

# Code of Conduct

This Code of Conduct is for the Chair of the Commission (the Chair), Members of the Commission (Commissioners), the Executive Director/Accountable Officer\* (Executive Director) and Independent Members of the Audit and Risk Committee (ARC)

\*Note: Following demittal of the previous Chair and Accountable Officer the Executive Director has been designated by SPCB as Accountable Officer on a permanent basis. The role, in relation to the Code, is described in Section 7.

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# 1. Introduction

1.1 The Scottish Human Rights Commission (the Commission) is an independent, statutory public body, accountable to the people of Scotland through the Scottish Parliament for all actions and decisions taken.

1.2 To meet the high expectation the public has of the Commission, you must ensure that your conduct is always above reproach.

1.3 This requirement is reflected in the Model Code of Conduct for Members of Devolved Public Bodies (Model Code) that was issued by Scottish Ministers, with approval of the Scottish Parliament, in December 2021, as required by the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the “Act”).

1.4 While the Ethical Standards in Public Life etc (Scotland) Act 2000 does not apply directly to the Commission, as a public body the Commission has chosen to adopt and adhere to the principles of the Act. A link to the Model Code of Conduct and Guidance from the Standards Commissioner can be found [here](#).

1.5 The Commission’s Code of Conduct (the Code) is therefore based on the Model Code and has been developed in line with the nine key principles of public life in Scotland. The principles are listed in Section 2 and set out how the provisions of the Code should be interpreted and applied in practice.

## 1.6 My Responsibilities as a Commissioner

1.6.1 It is my responsibility to make sure that I am familiar with, and that my actions comply with, the provisions of the Code.

1.6.2 I understand that the public has a high expectation of those who serve on the boards of public bodies, including the Commission, and the way in which they should conduct themselves in undertaking their duties. I will always seek to meet those expectations by ensuring that I conduct myself in accordance with the Code.

1.6.3 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all situations and at all times where I am acting as a member of the Commission, have referred to myself as a member of the Commission or could objectively be considered to be acting as a member of the Commission.

1.6.4 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all my dealings with the public, employees and fellow Commission members, whether formal or informal.

1.6.5 I understand that it is my personal responsibility to be familiar with the provisions of this Code and that I must also comply with the law and the Commission's rules, standing orders and regulations. I will also ensure that I am familiar with any relevant guidance or advice notes issued by the Standards Commission for Scotland ("Standards Commission") and the Commission, and endeavour to take part in any training offered on the Code.

1.6.6 I will not, at any time, advocate or encourage any action contrary to this Code.

1.6.7 I understand that no written information, whether in the Code itself or any relevant associated Guidance or Advice Notes issued by the Standards Commission or similar representative bodies, can provide for all circumstances. If I am uncertain about how the Code applies, I will seek advice from the SPCB failing whom the Chair or Executive Director. I note that I may also choose to seek external legal advice on how to interpret the provisions of the Code.

## **1.7 Non-compliance: Process for Investigations**

1.7.1 If an incident occurs where there may be a breach of the Code, or if there is an allegation of a breach by a member of the Commission, it will be referred to the Chair, or in the absence of the Chair, the Executive Director. If the incident or allegation involves the Chair, the Executive Director will intervene. In the first instance, consideration will be given as to whether informal resolution is appropriate in resolving the matter. Each incident will be assessed on its individual circumstances. If informal resolution is not appropriate due to the seriousness nature of an



issue such as, for example, discrimination or harassment, the incident or allegation will then be referred for formal investigation by an independent party, appointed by the Chair or Executive Director. The Chair or the Executive Director in the case of the Chair, will require details of any alleged contravention of the Code in writing in order to determine whether there is sufficient evidence of a potential breach of the Code as to warrant a formal investigation.

1.7.2 Where an independent investigation has been commissioned, the Chair or Executive Director will receive the report of findings and decide what further action is necessary.

1.7.3 Where there is, following an investigation, an allegation of a breach of the Code by the Chair, the independent Chair of the Audit & Risk Committee together with a panel of two Commissioners will receive the report and, in conjunction with the Executive Director, report the outcome to SPCB.

1.7.4 Breaches of compliance with the Code will be considered with reference to the [Complaints Procedure](#) highlighted in Annex A.

1.7.5 This procedure should only be used for complaints in relation to standards of conduct and behaviour that are specifically covered by the Code, with particular reference to Sections 3-6.

1.7.6 For example, the process could be used for conduct that relates to, but not exclusively:

- Unlawful discrimination
- Bullying and harassment
- Taking advantage of your position as a member of the Commission
- Revealing confidential information

1.7.7 This procedure should not include, for example.

- General complaints with regard to our standards of work
- Failure to follow procedures.

- Our policies and public statements,
- Delays in responding to enquiries.

Such matters, and other similar more general issues should be referred to the Commission's Complaints Policy, which is published on the website, [here](#)

1.7.8 Similarly, this procedure should not be used to highlight matters that would fall within the terms of the Public Interest Disclosure Act 1998. This allows individuals to disclose certain issues to particular external parties where there is good reason to believe that internal disclosure will not be taken seriously or will cause the individual making the disclosure to be penalised in some way. Such matters, considered to be in the wider public interest and where the interests of others or the Commission itself are at risk, are covered by the Whistleblowing Policy (inc link once complete) and would include, for example, any suggestion of alleged wrongdoing, including criminal offences such as fraud or other similar offences.

1.7.9 Complaints received through reference to this process and this Code will only be considered if they are assessed as highlighting a breach or potential breach of the Code.

1.7.10 One potential outcome of raising a complaint through this process may be that no further action will be taken as, following review and assessment, it is not considered that a breach of the Code has taken place. On occasion, there may still be a requirement to consider the matters raised through other review or exploratory routes.

1.7.11 The Executive Director, is responsible for monitoring, evaluating and ensuring compliance with the Code, with support as required from the Head of Commission Secretariat & Business Support, HR and seeking advice from the Audit & Risk Committee (ARC) as necessary.

1.7.12 The Executive Director is responsible for monitoring and recording all breaches of compliance with the Code and sharing an annual overview of this with SPCB. The process is highlighted [in Section A1.6](#) of Appendix 1.

## **2. Key Principles of the Code**

2.1 The Code has been based on the following key principles of public life. I will behave in accordance with these principles and understand that they should be used for guidance and interpreting the provisions in the Code.

