



**REPORT TO:** East Lothian Integration Joint Board

**MEETING DATE:** 26 October 2023

**BY:** Chief Officer

**SUBJECT:** Integration Joint Board Member Code of Conduct and Responsibilities under the Ethical Standards Framework.

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## **1 PURPOSE**

- 1.1 To inform new East Lothian Integration Joint Board (IJB) members and to update all other members regarding the Standards Commission for Scotland (SCS) model Code of Conduct, associated advice note for IJB members and the Ethical Standards Framework.

## **2 RECOMMENDATIONS**

The IJB is asked to:

- 2.1 Note the requirement for the IJB to have in place a Code of Conduct to maintain compliance with the Ethical Standards in Public Life etc. (Scotland) Act 2000 and further note that the East Lothian IJB Code was revised and adopted in 2022.
- 2.2 Note the Chief Officer's role as Standards Officer for the IJB and the position's reporting, support and advisory duties.
- 2.3 Acknowledge the requirements placed on IJB members by the Code of Conduct and advice notes issued by the Standards Commission for Scotland
- 2.4 Ensure that individual members of East Lothian IJB sign the Code of Conduct and update their entry in the Register of Interests.

## **3 BACKGROUND**

- 3.1 Integration Joint Boards (IJBs) were established in 2014 through the Public Bodies (Joint Working) Scotland Act as a means for health boards and local authorities to integrate adult health and social care services and budgets, through delegation to a locally accountable body.

- 3.2 East Lothian IJB was established in July 2015, taking on responsibility for development of integrated planning and delivery of health and social care services and criminal justice social work in the East Lothian Council geographical area, as well as certain acute hospital services managed by NHS Lothian.
- 3.3 All IJBs, as Devolved Public Bodies, must adopt a Code of Conduct to comply with the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- 3.4 East Lothian IJB issued its first Code of Conduct in October 2015. This applied until the Standards Commission for Scotland developed a revised model Code in 2022, which the IJB subsequently adopted, with all members at that time signing the code to indicate acceptance.
- 3.5 The Code of Conduct reflects the nine key principles of public life in Scotland, which members of public bodies must adhere to. These cover:
- Duty
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability and Stewardship
  - Openness
  - Honesty
  - Leadership
  - Respect.
- 3.6 The Code of Conduct states how its requirements should be applied in practice, provides illustrative case studies and sets out provisions for dealing with alleged breaches of the Code, including available sanctions on members.
- 3.7 The Standards Commission for Scotland has issued an Advice Note for members of Integration Joint Boards (Appendix 1). The Note:
- Provides members of IJBs “...with an overview of their responsibilities under the ethical standards framework.”
  - Emphasises that “...members have a personal responsibility to observe the rules in their IJBs Code of Conduct...” and reflects that the “Advice Note is intended to assist [members] in interpreting the provisions in their IJB’s Code of Conduct, and should, therefore, be read in conjunction with the Code.”
  - Directs that the IJBs Code of Conduct “...will apply in all situations, and at all times, where Members are acting as a member of the IJB, have referred to themselves as a member or could objectively be considered to be acting as a member.”
  - Notes that Councillor or non-executive director IJB members should adopt an independent position in discharging their IJB role.
  - Clearly delineates the strategic role of IJB members and its separation from the operational/service management role of the Chief Officer and HSCP Officers.

- Provides examples of potential breaches of the Code of Conduct, to assist members in judging where the code is at risk of being breached.
  - Highlights the circumstances under which an IJB member might be sanctioned and/or disqualified.
- 3.8 The 2015 and 2022 Codes of Conduct recognise the Chief Officer as the Standards Officer for the IJB. The Standards Commission for Scotland (SCS) sets out the role of the Standards Officer in an Advice Note available at: [www.standardscommissionscotland.org.uk/about-us/news/health-and-social-care-ijbs---standards-officer-appointments](http://www.standardscommissionscotland.org.uk/about-us/news/health-and-social-care-ijbs---standards-officer-appointments).
- 3.9 The duties of the Standards Officer cover:
- Regular training for IJB members on the ethical standards framework, the Code of Conduct and the Standards Commission guidance.
  - Maintenance of high standards of conduct by promoting awareness of the Code and advising and supporting IJB members on its interpretation and application.
  - Advising an individual member, if concerns arise they may have breached the Code, or risk doing so.
  - To provide members with private advice or support (although, in some circumstances the Standards Officer may need to share information with other parties).
  - To maintain an IJB Members' Register of Interests, updated at least yearly.
  - To ensure each meeting of the IJB starts with a declaration of interest on any item/s on the agenda.
  - In certain cases, to adopt an investigatory role in respect of complaints made or concerns raised about a member's conduct.
  - To report to the IJB on matters relating to the Ethical Standards Framework and compliance.
- 3.10 The SCS also provides a suite of briefings regarding all aspects of the Code and public body and IJB member conduct. These are available at: [www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings](http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings).

## **4 ENGAGEMENT**

- 4.1 There is no engagement required in connection with this paper.

## **5 POLICY IMPLICATIONS**

- 5.1 There are no further policy implications, beyond ensuring all IJB members are aware of the Code of Conduct and associated guidance and have signed the Code and updated the Register of Interests.

## **6 INTEGRATED IMPACT ASSESSMENT**

- 6.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

## **7 DIRECTIONS**

- 7.1 There are no implications for Directions arising from this report.

## **8 RESOURCE IMPLICATIONS**

- 8.1 There are no financial, personnel, or other resource implications arising from this report.

