~If a member of the Board declares an interest, the IJB must determine whether that individual member should be prohibited from taking part in the discussion and consideration of that item.~~

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~~5.44—12~~ This Code does not attempt the task of defining "relative" or "friend" or "associate". Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the public body and, as such, would be covered by the objective test.

The Non-Financial Interests of Other Persons

5.4213 You must declare if it is known to you any non-financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable election expenses.

There is no need to declare the interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

~~If a member of the Board declares an interest, the IJB must determine whether that individual member should be prohibited from taking part in the discussion and consideration of that item. There is only a need to withdraw from the meeting if the interest is clear and substantial.~~

Making a Declaration

5.43—14 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

5.44—15 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words "I declare an interest". The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest and whether your interest is of sufficient significance to judge whether you can still take part in considering that item but need not give a detailed description of the interest. The statement should clarify whether the declaration is a financial or non-financial interest determine whether or not you may continue to participate in the

discussion and voting, if you are a voting member, on the item.

~~5.156 — If a member of the Board declares an interest, the IJB must determine whether that individual member should be prohibited from taking part in the discussion and consideration of that item.~~

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What Happens when you make a Declaration

5.16 The IJB (or if relevant, the committee) will consider your declared interest and decide whether you are to be prohibited from taking part in the discussion of or voting on the item of business.

5.17 If it is decided that you are to be prohibited, then you must withdraw from the meeting room until the discussion of the relevant item where you have a declarable interest is concluded.

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Frequent Declarations of Interest

~~5.15~~17 Public confidence in a public body is damaged by perception that decisions taken by that body are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings in respect of your role as a board member you should not accept a role or appointment with that attendant consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively and discuss with their chair. Similarly, if any appointment or nomination to another body would give rise to objective concern because of your existing personal involvement or affiliations, you should not accept the appointment or nomination.

Dispensations

~~5.16~~18 In some very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non-financial interests which would otherwise prohibit you from taking part and voting on matters coming before your public body and its committees.

~~5.17~~19 Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible in order to allow proper consideration of the application in advance of meetings where dispensation is sought. You should not take part in the consideration of the matter in question until the application has been granted.

SECTION 6: LOBBYING AND ACCESS TO MEMBERS OF PUBLIC BODIES

Introduction

- 6.1 In order for the public body to ~~fulfill~~fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the public body conducts its business.
- 6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual members. The rules in this Code set out how you should conduct yourself in your contacts with those who would seek to influence you. They are designed to encourage proper interaction between members of public bodies, those they represent and interest groups.

Rules and Guidance

- 6.3 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of the public body or any statutory provision.
- 6.4 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon the public body.
- 6.5 The public must be assured that no person or organisation will gain better access to or treatment by, you as a result of employing a company or individual to lobby on a fee basis on their behalf. You must not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which you accord any other person or organisation who lobbies or approaches you. Nor should those lobbying on a fee basis on behalf of clients be given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming from another member of the public body.
- 6.6 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that is lobbying and the motive for lobbying. You may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that you know the basis on which you are being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code.
- 6.7 You should not accept any paid work:-
- (i) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.
 - (ii) to provide services as a strategist, adviser or consultant, for example, advising on how to influence the public body and its members. This does not prohibit you from being remunerated for activity which may arise

because of, or relate to, membership of the public body, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

- 6.8 If you have concerns about the approach or methods used by any person or organisation in their contacts with you, you must seek the guidance of the public body.

ANNEX A

SANCTIONS AVAILABLE TO THE STANDARDS COMMISSION FOR BREACH OF THE CODE

- (a) Censure - the Commission may reprimand the member but otherwise take no action against them;
- (b) Suspension - of the member for a maximum period of one year from attending one or more, but not all, of the following:
 - (i) all meetings of the public body;
 - (ii) all meetings of one or more committees or sub-committees of the public body;
 - (iii) all meetings of any other public body on which that member is a representative or nominee of the public body of which they are a member.
- (c) Suspension - for a period not exceeding one year, of the member's entitlement to attend all of the meetings referred to in (b) above;
- (d) Disqualification - removing the member from membership of that public body for a period of no more than five years.

Where a member has been suspended, the Standards Commission may direct that any remuneration or allowance received from membership of that public body be reduced, or not paid.