2.2 I note that a breach of one or more of the key principles does not in itself amount to a breach of the Code. I note that, for a breach of the Code to be found, there must also be a contravention of one or more of the provisions in sections 3 to 6 inclusive of the Code. The key principles are:

- Duty
- Selflessness
- Integrity
- Objectivity
- Accountability and Stewardship
- Openness
- Honesty
- Leadership
- Respect

These are articulated further in Annex B.

## **3. General Conduct**

### **3.1 Respect and Courtesy**

3.1.1 I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.1.2 I will not discriminate unlawfully on the basis of race, age, sex, sexual orientation, gender reassignment, disability, religion or belief, marital status or pregnancy/maternity; I will advance equality of opportunity and seek to foster good relations between different people.

3.1.3 I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of this Code.

3.1.4 I accept that disrespect, bullying and harassment can be:

- a) a one-off incident,
- b) part of a cumulative course of conduct; or
- c) a pattern of behaviour.

3.1.5 I understand that how, and in what context, I exhibit certain behaviours can be as important as what I communicate, given that disrespect, bullying and harassment can be physical, verbal and non-verbal conduct.

3.1.6 I accept that it is my responsibility to understand what constitutes bullying and harassment and I will utilise all relevant resources, including the Standards Commission's guidance and advice notes, [Standards Commission Scotland Advice Note on Bullying and Harassment](#), the Commission's policies and training material (where appropriate) to ensure that my knowledge and understanding is up to date.

3.1.7 Except where it is written into my role as a member of the Commission, as detailed in the SHRC Member Terms and Conditions of Appointment (included at Annex C), the Commissioners Handbook, included at Annex D, and / or at the invitation of the Executive Director, I will not become involved in operational management of the Commission. I acknowledge and understand that operational management is the responsibility of the Executive Director and Senior Leadership team (SLT).

3.1.8 I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public. I will raise any concerns I have on such matters in private with the Executive Director or the Chair.

3.1.9 I will not take, or seek to take, unfair advantage of my position in my dealings with employees of the Commission or bring any undue influence to bear on employees to take a certain action. I will not ask or direct employees to do something which I know, or should reasonably know, could compromise them or prevent them from undertaking their duties properly and appropriately.

3.1.10 I will respect and comply with rulings from the Chair during meetings of:

- a) the Commission, its committees; and
- b) any outside organisations that I have been appointed or nominated to by the Commission or on which I represent the Commission.

I will respect the principle of collective decision-making and corporate responsibility, as described in Section 9 of the Commissioners Handbook. This means that once the Commission has made a decision, I will support that decision, even if I did not agree with it or vote for it.

## **3.2 Remuneration, Allowances and Expenses**

3.2.1 I will comply with the rules, and the policies of the Commission, on the payment of remuneration, allowances and expenses.

## **3.3 Gifts and Hospitality**

3.3.1 I understand that I may be offered gifts (including money raised via crowdfunding or sponsorship), hospitality, material benefits or services (“gift or hospitality”) that may be reasonably regarded by a member of the public with knowledge of the relevant facts as placing me under an improper obligation or being capable of influencing my judgement.

3.3.2 I will never ask for or seek any gift or hospitality.

3.3.3 I will refuse any gift or hospitality, unless it is:

- a) a minor item or token of modest intrinsic value offered on an infrequent basis;
- b) a gift being offered to the Commission;
- c) hospitality which would reasonably be associated with my duties as a member of the Commission; or
- d) hospitality which has been approved in advance by the Commission.

3.3.4 I will consider whether there could be a reasonable perception that any gift or hospitality received by a person or body connected to me could or would influence my judgement.

3.3.5 I will not allow the promise of money or other financial advantage to induce me to act improperly in my role as a member of the Commission member. I accept that the money or advantage (including any gift or hospitality) does not have to be given to me directly. The offer of monies or advantages to others, including community groups, may amount to bribery, if the intention is to induce me to improperly perform a function.

3.3.6 I will never accept any gift or hospitality from any individual or applicant who is awaiting a decision from, or seeking to do business with, the Commission.

3.3.7 If I consider that declining an offer of a gift would cause offence, I will accept it and hand it over to the Commission at the earliest possible opportunity and ask for it to be registered.

3.3.8 I will promptly advise the Head of Commission Secretariat and/or the Chair of the Audit & Risk Committee if I am offered (but refuse) any gift or hospitality of any significant value and / or if I am offered any gift or hospitality from the same source on a repeated basis, so that the Commission can monitor this.

3.3.9 I will familiarise myself with the terms of the Bribery Act 2010, which provides for offences of bribing another person and offences relating to being bribed.

### **3.4 Confidentiality**

3.4.1 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.

3.4.2 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.

3.4.3 I will only use confidential information to undertake my duties as a member of the Commission. I will not use it in any way for personal advantage or to discredit the Commission (even if my personal view is that the information should be publicly available).

3.4.4 I note that these confidentiality requirements do not apply to protected whistleblowing disclosures made to the prescribed persons and bodies as identified in statute.

### **3.5 Use of Public Body Resources**

3.5.1 I will only use the Commission's resources, including employee assistance, facilities, stationery and IT equipment, for carrying out duties on behalf of the public body, in accordance with its relevant policies.

3.5.2 I will not use, or in any way enable others to use, the Commission's resources:

- a) imprudently (without thinking about the implications or consequences);
- b) unlawfully;
- c) for any political activities or matters relating to these; or

d) improperly.

### **3.6 Dealing with the Commission and Preferential Treatment**

3.6.1 I will not use, or attempt to use, my position or influence as a member of the Commission member to:

a) improperly confer on or secure for myself, or others, an advantage;

b) avoid a disadvantage for myself, or create a disadvantage for others or

c) improperly seek preferential treatment or access for myself or others.

3.6.2 I will avoid any action which could lead members of the public to believe that preferential treatment or access is being sought.

3.6.3 I will advise employees of any connection, as defined at Section 5, I may have to a matter, when seeking information or advice or responding to a request for information or advice from them.

### **3.7 Appointments to Outside Organisations**

3.7.1 If I am appointed, or nominated by the Commission, 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.

3.7.2 I will also continue to observe the rules of this Code when carrying out the duties of that body or organisation.

3.7.3 I accept that if I am a director or trustee (or equivalent) of a company or a charity, I will be responsible for identifying, and taking advice on, any conflicts of interest that may arise between the company or charity and the Commission.

## **4. Registration Of Interests**



4.1 The following paragraphs set out what I have to register when I am appointed and whenever my circumstances change. The register covers my current term of appointment.