## **9 BACKGROUND PAPERS**

- 9.1 The advice note for IJB members (also at appendix 1) is available at the Standards Commission for Scotland (SCS) website:  
[www.standardscommissionscotland.org.uk/about-us/news/advice-note-for-members-of-ijbs](http://www.standardscommissionscotland.org.uk/about-us/news/advice-note-for-members-of-ijbs)
- 9.2 The SCS website also contains further information relevant to IJBs at:  
[www.standardscommissionscotland.org.uk/search/?search-filter=ijb](http://www.standardscommissionscotland.org.uk/search/?search-filter=ijb).

### **Appendix 1 – An Advice Note for IJB Members**

### **Appendix 2 - A presentation regarding IJB Standards**

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<b>DATE</b>	12 October 2023



INTEGRITY IN PUBLIC LIFE

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# ADVICE FOR MEMBERS OF HEALTH AND SOCIAL CARE INTEGRATION JOINT BOARDS

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## 1. Introduction

- 1.1 This Advice Note, issued by the Standards Commission, aims to provide members of Health and Social Care Integration Joint Boards (IJBs) with an overview of their responsibilities under the ethical standards framework. It seeks to assist members in recognising and dealing with potential conflicts of interest to minimise the risk that such a conflict will erode effective governance and scrutiny arrangements.
- 1.2 Members have a personal responsibility to observe the rules in their IJBs Code of Conduct, which is based on the revised [Model Code of Conduct](#) issued by the Scottish Ministers in December 2021. This Advice Note is intended to assist them in interpreting the provisions in their IJBs Code of Conduct, and should, therefore, be read in conjunction with the Code. The Standards Commission's [Guidance on the Model Code of Conduct for Members of Devolved Public Bodies](#) also provides advice on how the relevant provisions in the Code should be interpreted.
- 1.3 The IJBs Code of Conduct will apply in all situations, and at all times, where Members are acting as a member of the IJB, have referred to themselves as a member or could objectively be considered to be acting as a member. In determining whether the Code applies, the Standards Commission will consider whether a member of the public, with knowledge of the relevant facts, would reasonably consider that you were acting as a member of the IJB at the time of the events in question.
- 1.4 All IJBs are required to appoint a Standards Officer, with the appointment then being approved by the Standards Commission. [The Standards Commission's Advice Note on the Role of a Standards Officer](#) provides information on a Standards Officer's role and responsibilities, within the ethical standards framework, and the duties they may be expected to discharge. These can include ensuring that appropriate training is given to IJB members on the ethical standards framework, the IJB's Code of Conduct and the Standards Commission's Guidance. The Standards Officer can also provide advice and support to members on the interpretation and application of the IJB's Code.
- 1.5 Some examples of potential breaches of the Code have been included at Annex A, to assist members in relating the provisions to scenarios they may face or situations they may find themselves in.
- 1.6 It should be noted that the Public Bodies (Joint Working) (Integration Joint Boards) Scotland Order 2014 provides, at paragraph 8(3), that an individual will be automatically disqualified from being a member of an IJB if they have been subject to a sanction under section 19(1)(b) to (e) of the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (2000 Act). The Health Boards

(Membership and Procedure) (Scotland) Amendment Regulations 2016 contains an analogous provision, at paragraph 2(5)(j), for members of health boards. This means that if the Standards Commission, at a Hearing, imposes any sanction, other than a censure, on any individual under Section 19 of the 2000 Act for a breach of a Code of Conduct of any organisation within its remit (including local authorities, IJBs, health boards and other public bodies), that individual will be disqualified from being a member of any IJB or health board, without limit of time.

## 2. Background

2.1 The Standards Commission's functions are provided for by the 2000 Act. The 2000 Act created an ethical standards framework under which councillors and members of devolved public bodies are required to comply with Codes of Conduct, approved by the Scottish Ministers, together with Guidance issued by the Standards Commission.

2.2 The role of the Standards Commission is to:

- encourage high ethical standards in public life; including the promotion and enforcement of the Codes of Conduct and to issue guidance to councils and devolved public bodies; and
- adjudicate on alleged breaches of the Codes of Conduct, and where a breach is found, to apply a sanction.

2.3 [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) required councils and NHS boards to work together to form new partnerships, known as Integration Authorities, to ensure health and social care services are well integrated.

2.4 Boards of IJBs comprise of a mix of voting and non-voting members. Councils and NHS boards are each required to nominate at least three voting members, with the number from each body being equal (NHS boards nominate non-executive directors to the IJB and councils nominate councillors). IJBs also include non-voting members, including a service user and a representative from the voluntary sector, albeit the voting members are exclusively members from councils and NHS boards.

2.5 IJB members are responsible for overseeing IJBs and scrutinising performance to ensure that they are being properly run, with all funds being used appropriately and in accordance with best value principles. Councillor and health board members can inform the IJB about the council's and health board's policies and priorities. However, when acting as members of an IJB, councillors and health board members have a duty to act in the best interests of that IJB and not the body which nominated or appointed them. Councillors and health board members sitting on IJBs nevertheless have legal obligations and responsibilities to their council or health board as well as to their IJB. There is, therefore, the potential for conflicts of interest and any associated risks to effective governance and scrutiny to arise. This Advice Note is intended as an additional resource to support the existing guidance for IJB members to help them identify and manage such conflicts and risks.

## 3. Understanding the IJBs Role and Responsibilities

3.1 IJBs direct their respective NHS board and council to deliver services, meaning NHS boards and councils are accountable to IJBs for the delivery of services as directed, with IJBs being accountable for overseeing the delivery of services.