Where the Standards Commission disqualifies a member of a public body, it may go on to impose the following further sanctions:

- (a) Where the member of a public body is also a councillor, the Standards Commission may disqualify that member (for a period of no more than five years) from being nominated for election as, or from being elected, a councillor. Disqualification of a councillor has the effect of disqualifying that member from their public body and terminating membership of any committee, sub-committee, joint committee, joint board or any other body on which that member sits as a representative of their local authority.
- (b) Direct that the member be removed from membership, and disqualified in respect of membership, of any other devolved public body (provided the members' code applicable to that body is then in force) and may disqualify that person from office as the Water Industry Commissioner.

In some cases the Standards Commission do not have the legislative powers to deal with sanctions, for example if the respondent is an executive member of the board or appointed by the Queen. Sections 23 and 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 refer.

Full details of the sanctions are set out in Section 19 of the Act.

ANNEX B DEFINITIONS

"Chair" includes Board Convener or any person discharging similar functions under alternative decision making structures.

"Code" code of conduct for members of devolved public bodies

"Cohabitee" includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

"Group of companies" has the same meaning as "group" in section 262(1) of the Companies Act 1985. A "group", within s262 (1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

"Parent Undertaking" is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking's memorandum or articles or (ii) by virtue of a control contract; or d) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the rights in the undertaking.

"A person" means a single individual or legal person and includes a group of companies.

"Any person" includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations .

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

"Related Undertaking" is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

"Remuneration" includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

"Spouse" does not include a former spouse or a spouse who is living separately and apart from you.

"Undertaking" means:

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

ANNEX C

CONTACT INFORMATION

This Annex does not form part of the Code of Conduct, but is provided for reference.

Standards Commission for Scotland
Room T2.21,
Scottish Parliament
Edinburgh
EH99 1SP

Telephone 0131-348-6666

Fax 0131-557-9243

E-mail enquiries@standar.org.uk

Comment [AP1]: Who will be the Standards Officer for the IJB? Contact details for updating register etc should be in here.

Health and Social Care Integration Directorate
Integration and Reshaping Care Division

T: 0131-244 0638
E: lauren.glen@gov.scot

Appendix 2



Local Authority Chief Executives
Health Board Chief Executives
Integration Joint Board Chief Officers
COSLA
Commissioner for Ethical Standards in Scotland
Standards Commission for Scotland
SOLAR

Dear Colleagues

Consultation letter

Executive Summary

The Scottish Government is considering making an amendment to the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and to the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014, to resolve an existing conflict between the Integration Joint Board and Integration Joint Monitoring Committee Standing Orders, and the statutory Codes of Conduct for Councillors and members of devolved public bodies. This letter sets out in more detail the reasons for the proposed amendment, explains the effect of the changes and seeks views on the proposal.

Background

The Public Bodies (Joint Working) (Scotland) Act 2014 (the Act) put in place arrangements for integrating health and social care, in order to improve outcomes for patients, service users, carers and their families. The Act requires Health Boards and local authorities to work together effectively, to agree a model of integration to deliver quality, sustainable care services. Where partners agree to put in place a Body Corporate model, an Integration Joint Board will be established and will be responsible for the integrated arrangements and onward service delivery. Where partners have agreed a Lead Agency model, they are required to establish an Integration Joint Monitoring Committee for the purpose of monitoring the carrying out of the integration functions for the integration authority area.

Integration Joint Boards are “devolved public bodies” for the purposes of the Ethical Standards in Public Life (Scotland) Act 2000. As such members must discharge their duties in a manner that is seen to be honest, fair and unbiased and public bodies must ensure that conflicts of interest are identified and managed in a way that

maximises public confidence in the organisation's ability to deliver public services properly.

While Integration Joint Monitoring Committees are not independent entities in the same way as Integration Joint Boards are, any members who are Councillors or Health Board members will be required to comply with the Councillor's Code or a Health Board members Code.

Integration Joint Boards and Integration Joint Monitoring Committees are required to make standing orders for the regulation of their proceedings and business. Certain provisions which must be included in these standing orders are set out in the schedules to the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014. While these standing orders will govern the treatment of conflicts of interest, members may also be subject to the Councillors Code or a Health Board members Code. This results in a conflict between the standing orders for Integration Joint Boards and the Codes of Conduct for both Councillors and Health Board members.

Issue

The Model Code of Conduct for Devolved Public Bodies, on which Health Boards' Codes of Conduct for their members are based, places a requirement on members to declare any conflicts of interest and to apply the "Objective test" before taking a decision on whether they should have an involvement in discussions on the matter in question. The Councillors' Code of Conduct also takes this approach. Currently the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and The Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014 both require the standing orders of these bodies to include provision on members' conflicts of interest which place the decision making power on the other members of the Integration Joint Board. Accordingly, when a member of an Integration Joint Board or Integration Joint Monitoring Committee is also a Councillor, or a Health Board member, and faces a potential conflict of interest, they are subject to two different sets of rules as to how they should deal with this.