4.2 I understand that regulations made by the Scottish Ministers describe the detail and timescale for registering interests; including a requirement that a member of the Commission must register their registrable interests within one month of becoming a member of the Commission and register any changes to those interests within one month of those changes having occurred.

4.3 The interests which I am required to register are those set out in the following paragraphs. Other than as required by paragraph 4.2, I understand it is not necessary to register the interests of my spouse or cohabitee.

#### **4.4 Category One: Remuneration**

4.4.1 I will register any work for which I receive, or expect to receive, payment. I have a registrable interest where I receive remuneration by virtue of being:

- a) employed;
- b) self-employed;
- c) the holder of an office;
- d) a director of an undertaking;
- e) a partner in a firm;
- f) appointed or nominated by the Commission to another body; or
- g) engaged in a trade, profession or vocation or any other work.

4.4.2 I understand that in relation to 4.3 above, the amount of remuneration does not require to be registered. I understand that any remuneration received as a member of the Commission does not have to be registered.

4.4.3 I understand that 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, “Other Roles”.

4.4.4 I must register any allowances I receive in relation to membership of any organisation under Category One.

4.4.5 When registering employment as an employee, I must give the full name of the employer, the nature of its business, and the nature of the post I hold in the organisation.

4.4.6 When registering remuneration from the categories listed in paragraph 4.4.1 (b) to (g) above, I must provide the full name and give details of the nature of the business, organisation, undertaking, partnership or other body, as appropriate. I recognise that some other employments may be incompatible with my role as a member of the Commission in terms of paragraph 6.8 of this Code.

4.4.7 Where I otherwise undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and how often it is undertaken.

4.4.8 When registering a directorship, it is necessary to provide the registered name and registered number of the undertaking in which the directorship is held and provide information about the nature of its business.

4.4.9 I understand that registration of a pension is not required as this falls outside the scope of the category.

## **4.5 Category Two: Other Roles**

4.5.1 I will register any unremunerated directorships where the body in question is a subsidiary or parent company of an undertaking in which I hold a remunerated directorship.

4.5.2 I will register the registered name and registered number 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 I am a director and from which I receive remuneration.

#### **4.6 Category Three: Contracts**

4.6.1 I have a registerable interest where I (or a firm in which I am a partner, or

4.6.2 an undertaking in which I am a director or in which I have shares of a value as

4.6.3 described in paragraph 4.20 below) have made a contract with the Commission:

a) under which goods or services are to be provided, or works are to be executed; and

b) which has not been fully discharged.

4.6.4 I will register a description of the contract, including its duration, but excluding the value.

#### **4.7 Category Four: Election Expenses**

If I have been elected to the Commission, then I will register a description of, and statement of, any assistance towards election expenses relating to election to the Commission.

#### **4.8 Category Five: Houses, Land and Buildings**

4.8.1 I have a registrable interest where I 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 Commission.

4.8.2 I accept that, when deciding whether or not I need to register any interest I have in houses, land or buildings, the test to be applied is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as being so significant that it could potentially affect my responsibilities to the Commission and to the public, or could influence my actions, speeches or decision making.

## **4.9 Category Six: Interest in Shares and Securities**

4.9.1 I have a registerable interest where:

- a) I own or have an interest in more than 1% of the issued share capital of the company or other body; or
- b) Where, at the relevant date, the market value of any shares and securities (in any one specific company or body) that I own or have an interest in is greater than £25,000.

## **4.10 Category Seven: Gifts and Hospitality**

4.10.1 I understand the requirements of paragraphs 3.13 to 3.21 regarding gifts and hospitality. As I will not accept any gifts or hospitality, other than under the limited circumstances allowed, I understand there is no longer the need to register any.

## **4.11 Category Eight: Non-Financial Interests**

4.11.1 I may also have other interests and I understand it is equally important that relevant interests such as membership or holding office in other public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described. In this context, I understand non-financial interests are those which members of the public with knowledge of the relevant acts might reasonably think could influence my actions, speeches, votes or decision-making in the Commission (this includes its Committees and memberships of other organisations to which I have been appointed or nominated by the Commission).

## **4.12 Category Nine: Close Family Members**

4.12.1 I will register the interests of any close family member who has transactions with the Commission or is likely to have transactions or do business with it.

# **5. Declaration Of Interests**

## **5.1 Stage 1: Connection**

5.1.1 For each particular matter I am involved in as a member of the Commission, I will first consider whether I have a connection to that matter.

5.1.2 I understand that a connection is any link between the matter being considered and me, or a person or body I am associated with. This could be a family relationship or a social or professional contact.

5.1.3 A connection includes anything that I have registered as an interest.

5.1.4 A connection does not include being a member of a body to which I have been appointed or nominated by the Commission as a representative of the Commission, unless:

- a) The matter being considered by the Commission is quasi-judicial or regulatory; or
- b) I have a personal conflict by reason of my actions, my connections or my legal obligations.

## **5.2 Stage 2: Interest**

5.2.1 I understand my connection is an interest that requires to be declared where the objective test is met – that is where a member of the public with knowledge of the relevant facts would reasonably regard my connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making.

## **5.3 Stage 3: Participation**

5.3.1 I will declare my interest as early as possible in meetings. I will not remain in the meeting nor participate in any way in those parts of meetings where I have declared an interest.

5.3.2 I will consider whether it is appropriate for transparency reasons to state publicly where I have a connection, which I do not consider amounts to an interest.

5.3.3 I note that I should consult with the Chair of the Audit & Risk Committee to seek advice and agreement, to allow me to take part in the discussion and decision-making on a matter where I would otherwise have to declare an interest and withdraw (as a result of having a connection to the matter that would fall within the objective test). I note that such consultation and agreement must be made in advance of any meetings for which advice is sought and that I cannot take part in any discussion or decision making on the matter in question unless, and until, the advice has been sought and agreement reached.

5.3.4 I note that public confidence in a public body is damaged by the perception that decisions taken by that body are substantially influenced by factors other than the public interest. I will not accept a role or appointment if doing so means I will have to declare interests frequently at meetings in respect of my role as a member of the Commission. Similarly, if any appointment or nomination to another body would give rise to objective concern because of my existing personal involvement or affiliations, I will not accept the appointment or nomination.