3.2 Both NHS boards and councils delegate specific services to the IJB and provide money and resources. IJBs are then responsible for planning health and care services and have full powers to decide how to use resources and deliver delegated services to improve quality and outcomes. IJBs are jointly accountable to their respective councils and NHS boards through their voting membership and reporting to the public. Integration is intended to shift the focus from what

worked for organisations, to what works for individuals who require health and social care services.

#### **4. Understanding Your Role & Responsibilities**

- 4.1 IJBs include representatives from councils, NHS boards, GPs, the voluntary sector, and service users. You should ensure that you understand, respect and take account of differences in organisational cultures so these do not become a barrier to progress and to the effectiveness of the IJB.
- 4.2 It is important for IJBs to ensure governance and accountability in respect of both finance and performance. If you are nominated, appointed or otherwise agree to sit on an IJB, you will need to be aware of your obligations to the IJB and reconcile these with your obligations to other bodies you are associated with, such as your council, NHS board (if you are a councillor or member of a health board) or political group. You should ensure that you are fully aware of the IJB's purpose, structure and strategic aims. You should also ensure you understand the functions it performs and the activities it undertakes.
- 4.3 It is also important to have knowledge of the funding arrangements for the IJB, including the level of funding provided by the council and health board. You should be satisfied you are aware of the IJB's financial monitoring and reporting arrangements and also its approach to risk.
- 4.4 The design of IJBs brings the potential for real or perceived conflicts of interest for board members. The NHS board and council nominate all voting members of the IJB. Their role is to represent the IJB's interests. Voting members will also continue in their role as an NHS board member or councillor. As a result, there is a risk that they may have a conflict of interest, particularly where there is a disagreement between the council and a health board with regard to IJB business, including the money and resources the council and health board are providing to the IJB. As an IJB member, you will have to manage any such conflicts of interest.
- 4.5 There is also a particular risk of conflict for councillor and NHS board members in that they may be acting as IJB board members while commissioning a service, but also for the Council or the NHS board which is then responsible for delivering and evaluating that service.
- 4.6 The purpose of the Codes of Conduct is to ensure that IJB board members adhere to the same standards of behaviour. You should ensure that you are familiar with the provisions in the Code and that you comply with them at all times when you are acting, or could be reasonably regarded as acting, as a member of the IJB.
- 4.7 In most cases your duty under the Code to act in the public interest will align with your duty to act in the best interests of the IJB. Where there is a conflict, however, you should assess whether you are required to declare an interest and whether you should withdraw from the discussion and decision-making (see Section 8 below).
- 4.8 You should be aware that, as a member of the IJB, you must act in its best interests when acting as such, regardless of whether you have been appointed or nominated to it from a Council, health board or other organisation. While you can raise matters from the perspective of an outside organisation, you should not promote the interests of, or lobby on behalf of, an outside body when sitting as an IJB member. It is, therefore, essential that you have clear understanding of the roles and responsibilities of each body you are on and that you are required to act in the best interests of the one you are representing at any given time.
- 4.9 If you are a councillor member of the IJB, you should be aware that the Councillors' Code of Conduct makes it clear that you still need to observe the rules in the Councillors' Code even while carrying out your duties as a member of an IJB. You will also be bound by the rules of

conduct for the IJB and are also responsible to the IJB and are required to act in its best interests. This obligation is outlined in Paragraph 3.30 of the Councillors' Code, which states:

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

- 4.10 Similarly, if you are a health board member of the IJB, you should be aware that the Health Board's Code of Conduct makes it clear that you still need to observe the rules in that Code even while carrying out your duties as a member of an IJB. You will also be bound by the rules of conduct for the IJB and are also responsible to the IJB and are required to act in its best interests. This obligation is outlined in the provisions on 'Appointments to Outside Organisations' in Section 3 of the Model Code, which state:

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

- 4.11 If you are a councillor or health board member of the IJB, you should be mindful that the requirement to act in the interests of the IJB while carrying out your duties as a member of it may require you to make decisions that could potentially be inconsistent with, or diverge from, the priorities or stated aims of the Council, Health Board or any political party you represent.
- 4.12 You should make sure you are clear about the status of your appointment and whether you are on the IJB board as a voting or non-voting member. If you are a proxy or substitute member, you should be aware that you are only entitled to attend any meeting of the IJB if the member for whom you have the proxy or are a substitute for is unable to be present.
- 4.13 [Audit Scotland's 'Health and social care integration'](#) and ['Health and social care integration: Update on progress'](#) reports both recommend that IJB members should be provided with training and development to prepare them for their role. The reports recommend that the training should cover managing conflicts of interest, understanding the organisational cultures of the NHS and councils and the roles of non-voting members of the IJB. You should, therefore, ensure that you have undertaken this training after accepting any nomination to an IJB. You may also wish to refer to the [Scottish Government's 'On Board: a guide for members of statutory boards'](#) and the ['Role, Responsibilities and Membership of the Integration Joint Board' guidance](#), which outline some helpful principles for roles on boards in general and for membership of an IJB. You should consider providing feedback on any training or induction you receive to help ensure it remains effective and relevant.
- 4.14 The table below summarises the information you should be aware of before accepting an appointment or nomination to sit on an IJB.

The composition of the IJB.
The IJB's purpose, structure, strategic aims and the activities it undertakes.
The IJB's funding, financial monitoring and reporting arrangements.
That you will be obliged to act in the best interests of the IJB while acting as a member of it.
The potential for conflicts of interest to arise.
The IJB's Code of Conduct.
Your status on the IJB.