Proposed Legislative Changes

The Scottish Government intends to amend section 5, paragraph 2 of the Schedule to the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and to section 5, paragraph 2 of the Schedule to the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014. These amendments will bring the required content of Integration Joint Board and Integration Joint Monitoring Committee standing orders into line with the provisions of the Councillors Code and Model Members' code. The amendments will be made by Order under section 12 of the Public Bodies (Joint Working) (Scotland) Act 2014.

Effect of the Proposed Legislative Changes

The legislative changes will have the effect of changing the process where a decision is taken with regards to a potential conflict of interests. A member who has

a potential conflict of interests will apply an “Objective test” to determine whether they can participate, as opposed to submitting the conflict for decision by the other members there present.

Views

We are taking this opportunity to invite comments and views on the proposal to bring the Integration Joint Board and Integration Joint Monitoring Committee standing orders into line with the Codes of Conduct for Councillors and members of devolved public bodies.

You are asked to indicate whether or not you support the proposed amendment to the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and the Public Bodies (Joint Working) (Integration Joint Monitoring Committees) (Scotland) Order 2014. If you do not support the proposals we would ask you to provide details outlining your concerns about the proposed amendment.

A full list of those who have been invited to respond has been set out at Annex A.

I would be grateful if you could send your response to the email address below, by 9 November 2015.

Email: IRC@gov.scot

Yours sincerely

A handwritten signature in black ink, appearing to be 'LG' or similar initials, enclosed in a thin vertical rectangular box.

Lauren Glen
Integration and Reshaping Care Division

Annex A: List of invited respondents

1. East Ayrshire Integration Joint Board
2. North Ayrshire Integration Joint Board
3. South Ayrshire Integration Joint Board
4. Argyll and Bute Integration Joint Board
5. East Dunbartonshire Integration Joint Board
6. East Lothian Integration Joint Board
7. East Renfrewshire Integration Joint Board
8. Edinburgh City Integration Joint Board
9. Inverclyde Integration Joint Board
10. Midlothian Integration Joint Board
11. North Lanarkshire Integration Joint Board
12. Renfrewshire Integration Joint Board
13. Shetland Islands Integration Joint Board
14. West Dunbartonshire Integration Joint Board
15. South Lanarkshire Integration Joint Board
16. West Lothian Integration Joint Board
17. Perth and Kinross Integration Joint Board
18. Dundee City Integration Joint Board
19. Angus Integration Joint Board
20. Dumfries and Galloway Integration Joint Board
21. Fife Integration Joint Board
22. Clackmannanshire and Stirling Integration Joint Board
23. Falkirk Integration Joint Board
24. Western Isles Integration Joint Board
25. Glasgow Shadow Integration Joint Board
26. Orkney Shadow Integration Joint Board
27. Scottish Borders Shadow Integration Joint Board
28. Moray Shadow Integration Joint Board
29. Aberdeen City Shadow Integration Joint Board
30. Aberdeenshire Shadow Integration Joint Board
31. NHS Ayrshire and Arran
32. NHS Borders
33. NHS Dumfries and Galloway
34. NHS Fife
35. NHS Forth Valley
36. NHS Grampian
37. NHS Highland
38. NHS Greater Glasgow and Clyde
39. NHS Lanarkshire
40. NHS Lothian
41. NHS Orkney
42. NHS Tayside
43. NHS Shetland
44. NHS Western Isles
45. Aberdeen City Council
46. Aberdeenshire Council
47. Angus Council
48. Argyll and Bute Council

49. City of Edinburgh Council
50. Clackmannanshire Council
51. Comhairle nan Eilean Siar
52. Dumfries and Galloway Council
53. Dundee City Council
54. East Ayrshire Council
55. East Dunbartonshire Council
56. East Lothian Council
57. East Renfrewshire Council
58. Falkirk Council
59. Fife Council
60. Glasgow City Council
61. Highland Council
62. Inverclyde Council
63. Midlothian Council
64. Moray Council
65. North Ayrshire Council
66. North Lanarkshire Council
67. Orkney Islands Council
68. Perth and Kinross Council
69. Renfrewshire Council
70. Scottish Borders Council
71. Shetland Islands Council
72. South Ayrshire Council
73. South Lanarkshire Council
74. Stirling Council
75. West Dunbartonshire
76. West Lothian
77. COSLA
78. Commissioner for Ethical Standards in Scotland
79. Standards Commission for Scotland
80. SOLAR