## **6. Lobbying And Access**

6.1 I understand that a wide range of people will seek access to me as a member of the Commission and will try to lobby me, including individuals, organisations and companies. I must distinguish between:

- a) any role I have in dealing with enquiries from the public;
- b) any community engagement where I am working with individuals and organisations to encourage their participation and involvement, and;
- c) lobbying, which is where I am approached by any individual or organisation who is seeking to influence me for financial gain or advantage, particularly those who are seeking to do business with the Commission (for example contracts/procurement).

6.2 In deciding whether, and if so how, to respond to such lobbying, I will always have regard to the objective test, which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard my conduct as being likely to influence my, or the Commission's decision-making role.

6.3 I will 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 Commission or any statutory provision.

6.4 I will not, in relation to contact with any person or organisation that lobbies, act in any way which could bring discredit upon the Commission.

6.5 If I have concerns about the approach or methods used by any person or organisation in their contacts with me, I will seek the guidance of the Chair, Executive Director of the Commission.

6.6 The public must be assured that no person or organisation will gain better access to, or treatment by, me as a result of employing a company or individual to lobby on a fee basis on their behalf. I will 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 I accord any other person or organisation who lobbies or approaches me. I will ensure that those lobbying on a fee basis on behalf of clients are not given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming.

6.7 Before taking any action as a result of being lobbied, I will seek to satisfy myself about the identity of the person or organisation that is lobbying and the motive for lobbying. I understand I 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 I understand the basis on which I am being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code and the Lobbying (Scotland) Act 2016.

6.8 I will not accept any paid work:

a) which would involve me lobbying on behalf of any person or organisation or any clients of a person or organisation.

b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence the Commission and its members. This does not prohibit me from being remunerated for activity which may arise because of, or relate to, membership of the Commission, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

## **7. The role of the Executive Director / Accountable Officer**

7.1.1 The Executive Director has overall responsibility, for delivering the Commission's strategic objectives, as approved by the Commission.

7.1.2 The Executive Director is given delegated authority for the efficient organisation and delivery of the Commission's business plans and is empowered to make decisions and delegate authority to staff for the day-to-day operation. This involves the promotion by leadership and example of the values embodied throughout this Code, in particular, Key Principles of Public Life (Annex B) and Principles of Good Governance (contained in Annex D). Commissioners should support the Executive Director in undertaking this responsibility.

7.1.3 The Executive Director is the designated Accountable Officer for the Commission(ref Schedule 1 of the Act) , and as such is personally answerable to Parliament for the exercise of this function. The essence of the role is a personal responsibility for the propriety and regularity of the Commission's finances; for the signing of proper accounts; for prudent and management and leadership; and for ensuring the resources of the Commission are used economically, efficiently and effectively. This includes the development and maintenance of procedures in financial and other matters including conduct and discipline. Satisfactory performance of these responsibilities is fundamental to the role of the Executive Director.



7.1.4 The Executive Director should establish an effective working relationship with the Chair, informing and consulting them on key developments in a timely manner and seeking advice and support as appropriate, including advice and support in their role.

7.1.5 An effective relationship between Commissioners and the Commission staff team should be characterised by openness and integrity. This will be largely defined through the synergy between the Chair and the Executive Director.

7.1.6 The Executive Director, is responsible for monitoring, evaluating and ensuring compliance with the Code, and for formally providing an annual report summarising the number of issues related to potential, or following investigation, actual breaches of compliance with the Code to SPCB. The Executive Director is also responsible for reporting any issues which following investigation, are unresolved or have implications for a Member's Terms of Appointment which only SPCB can consider further action.

# **Annex A: Complaints regarding Breaches of Compliance with the Code**

## **A1 Complaints Procedure**

### **A1.1 Complaint Scenarios**

This procedure covers the following 5 scenarios;

1. Complaints from the public or external stakeholders in relation to an alleged breach of the Code.
2. Complaints from Staff Team members in relation to an alleged breach of the Code.
3. Complaints from Commission members in relation to an alleged breach of the Code by other Commission members
4. Complaints from Commission members in relation to an alleged breach of the Code by the Executive Director
5. Complaints from Commission members in relation to an alleged breach of the Code by the Chair

These are explained further below.

#### **1. Complaints from the public or external stakeholders in relation to an alleged breach of the Code.**

If you have concerns about a potential breach of compliance with the Code by a member of the Commission, The Chair or the Executive Director, you should inform the Commission as soon as possible after the event. Contact can be via telephone, email (see below) or if attending an event, you may wish talk to someone directly in relation to the matter you are complaining about. They will try to resolve any problems on the spot.

If the matter cannot be resolved there and then, you will be provided with an explanation as to why and what next steps will be. Depending on the

nature and circumstances of the issue you will be advised of the process for escalation to a more formal procedure. Contact details are below.

Telephone: 0131 297 5750

Email: [hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com)

Post: Scottish Human Rights Commission, Bridgehouse, 99  
McDonald Rd, Edinburgh, EH7 4NS

## **2. Complaints from Staff Team members in relation to an alleged breach of the Code.**

If as a member of staff you wish to raise a complaint about a potential breach in compliance with the Code by a member of the Commission or the Chair you should inform the Executive Director as soon as possible, either directly face to face, by phone, or via email. In any event you may subsequently be asked to provide the complaint in writing to allow a formal investigation to take place. This should be sent to [jan.savage@scottishhumanrights.com](mailto:jan.savage@scottishhumanrights.com)

## **3. Complaints received from members of the Commission or Independent members of ARC about other members of the Commission or Independent members of ARC in relation to an alleged breach of the Code.**

If you wish to raise a complaint about a potential breach in compliance with the Code by another member of the Commission or Independent member of ARC, you should inform the Chair or Executive Director as soon as possible either directly face to face, by phone, or via email. In any event you may subsequently be asked to provide the complaint in writing to allow a formal investigation to take place. This should be sent to [chair@scottishhumanrights.com](mailto:chair@scottishhumanrights.com)

Note: In the absence of a Chair, complaints should be directed to the Executive Director in the first instance, by email to [jan.savage@scottishhumanrights.com](mailto:jan.savage@scottishhumanrights.com)

#### **4. Complaints received from members of the Commission about the Executive Director in relation to an alleged breach of the Code.**

If you wish to raise a complaint about a potential breach in compliance with the Code by the Executive Director you should inform the Chair as soon as possible either directly face to face, by phone, or via email. In any event you may subsequently be asked to provide the complaint in writing to allow a formal investigation to take place. This should be sent to [chair@scottishhumanrights.com](mailto:chair@scottishhumanrights.com)

Note: In the absence of a Chair, complaints in relation to the Executive Director should be directed to another Commissioner in the first instance, by email to either:

[jim.farish@scottishhumanrights.com](mailto:jim.farish@scottishhumanrights.com)

[shelley.gray@scottishhumanrights.com](mailto:shelley.gray@scottishhumanrights.com)

[claire.methveno'brien@scottishhumanrights.com](mailto:claire.methveno'brien@scottishhumanrights.com)

In these circumstances, advice should also be sought from the Head of Commission Secretariat to access necessary HR support through the Shared Services Agreement with SPSO.