## 5. Culture of Respect

- 5.1 You should behave in accordance with the IJB's Code in all situations where you act as an IJB member or are perceived as acting as such, including representing it on official business and when using social media.
- 5.2 You should ensure that you are familiar, and comply, with the terms of any policy your IJB has issued on dignity in the workplace.
- 5.3 You must treat all individuals with courtesy and respect when carrying out your duties as an IJB member. You should not participate in, or condone, acts of harassment, discrimination, victimisation or bullying. This can include, but is not limited to:
- unwelcome physical, verbal or non-verbal conduct;
  - intimidatory behaviour including verbal abuse or the making of threats;
  - making someone's working life difficult;
  - disparaging, ridiculing or mocking comments and remarks;
  - deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate; and
  - ignoring a fellow Member's contribution to a debate, talking over them or being dismissive of their views.
- You may wish to have regard to the Standard's Commission's standalone [Advice Note on Bullying and Harassment](#).
- 5.4 You should be aware of the inherent influence your role brings and ensure that you are demonstrating respect for others and encouraging colleagues to do the same.
- 5.5 As noted above, you should ensure that you are aware of the composition of the IJB board and the value that having input and perspective from representatives of different bodies, organisations and sectors will bring to determining how local services can be improved. You can demonstrate this by ensuring that you listen to, and take account of, the views of other members.
- 5.6 You should also be aware of the role that officers play and ensure you are not compromising this by behaving in a manner that could result in them feeling threatened or intimidated, which in turn could prevent them from undertaking their duties properly and appropriately. You must not bring any undue influence to bear on an officer to take a certain action, particularly if it is contrary to the law or the IJB's policies and procedures.
- 5.7 In dealing with officers and members of the public, you should always consider both what you are expressing and the way you are expressing it. You should also consider how your conduct could be perceived. You should be able to undertake a scrutiny role and make contributions to discussions and debates in a constructive, respectful, courteous and appropriate manner without resorting to personal attacks, being offensive, abusive and / or unduly disruptive.
- 5.8 You have a right to high quality information and are entitled to seek further information to enable you to undertake your scrutiny role effectively. You are entitled to challenge officers and colleagues, but you must not do so in a personal or offensive manner.
- 5.9 As a member, your role is to determine policy and to participate in decisions on matters placed before you. It is not to engage in direct operational management of the IJB. You should bear in mind that any issues relating to behaviour, performance or conduct of an officer should be raised privately with the appropriate senior manager.

- 5.10 As someone in a position of trust, you may be made aware of incidents that are brought to your attention by victims of inappropriate behaviour, or other witnesses. You can assist by becoming familiar with what is meant by harassment, discrimination, victimisation and bullying and the impact these can have on individuals or groups.
- 5.11 If you are a witness to any acts of bullying, harassment, discrimination or victimisation, you should encourage the victim to seek support and assistance and make it clear that you will offer them assistance and provide evidence if they decide to make an informal or formal complaint.
- 5.12 Where you have witnessed bullying, harassment, discrimination or victimisation you have a responsibility to speak out. You should challenge inappropriate behaviour as it happens and consider making a complaint.
- 5.13 You should be mindful that there can be differences in culture between organisations. For example, behaviour that may be accepted as part and parcel of robust political debate on a Council may be perceived as being unacceptably negative or unhelpful on an IJB.
- 5.14 You should also be mindful of how you could be perceived, as a member of an IJB, when using social media. The Standards Commission has produced an [Advice Note](#) for members of devolved public bodies (which includes IJBs) on the use of the use of social media.

## 6. Decision-Making

- 6.1 Unlike the Codes for members of other devolved public bodies, the Codes for members of IJBs do not contain a requirement to respect the principle of collective responsibility. IJBs may take decisions on difficult issues and, as such, members may have genuine and strongly held differences of opinion. Once issues are thoroughly debated, however, decisions should be taken, and the majority vote should prevail. As a member, you will have to decide whether to support the decision, and if not, whether you wish to have your dissent formally recorded. You should note that continuing with a conflict, when it has become apparent that other members will not change their minds, can waste time and be demotivating and futile.
- 6.2 You should bear in mind that while issues can and should be debated robustly, if you express division outside the boardroom by, for example, talking to the media or officers or posting on social media, stakeholders can lose confidence in the organisation. This is because confidence and trust can be eroded if a board is perceived as being divided, with its members criticising each other.

## 7. Registration of Interests

- 7.1 It is your personal responsibility to ensure your Register of Interests is accurate and up to date. You must ensure any changes are made within one month of your circumstances changing (see the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Register of Interests\) Amendment \(No. 2\) Regulations 2021](#)).
- 7.2 The IJB's Code of Conduct will state the interests, financial and otherwise, that you are required to include in your Register of Interests. If you are unclear about how much information to include in your Register of Interests, you can also seek advice from the Standards Officer or the Standards Commission.
- 7.3 You should bear in mind that what you are required to register in the IJB's Register of Interests and what you are required to declare may be different. You should seek advice if you are unclear about what is required. You should note that you cannot remedy a failure to register a financial or non-financial interest by declaring it.

- 7.4 If you are a councillor, health board member or member of another devolved public body, you should, in particular, consider whether you need to register an interest under Categories 1 (Remuneration) and 8 (Non-Financial Interests).

## 8. Identifying Potential Conflicts of Interest and Making Declarations of Interest

- 8.1 The public must have confidence that members of IJBs are taking decisions in the public interest and not for any other reason. It is essential, therefore, that you are transparent about any interests which could influence, or could be considered as being likely to influence, your discussion and decision-making as a member of the IJB.

- 8.2 You should ensure that you can identify potential conflicts of interest. These will include not just the potential for competing interests between the IJB and your council or health board (if applicable) and also any other organisation you are a member of, but also any personal interests you may have.

- 8.3 In considering whether to declare an interest in any item before your IJB, you must consider the objective test at paragraph 5.5 of the Code which is whether:

a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making

In applying the objective test, you should always err on the side of caution.

- 8.4 You must declare any relevant interest and withdraw from the room while the item is being considered, discussed, and voted upon. It is not sufficient for you to retire to the back of the room or any public gallery. If the meeting is being held online, you should retire to a separate breakout room or leave and re-join after the discussion on the matter has concluded. It is not sufficient for you to turn off your camera and / or microphone for the duration of the matter. This is to avoid giving rise to any perception that you are still in a position to influence the outcome of the deliberations on the item.

- 8.5 You should be aware that the categories of interest that can require a declaration include both your own personal financial and non-financial interests (including as a member of another body, or organisation, such as a society, club or charity).

An example of a declarable non-financial interest might be if you were a GP and the IJB was being asked to approve plans to implement the Scottish General Medical Services contract.

- 8.6 Categories of interest that can require a declaration can also include the financial and non-financial interests of other persons and bodies. Other persons and bodies can include your friends and family, employer and a body of which you are a member.

An example of a declarable interest concerning another person or body might be if the IJB was being asked to approve funding to an organisation and your partner was an employee of the organisation.

- 8.7 You should not rely on, or expect, officers to remind you to make declarations even if you think they are aware of your interests, including any membership of another organisation. It is solely your own personal responsibility to make declarations of interest as required. If you are in any doubt, you should ask for help from the Chair or Standards Officer.

- 8.8 You should consider whether agendas for meetings raise any issues of declaration of interest and, if so, you should make your declaration of interest as early as possible 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.

- 8.9 You should begin your statement with the words “I declare an interest” and identify the item or items of business to which it relates. You do not need to give a detailed description of the interest, but your statement must contain sufficient information to enable those present to understand the nature of it.
- 8.10 The Standards Commission has produced an [Advice Note](#) for members on how and when to declare an interest at meetings. The Advice Note suggests wording that members may wish to consider using when declaring an interest.
- 8.11 If accepting an appointment on an IJB would mean you would have to declare interests frequently, you should carefully consider whether it is appropriate to accept the appointment.
- 8.12 The table below summarises the questions you should consider when identifying potential conflicts of interest and making declarations of interest.

Have I registered my interests as required by the Code? If my circumstances have changed, have I updated my register?
What are the potential conflicts between the IJB and any other body I am a member of or sit on?
Have I checked the meeting agenda to determine whether I will need to make any declarations of interest?
Do I have any personal interests, either financial or non-financial in the matters being discussed?
Does any individual, body or organisation I am connected to have any financial or non-financial interests in the matters being discussed?
Have I applied the objective test? Have I considered whether any interest I have could be perceived as being sufficiently significant that it could reasonably be taken to fall within the test?
Will I be making regular declarations of interest?

## 9. Confidentiality

- 9.1 If you are a member of an outside organisation, including a council or health board, you may have access to information that should not be disclosed to both the outside organisation and the IJB. As such, you should be aware of the following confidentiality requirements outlined at paragraphs 3.22 to 3.25 of the Model Code, which are as follows:

- 3.22 I will not disclose confidential information or information which should reasonably be regarded as being of a confidential or private nature, without the express consent of a person or body authorised to give such consent, or unless required to do so by law. I note that if I cannot obtain such express consent, I should assume it is not given.
- 3.23 I accept that confidential information can include discussions, documents, and information which is not yet public or never intended to be public, and information deemed confidential by statute.
- 3.24 I will only use confidential information to undertake my duties as a board member. I will not use it in any way for personal advantage or to discredit my public body (even if my personal view is that the information should be publicly available).
- 3.25 I note that these confidentiality requirements do not apply to protected whistleblowing disclosures made to the prescribed persons and bodies as identified in statute.

- 9.2 This means that if you were provided with confidential information, such as information disclosed in a closed or private section of an IJB meeting or legal advice obtained by the IJB (either from officers or external legal advisers), you should not disclose or release it to the

council or health board or to any other outside body or individual even if it concerns that body. If such a case were to arise, you should raise the matter with the IJB's Standards Officer.

- 9.3 If you are in any doubt about whether information is confidential, you should seek advice from the Standards Officer.

## 10. Training and Assistance

- 10.1 You should obtain training on your role from the IJB when appointed and should also attend any ongoing or refresher training in respect of your role as a member.
- 10.2 You can also contact the Standards Commission via email:  
[enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk).

## 11. Sources of Information

- 11.1 Further sources of information you may find to be of assistance are listed in the table below.

Publication	Issued By
<a href="#">Report: Health and social care integration: update on progress</a>	Audit Scotland
<a href="#">On Board: a guide for members of statutory boards</a>	Scottish Government
<a href="#">Advice for Members on How to Declare Interests</a>	Standards Commission
<a href="#">Advice on the use of Social Media for Members of Devolved Public Bodies</a>	Standards Commission
<a href="#">Role, Responsibilities and Membership of the Integration Joint Board guidance</a>	Scottish Government
<a href="#">Report: Health and social care integration</a>	Audit Scotland
<a href="#">The Role of Boards</a>	Audit Scotland
<a href="#">Registration of Interests Regulations 2021</a>	Scottish Statutory Instrument



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## ANNEX A: CASE EXAMPLES

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### **Respect**

You have noted that the Chair of your IJB routinely ignores the contribution of the carer representative and allows councillor members of the IJB to speak over him. At the last meeting of the IJB, a councillor member told the carer representative to “shut up” when he tried to object to a proposal being considered. The carer representative advised you that he considers he is being side-lined as the Chair has recently held meetings with the substitute carer representative about IJB business, but has not invited him. The carer representative is considering resigning as he feels unable to contribute properly. He considers there may have been a breach of the Code by the Chair and others. Could he be right?