#### **5. Complaints received from members of the Commission or Executive Director about the Chair in relation to an alleged breach of the Code**

If you wish to raise a complaint about a potential breach in compliance with the Code by the Chair, you should inform the Executive Director as soon as possible after the event, or in the case of the Executive Director, another member of the Commission in the first instance. Depending on the nature, complexity and source of the complaint, the Executive Director or member of the Commission will determine whether to ask another member of the Commission to review it or whether an independent, external assessment is required to help determine the most appropriate way of resolving or dealing with the matter. In any

event you may subsequently be asked to provide the complaint in writing to allow a formal investigation to take place. This should be sent to;

[jan.savage@scottishhumanrights.com](mailto:jan.savage@scottishhumanrights.com)

or

[jim.farish@scottishhumanrights.com](mailto:jim.farish@scottishhumanrights.com)

[shelley.gray@scottishhumanrights.com](mailto:shelley.gray@scottishhumanrights.com)

[claire.methveno'brien@scottishhumanrights.com](mailto:claire.methveno'brien@scottishhumanrights.com)

The above highlights a broad range of potential scenarios that may occur, but there may be variations. Where this is the case, core principles described throughout will be applied, and a judgment made between the Executive Director/Chair/members of the Commission as appropriate, on how best to proceed.

Figure 1 below provides a tabulated summary of this information

## **A1.2 Complaint Stages**

There are typically 3 stages to the complaints procedure that will apply to each complaint scenario.

### **Stage 1 - Informal Resolution - Internal**

Depending on the circumstances, severity and nature of the issue, the Commission may be able to resolve the complaint by, for example, providing an explanation about why a certain action was taken or a particular decision reached, or by offering an apology and advising of the steps that will be taken to prevent any similar occurrence in the future.

If the matter cannot be resolved there and then, the Commission will always try to respond within 5 working days.

All complaints will be considered for Stage 1 resolution where it is possible and appropriate to do so. Initial assessment of the issue by the lead officer (see Fig 1 below) will include due consideration of the nature, severity and complexity of the alleged breach and whether

escalation to a more formal process is required. The complainant will be informed where this is the case.

In reviewing any complaint or issues raised, you may be contacted to provide further information, in writing, to support the resolution or subsequent investigation.

## **Stage 2 – Formal – Internal Independent**

If matters cannot be resolved informally, where you remain dissatisfied with an outcome, or where there is a greater level of severity or complexity, the matter will be referred to Stage 2 for formal investigation. All complaints that require formal investigation must be provided in writing to the Executive Director.

If at this stage no written complaint has been received you will be asked to provide this in order to progress the complaint. Where a written complaint has already been received, you may be contacted for further information to support the investigation.

You should provide as much detail as you can about your experience and why you are unhappy. Receipt of your formal complaint will be acknowledged within 5 working days.

The Chair/Executive Director will review the complaint and instigate an internal independent investigation. The aim is to provide you with a full response as quickly as possible and, in any event, within 20 working days.

If the Commission is unable to provide a full response within 20 working days, you will be informed of progress within 20 working days, and then every 20 working days thereafter, until a full response is issued.

If appropriate, you will be advised of any changes or improvements that have been made in light of your complaint.

If your complaint is about the Executive Director your complaint should be referred directly to the Chair.

## **Stage 3 – Formal Procedure – External Independent Investigation**

If matters cannot be resolved at Stage 2, or where there is a greater level of severity or complexity, the matter will be referred to Stage 3 for formal investigation. The Executive Director, and where appropriate the Chair, will review and determine where this should apply.

Stage 3 involves external independent review and investigation of the complaint. The Executive Director will instigate an investigation and appoint an external, independent organisation to deal with the matter.

The appointment of an external investigator will depend on the nature of the complaint but is likely to be organisations who specialise in HR/Legal consultancy and mediation.

The complainant will be informed who will be investigating the complaint and the expected process and timelines. Normally, the Commission would seek to provide a full response within 20 working days from the point at which the complaint is passed to the external investigator. If the Commission is unable to provide a full response within 20 working days, you will be informed of progress within 20 working days, and then every 20 working days thereafter, until a full response is issued.

### **Investigation Meetings/Interviews**

During the investigation of a complaint there will likely be a requirement to gather evidence and this may include taking witness statements, gathering relevant documents and conducting investigatory meetings or interviews.

Any member of staff taking part in an interview or meeting may be accompanied by a work colleague or a trade union representative.

Investigations, whether involving employees or only members of the Commission, will be conducted based on the principles and guidance outlined in the ACAS 'Conducting Workplace Investigations' publication, [here](#)

## Appeals

At each stage, you will have the right to appeal if you are dissatisfied with the response received. Appeals should be made in writing to the Chair of the Commission, no later than five working days after you have been notified of the decision, setting out the grounds upon which it is being made.

If the Chair has any involvement in the matter raised, the Executive Director will assign an independent party to manage the appeal. This could include for example, the independent Chair of the ARC, or externally appointed HR/legal consultancy.

You will be notified of how the Appeal will be conducted and, depending on the grounds of appeal, arrangements will be made to gather necessary information and arrange an appeal hearing as required.

The appeal decision of the Chair or other independent nominated individual will be final.

### A1.3 Response Timelines

The response timelines referred to above are summarised below.