Yes. The representative is on the IJB to provide input on local services from his perspective as a carer and he should be encouraged to do so. The Chair should be reminded of the inherent influence their role brings and should ensure that not only are they demonstrating respect for all members of the IJB, but that they are also encouraging colleagues to do the same. The Chair and councillor members are not demonstrating respect if they are not listening to, and taking account of, the views of the carer representative or if they are being rude to him. It should be noted that bullying can be a pattern of behaviour or can be a one-off incident that is objectionable or intimidating. It can include deliberately excluding an individual from conversations or meetings, in which they have a right or legitimate expectation to participate.

You have a responsibility to speak out and challenge the inappropriate behaviour. You should also remind the Chair that the substitute member should only be invited to attend and participate at a meeting if the carer representative has been invited but is unable to attend. You should encourage the carer representative to remain on the board and seek to engage him in its discussions.

### **Respect**

You are being asked to approve a strategic plan, drafted by officers, to redesign the learning disability services in your area. You are concerned that inadequate consideration has been given to transportation and that users and families may require to travel longer distances to access services under the changes proposed. Can you raise concerns about this?

Yes. You have a right to high quality information and to scrutinise and challenge recommendations and proposals. You are entitled to challenge the adequacy of the report and its conclusions, and to ask for further work to be undertaken or additional information to be provided, provided you do so in a respectful, courteous and appropriate manner. You are not entitled to be offensive, abusive and / or unduly disruptive, or to raise any matters concerning the conduct or capability of officers in public. You should be mindful of your tone and choice of language to ensure that you are being courteous and respectful when asking for further work to be undertaken or information provided.

### **Confidentiality**

You are a councillor representative on an IJB. You have just been told that a proposal to close a significant number of care of the elderly beds within a hospital in your ward, in order to invest in alternative community-based models of care, is to be considered at the next meeting of the IJB. You are concerned that people using care, their families and staff at the hospital in question have not been consulted on the proposed changes. You want to draw the matter to their attention so that their views are sought before a decision is taken. You consider the best way to do that would be to contact the local media to alert them to the proposal. Can you do so?

No, if the proposal is not yet in the public domain and /or the intention is for it to remain confidential for the time-being. You could potentially be in breach of the confidentiality provisions in the Code by divulging anything about the proposal without having first checked whether information relating to it should be kept private. You should note that it may be that a plan to consult with those who could be directly affected by the proposal is to be discussed as part of the board's consideration of the matter.

### **Registration of Interests**

You are aware that a councillor member of your IJB works for an MSP on a part-time basis. They have registered the employment with the Council and have openly discussed it on social media. The councillor member recently declared an interest in a proposal being considered by the IJB and took no part in the discussion and decision-making, as the MSP they work for has been vociferous in the media about their opposition to the proposal. You have noted, however, that they have not registered the employment on the IJB's register of interests. Does this matter?

Yes. If the employment is remunerated, it must be registered (within one month). The member does not need to state the amount of their salary, but must provide the name of the employer, nature of business and nature of the post they hold. The fact that the member has registered the employment with the Council and has been open about it on social media is not relevant to the question of whether they have complied with the provisions in the IJB's Code. This is because the purpose of having a register is to provide information to the public about the interests of members which might influence their judgement, decision making and actions, or which might be perceived by a reasonable member of the public as doing so. Members of the public might only check the IJB's register of interests, not the Council's one. They may not access or see any postings on social media, or the minute of the meeting in question. Declaring a registerable interest will not remedy any failure to register it, as the fact that a member has declared an interest in one particular item does not necessarily preclude the possibility that they should have done so in respect of another similar or even entirely unconnected matter.

### **Declarations of Interest**

Your IJB is being asked to approve expenditure to support implementation of the area's Primary Care Improvement Plan. Your parents are patients of a GP Practice in the area. Are you obliged to declare this as an interest?

No. It is unlikely that a member of the public, with knowledge of your family's connection to the area and likelihood that they might be patients of a GP practice within it, would reasonably regard your interest as so significant that it would be likely to prejudice your discussion or decision-making. This is because the Primary Care Improvement Plan would cover all primary care services and would have an impact on all GP Practices in the area, not just the one in question.

### **Declarations of Interest**

Your IJB is being asked to consider a report seeking approval for the implementation of a programme to support the further integration of learning disability services in the area. The report recommends that the IJB board approve the implementation of the proposed programme, including expenditure and the award of a contract to a preferred service provider. Your partner works for a similar service provider in the area and has advised you that the decision could potentially lead to some job losses within his organisation. His own role may be under threat of redundancy. Should you declare an interest?

Yes. You are obliged under the Code to declare both the financial and non-financial interests of partners, close relatives and close friends, if the interest is sufficiently significant that it could be taken to fall within the objective test. In this case, your partner would have a non-financial interest (that is likely to be considered significant), by virtue of his employment at a potential competitor. The fact that his

employment could be affected by the decision would make it also a financial interest. It is likely that a member of the public, with knowledge of your partner's job, would reasonably regard your interest as so significant that it would be likely to prejudice your discussion or decision-making. You should declare an interest and withdraw from the room while the matter is being discussed and any decisions are being made.