Stage	Timescales	Responsible
<b>Stage 1</b>	Immediate resolution, in person, or Within a few working days or. Acknowledged within 5 working days, full response within 20 working days	Local Team, lead officer involved, other as appropriate
<b>Stage 2</b>	Receipt acknowledged within 5 working days.	Executive Director/HR



	<p>Assessed for further information requirements – additional information request within 5 working days</p> <p>Full response within 20 working days of receipt of all information.</p> <p>If the Commission is unable to provide a full response within 20 working days, you will be informed of progress within 20 working days, and then every 20 working days thereafter.</p>	
<b>Stage 3</b>	<p>Receipt acknowledged within 5 working days.</p> <p>Assessed for further information requirements – additional information request within 5 working days,</p> <p>Full response within 20 working days of receipt of all information.</p> <p>If the Commission is unable to provide a full response within 20 working days, you will be informed of progress within 20 working days, and then every 20 working days thereafter.</p>	Executive Director/Chair

Whilst investigations should be completed as quickly as is practical, they also need to be sufficiently thorough to be fair and reasonable. A complicated matter may take several weeks to conduct properly. A relatively simple matter may only require a small amount of investigation time for it to be reasonable. The timescales above are designed to be

sufficiently robust to accommodate this. A response should ideally be provided within 20 working days, unless there are circumstances core to the investigation that prevent this from being the case. In any event all efforts should be made to ensure investigations are concluded within a maximum 60 working days. Where any of the above timescales cannot be met, the Commission will inform the complainant and provide a clear explanation and an expectation of a reasonable timescale for progress.

## Figure 1.0 Framework for managing Complaints in relation to Compliance with the Code

Scenario	Complaint Source	Stage 1 – Informal/Local	Stage 2 – Formal Internal	Stage 3 – Formal External
1.	Complaints from the public or external stakeholders in relation to an alleged breach of the Code.	Local review, respond or direct to appropriate Lead	Executive Director – instigates formal investigation. If not satisfied move to Stage 3	Refer complainant to SPSO, as internal complaints procedure exhausted.
2.	Complaints from Staff Team members in relation to an alleged breach of the Code.	Executive Director/HR to review and assess for local resolution.	Executive Director – instigates formal investigation	Independently appointed HR/ Legal consultancy – mediation/investigation

3	Complaints from Commission members or Independent members of ARC in relation to a breach of the Code by other Commission members or Independent members of ARC	Executive Director/Chair to review and assess for local resolution.  Note: In the absence of a Chair the Executive Director should assume lead role and progress as required	Executive Director/Chair – instigates formal investigation	Independently appointed HR/ Legal consultancy – mediation/investigation
4	Complaints from Commission members or Independent members of ARC in relation to a breach of the Code by the Executive Director	Chair/HR review and assess for local resolution. If complaint is from the Chair, another Commissioner should assume lead role and progress as required.	Chair/Commissioner - instigates formal investigation	Independently appointed HR/ Legal consultancy – mediation/investigation
5	Complaints from Commission members or Independent members of	Executive Director/HR to review and assess for local resolution and	Executive Director/Commissioner – instigates formal investigation	Independently appointed HR/ Legal consultancy – mediation/investigation

	ARC in relation to a breach of the Code by the Chair	whether to refer to another Commissioner.		
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## **A1.4 Complaint Investigation**

When reviewing and conducting investigations at Stage 1 and Stage 2, the Lead officer may refer to HR/SPSO for advice and support in relation to the investigation. This may include a request to carry out all or part of the investigation, through a Senior HR Representative or from the SPSO Director. Depending on the nature and complexity of the issue, external independent support may also be sought.

The level of enquiry and format of the investigation will depend on the nature, complexity and severity of the complaint. However, a full investigation will typically, though not exclusively, take account of the following types of information to establish the facts where possible;

- The complaint and any subsequent clarifications
- Reference to policies, process and procedures, including the Code
- Witness statements where required
- All relevant communications between parties that may have a bearing on the investigation, such as email
- Any previous recommendations relating to similar matters

For complaints that are referred for Stage 3 review, Independent External support will be commissioned to conduct the investigation, provide mediation or provide other relevant interventions that are most relevant or likely to ensure an appropriate resolution.

The Executive Director/Chair will appoint independent external support where necessary.

## **A1.5 Investigation Findings**

Following conclusion of an investigation, a report will be produced that includes all of the facts that were and were not established and whether there are any mitigating factors that require consideration.

The report should be written in a concise and objective style, avoiding jargon and reporting only the facts in relation to the evidence that was collected. Evidence within the report should be organised into uncontested facts (facts not in dispute), contested facts (those not agreed or contradictory), and unsubstantiated claims (where the investigator cannot prove or evidence an allegation).

The report should include the conclusions reached by the party conducting the investigation.

Decisions about how to proceed following the outcome of the investigation will be taken by the party who instigated the investigation, i.e. the Executive Director or the Chair

## **A1.6 Enforcement and Sanctions**

For members of the Commission, any subsequent findings that cannot be successfully resolved through local agreement, mediation or similar, or where the nature of the breach is such that it is considered a significant contravention of the Code or any of the relevant terms of Schedule 1 of the Scottish Commission for Human rights Act 2006, the matter will be immediately referred to The Scottish Parliamentary Corporate Body (SPCB) by the Executive Director.

A note will be retained on employment files for the standard HR retention period. An overview of numbers and trends in relation to breaches or alleged breaches of the Code will be reported at the Audit & Risk Committee. An overview of particular issues will be reported to SPCB as the appointing body, and an annual report of issues within the Commission will be shared with SPCB.

As distinct from members of the Commission, i.e. the Chair and the Commissioners, any findings from investigations conducted through this Code that relate to the Executive Director, and that may require enforcement or sanction, would be managed through the appropriate internal HR policies and procedures that apply to employees of the Commission.

# Annex B: Key Principles of Public Life

The Code has been based on the following key principles of public life;

## **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 public body of which I am a member and in accordance with the core functions and duties of that body.

## **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 Commission when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

## **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 Commission 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 Commission and its members in conducting public business.

## **Respect**

I must respect all other members of the Commission and all employees of the Commission 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 member of the Commission.

# Annex C: SHRC Member Terms and Conditions of Appointment



The Scottish Parliament  
Pàrlamaid na h-Alba

## Scottish Commission for Human Rights – Part-Time Commission Member

The Scottish Human Rights Commission Act 2006 provides for the appointment of the members of the Commission. The other members are to be individuals appointed by the Scottish Parliamentary Corporate Body.

### Status

1. The Scottish Human Rights Commission (*the Commission*) is not a servant or agent of the Crown and has no status, immunity or privilege of the Crown.

### Disqualification

2. A person is disqualified for appointment, and from holding office, as a member of the Commission if that person is-

- a) A member of the House of Commons,
- b) A member of the Scottish Parliament.

3. A person is also disqualified from such appointment if that person has, in the year preceding the date of appointment, held any of the above mentioned offices.

### Statutory powers and functions of the Commission

4. It will be a matter for you to familiarise yourself with the Commission's statutory powers and functions as set out in the Scottish Commission for Human Rights Act 2006 (the 2006 Act) and all other statutes applying to the Commission.

### **Members' duties**

5. Your main responsibilities and duties are-

- in partnership with other Commission members to set and monitor the strategic direction of the Commission and help establish a credible business plan for the Commission
- to ensure the efficient and effective running of the Commission
- to build and maintain positive and effective working relationships with fellow commission members; Commission staff, the GB Equality and Human Rights Commission (EHRC), public authorities including the Scottish Parliament and Scottish Government, human rights organisations, and other stakeholders
- as and when required, to take ownership of discrete work streams which promote and encourage best practice in relation to human rights and the efficient and effective running of the Commission
- represent the Commission by e.g. appearing before committees of the Scottish Parliament and the UN, being a member of a working group, undertaking press engagements and attending meetings and
- Reviewing written submissions and other materials drafted by staff members.

### **Other Appointments**

6. You must seek written permission from the Scottish Parliamentary Corporate Body (SPCB) before accepting any new appointment, office or employment whether paid or unpaid. You must keep your Register of Interest entry on the SHRC's website up to date.

## **Conflicts of Interest**

7. You may not hold any other office, employment (including consultancy work) or appointment or engage in any other occupation which would conflict with your responsibilities to Parliament or inhibit or compromise you in the proper exercise of the functions of the Commission under section 8(1) of the Scottish Commission for Human Rights Act 2006 (the Act).

8. You must abide by the SHRC's Handbook for Members. Failure to do so may be deemed a breach of your terms and conditions of appointment and could result in your removal from office.

## **Subsequent appointments**

9. On ceasing to be a member of the Commission you may not, without the approval of the SPCB:

- be employed or appointed in any other capacity by the Commission
- hold office in or be an employee or appointee of any Scottish public authority in relation to which the Commission conducted an inquiry under section 8(1)(a) of the 2006 Act while you were a member of the Commission; or
- hold any other office, employment or appointment or engage in any other occupation, being an office or employment, appointment or occupation which you could not have held or, as the case may be, engaged in when a member of the Commission by virtue of clause 6 of these terms and conditions of appointment.

10. The restriction starts when you cease to hold office and ends on the expiry of the financial year next following the one in which the restriction started.

## **Tenure**

11. The SPCB has determined that you will hold office for six years. Your term of office will begin on xxxxxxxxxxxxxxxxxxxx and will end on xxxxxxxxxxxxxxxxxxxx.

12. You may resign from office at your own request giving at least three months' notice to the SPCB.

13. You may be removed from office by the SPCB if it is satisfied that you have breached these terms of appointment and the Parliament resolves that you should be removed from office for that reason or if the Parliament resolves that it has lost confidence in your willingness, suitability or ability to perform your functions. Any such resolution, if passed on division, must be voted for by not less than two-thirds of those voting.

14. The Commission is dissolved, your period in office ends on the date of dissolution or such other date as may be specified in any enactment. If any change is made to the Commission which requires your period in office to end, your period in office will end on such date as the SPCB may, by written notice, specify.

15. You are not entitled to any gratuity, allowance or compensation when your period in office ends.

### **Time commitment**

16. The SPCB has determined that you will work 48 days per year (4 days per month). This will be monitored and reported on annually.

### **Remuneration**

17. The SPCB has determined that you will be paid a daily rate of £280.20. You will be paid one twelfth of forty-eight days (i.e. £280.20 x 4 days) monthly in arrears by credit transfer to a bank or building society on the last working day of the month.

18. The SPCB may determine any increase to the daily rate and will notify you of any change in writing.

### **National Insurance Contributions**

19. Class 1 earnings-related National Insurance Contributions will be deducted from salary at the contracted out rate.

## **Pension**

20. This post is not pensionable.

## **Location**

21. You will be based at the Commission's office at Bridgeside House, 99 McDonald Road, Edinburgh, although you may be required to work at other locations in the course of your duties. You will be provided with certain equipment to enable you to carry out your functions. All equipment provided to you will remain the property of the Commission and must be returned when you cease to be a member.

## **Travelling and Expenses**

22. You will be reimbursed for the cost of any travel and other expenses in connection with your official duties that you actually and necessarily incur as follows-

- travel to and from home to the Commission's normal meeting venue; and
- travel and subsistence when you are required to work at other locations.

23. A copy of the SPCB's travel and expenses rates is attached at Annex A for information.

24. Unless there are exceptional circumstances, all claims should be made timeously and within 4 months of the date when the expense was incurred otherwise the claim is lost.

25. Training on submitting travel and expenses claims will be provided by the SPCB.

## **Annual Evaluation**

26. Your performance will be subject to annual review which will be undertaken by the Chair of the Commission who will prepare a report for the SPCB. Failure to engage with the process may be deemed a breach

of your terms and conditions of appointment and could result in your removal from office.

## **Outside interests**

27. You must declare to the SPCB any new interests, financial or otherwise, including, but not limited to, significant shareholdings, significant gifts and hospitality which could in any way conflict with your functions as a Commission member.

28. You may not in your capacity as a member of the Commission, and in accordance with section 6(1) of the 2006 Act, represent or provide assistance or legal advice to any person in connection with any claim or legal proceedings to which that person is or may become a party.

29. You may not take part in either national or local political activities.

## **Bankruptcy or Insolvency**

30. If you become bankrupt or insolvent, you must report a full statement of the facts to the SPCB.

## **Changes to Terms and Conditions of Appointment**

31. The SPCB may make such changes to your terms and conditions of appointment as it considers are reasonable and necessary. Any changes to your terms and conditions of appointment will be notified to you in writing.

## **ACKNOWLEDGEMENT**

I acknowledge receipt of and accept the terms and conditions of appointment.

I acknowledge that the SPCB will process my personal data insofar as necessary for purposes relating to my official position as a member of the Scottish Human Rights Commission.

I have read and understand the SPCB's Privacy Notice on Officeholder Recruitment.

Signed.....

Date.....



## SPCB Travel and Expenses Rates

If you have to travel on official business, you will be reimbursed for the cost of any travel and expenses which you actually and necessarily incur. You will also be reimbursed for any necessary expenditure incurred by you if you have to stay away from home overnight, up to the limit set out below.