### **Conflict of Interest**

You are a councillor member of an IJB. The IJB is to consider a plan to decommission respite services currently delivered at a unit in your constituency ward. You understand that the proposal will ensure best value and consider it to be appropriate in terms of modernising interventions and services in the overall region. You are aware, however, that there is support for retaining the unit amongst your constituents, who consider that it provides an essential local service for carers and the elderly. How do you reconcile your roles and the different considerations?

You are obliged under the IJB's Code to act in its best interests while carrying out your duties as a member of it. As such, when considering the plan, you must base your decision on the interests of the IJB, even if these are inconsistent with what you think may be the interests of your ward constituents.

### **Decision Making**

You are a third sector representative on an IJB. At its last meeting, the IJB considered a proposal to direct the local Council to cut funding for a drug dependency support service. You are concerned about the scale of job losses, the short timescales for the closure of the service and the overall impact it will have on drug users in the area. Other members of the IJB are content with reassurances from officers that an impact assessment and subsequent risk mitigation plan will be put in place, and that the funding cut will result in savings that will help deliver efficiency and innovation in respect of other analogous services. You simply cannot accept that the funding cut is necessary or appropriate, however, as you have heard many accounts of the benefits that the service provides. What can you do?

You can ask for your dissent to be recorded in the minutes of the meeting, if you remain unhappy. Ultimately, however, if the decision is legal and was made in accordance with the IJB's standing orders, policies and procedures then it is legitimate, regardless of your opinion. You either need to accept that or consider whether you wish to remain as a member of the IJB. You could be in breach of the Code if, outside the boardroom, you publicly criticise officers or make disrespectful comments about other members. This would include when you are posting on social media.



# IJB Standards



# Integration Joint Boards



- Integration Joint Boards (IJBs) were established in 2014 as a means for health boards and local authorities to integrate adult health and social care services and budgets, through delegation to a locally accountable body.
- East Lothian IJB was formally established in July 2015, taking on responsibility for development of integrated planning and delivery of health and social care services and criminal justice social work in the East Lothian Council geographical area, as well as certain acute hospital services managed by NHS Lothian.
- East Lothian IJB issued its first Code of Conduct in October 2015. This applied until the Standards Commission for Scotland developed a revised model Code in 2022, which the IJB subsequently adopted.
- The 2015 and 2022 Codes of Conduct recognise the Chief Officer as the Standards Officer for the IJB. The Standards Commission sets out the role of the Standards Officer in an Advice Note.

# Standards Officer Role



- To ensure IJB members receive appropriate training (on induction and regularly thereafter) on the ethical standards framework, the Code of Conduct and the Standards Commission guidance.
- To contribute to the maintenance of high standards of conduct by promoting awareness of the Code and advising and supporting IJB members on its interpretation and application.
- To advise a member if concerns arise that the member may have breached the Code, or risks doing so.
- To make members aware that advice or support is available in private (although the Code treats any advice as confidential, in some circumstances the Standards Officer may need to share information with other parties).
- To ensure a Members' Register of Interests is maintained, with entries updated at least yearly, and to ensure each meeting of the IJB starts with a declaration of interest on any item/s on the agenda.
- To adopt an investigatory role in some cases, in respect of complaints made or concerns raised about a member's conduct.
- To report to the IJB on matters relating to the Ethical Standards Framework and compliance.

# IJB Code of Conduct



- All IJBs, as Devolved Public Bodies, are required to adopt a Code of Conduct to comply with the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- East Lothian IJB approved a revised Code of Conduct in June 2022 with all existing members and future members required to sign the Code to indicate acceptance.
- The Code of Conduct was based on a Model Code, developed by the Standards Commission for Scotland. The Commission also provides a suite of briefings regarding all aspects of the Code and IJB member conduct ([www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings](http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings)).
- The Code of Conduct reflects the nine key principles of public life in Scotland (listed below).
- The Code states how its requirements should be applied in practice and sets out provisions for dealing with alleged breaches of the Code, including the sanctions that can be applied.

# Nine Principles of Public Life (1/2)



**Duty** - I have a duty to uphold the law and act in accordance with the law and the public trust placed in me. I have a duty to act in the interests of the East Lothian IJB of which I am a member and in accordance with the core functions and duties of the IJB.

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

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

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

# Nine Principles of Public Life (2/2)



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

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

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

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

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

# Strategic Role and Operational Work



The Standards Commission notes that the role and work of a public body is “...*balanced with, and complemented by, the role and work of employees.*”

Public Body members determine policy and scrutinise the organisation’s performance against its strategic aims, with each member contributing to:

- Providing strategic leadership;
- Ensuring the public body meets its strategic aims and statutory obligations;
- Ensuring the public body puts the needs of its service users at the forefront of any decision making;
- Holding the Chief Executive and senior management team to account by scrutinising the way in which services are delivered and the implementation of policies and procedures;
- Making or approving decisions that are key to how the public body operates; and
- Ensuring financial stewardship is achieved through the efficient, economic and effective use of resources.

# Strategic Role and Operational Work



- Guidance suggests that an IJB Member's role in scrutiny should focus on making recommendations for improvement and *"...should not normally be used to direct, instruct or pressure an individual employee to make or change a specific operational decision."*
- There are exceptions, to reflect circumstances in which operational matters have strategic implications concerning how the IJB should *"...deploy its resources and/or ones that carry a significant risk to the status or reputation of the public body, or its ability to provide services effectively."*
- It is noted that some decisions may have *"...both operational and strategic elements, particularly if they concern expenditure that does not fall within existing budgets."* Such *"...decisions may be taken jointly by members and employees; or by employees following consultation with certain members (such as members of an Audit & Risk or Human Resources Committees)."*



# Strategic Role and Operational Work



- Members may be required to become involved in operational management or decision-making because of: their letter or contract of appointment; a statutory provision; on invitation from the public body's Chair; and/or having been directed to do so by their sponsor body, Minister or Cabinet Secretary.
- Examples of the above may include making decisions on:
  - casework or complaints;
  - regulatory or quasi-judicial applications; and
  - the appointment of senior employees.
- Members taking on any operational decision-making role, must be clear on *"...what it will involve and.. understand how to identify, and appropriately manage, any conflicts of interest."*
- It is acknowledged that it may on occasion be difficult for members to *"...distinguish between operational and strategic matters and to understand the extent to which they should get involved."* At such times, it may assist to seek guidance from the Standards Officer.

# Public Body Members Advice Notes



The Standards Commission for Scotland provides Members Advice Notes on:

- Distinguishing Between their Strategic Role and any Operational Work.
- Bullying and Harassment.
- How to Declare Interests.
- Social Media.
- Role of a Standards Officer.
- Relations Between Members and Employees.
- Members of Health and Social Care Integration Joint Boards.
- Gifts and Hospitality.
- Conduct During Online Meetings.
- Summary of Article 10 European Convention on Human Rights (ECHR).

# Advice Note for IJB Members



The specific Advice Note issued for members of Integration Joint Boards:

- Provides members of IJBs *“...with an overview of their responsibilities under the ethical standards framework.”*
- Emphasises that *“...members have a personal responsibility to observe the rules in their IJBs Code of Conduct...”* and reflects that the *“Advice Note is intended to assist [members] in interpreting the provisions in their IJB’s Code of Conduct, and should, therefore, be read in conjunction with the Code.”*
- Directs that the IJBs Code of Conduct *“...will apply in all situations, and at all times, where Members are acting as a member of the IJB, have referred to themselves as a member or could objectively be considered to be acting as a member.”*
- Provides examples of potential breaches of the Code, to assist members in judging where the code is at risk of being breached.
- Highlights the circumstances under which an IJB member might be sanctioned and/or disqualified.

# Other IJB Considerations

- All IJB members need to ensure their entries in the 'Register of Interests' are kept current and that they provide a declaration of interest at the beginning of all IJB meetings.
- Councillor or non-executive director IJB members should adopt an independent position in discharging their IJB role.
- Although the majority of IJB decisions are reached by consensus, there are occasions where a vote is required for specific items. In making a decision on how to vote, IJB members should ensure they are fully and objectively informed on all aspects of the matter under consideration and act in the interest of the IJB.
- Members should familiarise themselves with the Revised Joint Integration Scheme 2023 for East Lothian, which took effect from 15<sup>th</sup> May 2023, following approval by Scottish Ministers.

# Case Studies



## Declarations of Interest

Your IJB is considering a report seeking approval for a programme to support the further integration of learning disability services in the area. The report recommends that the IJB approve the award of a contract to a preferred service provider. Your partner works for a similar service provider in the area and has advised you that the decision could potentially lead to some job losses within his organisation, and his own role may be under threat. Should you declare an interest?

**Yes.** You are obliged under the Code to declare the financial and non-financial interests of partners, close relatives and close friends, if the interest is sufficiently significant that it could be taken to fall within the objective test.

In this case, your partner would have a non-financial interest (that is likely to be considered significant) by virtue of his employment by a potential competitor. There is also a financial interest, as his employment could be affected by the IJB decision. It is likely that a member of the public, with knowledge of your partner's job, would reasonably regard your interest as so significant that it would be likely to prejudice your decision-making.

You should declare an interest and withdraw from the room/close the MS Team link while the matter is being discussed and any decisions are being made. After this you may re-join the meeting.

# Case Studies



## Decision Making

You are an IJB third sector representative. At its last meeting, the IJB considered a proposal to direct the local Council to cut funding for a drug dependency support service. You are concerned about the scale of job losses, the short timescales for the closure of the service and the overall impact it will have on drug users in the area. Other members of the IJB are content with reassurances from officers that an impact assessment and risk mitigation plan will be put in place, and that the funding cut will result in savings to deliver efficiency and innovation in respect of other analogous services. You simply cannot accept that the funding cut is necessary or appropriate.

**What can you do?** You can ask for your dissent to be recorded in the minutes of the meeting, if you remain unhappy. Ultimately, however, if the decision is legal and was made in accordance with the IJB's standing orders, policies and procedures then it is legitimate, regardless of your opinion. You either need to accept that or consider whether you wish to remain as a member of the IJB.

You could be in breach of the Code if, outside the boardroom, you publicly criticise officers or make disrespectful comments about other members. This would include when you are posting on social media.

# Case Studies



## Confidentiality

You are a councillor representative on an IJB. You have been informed that the next meeting of the IJB will consider a proposal to close a significant number of care of the elderly beds within a hospital in your ward. This is to allow investment in alternative community-based models of care. You are concerned that people using care, their families and staff at the hospital in question have not been consulted on the proposed changes. You want to draw the matter to their attention so that their views are sought before a decision is taken. You consider the best way to do that would be to contact the local media to alert them to the proposal.

Can you do so?

**No.** If the proposal is not yet in the public domain and/or the intention is for it to remain confidential for the time-being, you could potentially be in breach of the Code's confidentiality provisions by divulging anything about the proposal without having first checked whether it should be kept private until considered. You should note that it may be that a plan to consult with those who could be directly affected by the proposal is to be discussed as part of the IJB's consideration of the matter.