EXPENSES TYPE	AMOUNT
Overnight (Greater London and outside the UK))	Up to £204.00 per night
Overnight (Elsewhere)	Up to £175.00 per night
Motor Mileage	£0.45 per mile
Motor Cycle	£0.24 per mile
Pedal Cycle	£0.20 per mile
Public transport	Actual cost of ticket
Car Parking	Actual cost of ticket
Bridge Tolls	Actual cost of ticket

**Please note** - If you claim Motor Mileage or Motor Cycle Mileage, you must ensure that you are insured for business travel.

Overnight expenses rates cover dinner, bed and breakfast. In exceptional circumstances these rates may be exceeded but only on the approval of the SPCB.

Alcohol may be reimbursed up to a limit of £8.00 per night but only if taken with an evening meal if you have had to stay away overnight on business.

Reasonable personal telephone calls and business research Internet charges made from your hotel room may be reimbursed.

## **Annex D: Commissioners Handbook**

### **1. Introduction**

The purpose of this handbook is to provide clarity to the Commissioners as to what is formally expected of their role and to provide guidance for the practicalities of working within the Commission.

The Commission Members shall comply at all times with this handbook (or any agreed modification of it) and act in good faith and in the best interests of the Commission.

This handbook will be reviewed every 4 years.

### **2. Structure of the Commission**

The Scottish Human Rights Commission is a statutory corporate body set up by the Scottish Commission for Human Rights Act 2006.

The Commission currently has five members, a Chair and four other Commissioners. The Commission is led by the Chair who works full-time. The four other Commissioners are appointed part-time and each work 1 day per week. Commissioners will also be expected to attend monthly Commission meetings. The Commission Members provide strategic oversight and direction for the Commission.

Commissioners will serve a single six-year term. The Chair will serve a maximum term of eight years, although in practice this is normally limited to six years.

As per 11 (1) of the Scottish Commission for Human Rights Act (2006) the Commission may appoint staff. Therefore, Commissioners should also read and be familiar with the staff handbook which gives detailed guidance relevant to staff, including health and safety.

### **3. Purpose**

The purpose of the handbook is to:

Clarify the roles and responsibilities of the Commission members;

Identify where these roles and responsibilities complement or interact with those of the staff team;

Promote efficiency and effectiveness;

Maximise the value to the Commission of the skills, knowledge and experience of its Commissioners; and

Ensure that the Commissioners operate in accordance with best practice and in a way that commands the confidence of the Commission's stakeholders.

### **4. Role, Responsibilities and Functions of the Commission**

The Commission Members are responsible for:

- Ensuring the Commission effectively fulfils its statutory objectives, powers and duties vested in it;
- Establishing the overall strategic direction of the Commission within the Act including overseeing the development and approval of the Strategic Plan;

- Adhering to the Operational and Strategic Plans, subject to regular review agreed by the Commission;
- Ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control including considering and approving a risk management strategy and approving, monitoring and reviewing levels of delegated authority;
- Monitoring the Commission's performance against strategic priorities, targets and budget and ensuring it can demonstrate that resources are being used to good effect, with propriety, and without grounds for criticism that public funds are being used for private, partisan or party political purposes;
- Holding the Staff Team to account for the performance and delivery against strategic and operational plan priorities and objectives and budgets including follow-up actions on its decisions;
- Formulating a strategy for ensuring that the Commission is open and transparent in all that it does, providing Parliament and the public, with as full information as may be requested concerning its policy decisions, and actions, including full compliance with the Freedom of Information Act 2000 and its adopted complaints procedures;
- Promoting and protecting the Commission's position, values, mission, vision, integrity, image and reputation;
- Ensuring high standards of corporate governance are observed at all times;
- Approving and making publicly available annual reports, and, where practical and appropriate, hold open meetings, release summary reports of meetings and invite evidence from members of the public on matters of public concern;
- Monitoring use of the Commission's budget on a regular basis, regularly monitoring risks and financial controls and considering and approving the annual accounts;

- Approving the Operational Plan;
- Undertaking additional duties as requested by the Chair, such as chairing committees and deputising if needed;
- Giving advice and support to the Chair in the strategic leadership and management of the Commission;
- Making collective decisions and standing by them

The success of the Commission will depend to a large extent on the support and expertise of its Commissioners in formulating and pursuing its strategic priorities.

Commission Members will need to provide knowledgeable, impartial and balanced perspectives on a range of sensitive and complex issues. They will be public ambassadors for the Commission promoting its values, will engage with a wide range of stakeholders and participate in committees, advisory panels and task groups. They will help to develop and sustain a positive culture and ethos, which encourages partnership and empowerment. They will need the skills and expertise to make informed decisions, to focus on outcomes and manage risks.

Individual Commissioners should be aware of their wider responsibilities as members of the Commission. Like others who serve the public, they should follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life.

Commission Members accept a commitment to attend Commission meetings and participate fully in the business before the Commission. Where possible, Commission Members should endeavour to keep meeting days free from other obligations.

Commission Members bring a variety of perspectives and experiences to the Commission meetings. Free and frank discussion is actively encouraged and all viewpoints are listened to in a respectful manner. Constructive debate is encouraged and the aim is to reach agreement by consensus. If it is not possible to reach a decision by consensus then

a vote will be taken. If the vote is tied then the Chair will exercise the casting vote.

Commission Members accept that they have a duty to avoid any conflict of interest that may arise from their appointment as Commission members. Commissioners shall disclose any conflicts of interest or perceived conflicts of interest in accordance with the Commission's policy. At the start of commission meetings Commissioners should disclose any conflicts of interest they may have with regards to the agenda items, they should regularly update their register of interests and disclose any conflicts as they become apparent in any other situations, including those that involve stakeholders.

Commission Members accept that they have an obligation of confidentiality in relation to Commission business where that is necessary to enable the Commission to carry out its functions.

## **5. Roles of individual Commissioners**

It is expected that Commission Members will engage in activities undertaken in the performance of the Commission's functions beyond these key duties. The benefit of such engagement is the added value that they can bring from their individual areas of expertise and experience, their strategic thinking, and the profile that they can bring to an issue or activity. At times, Commission Members will undertake these functions or activities by acting alone or with external partners/agencies. At other times, it is expected that they will work alongside staff members on the implementation of activities agreed by the Commission.

Examples of activities and duties to be undertaken include:

- Write or contribute to high level reports, policy submissions and documents which are for public consumption;
- Represent the Commission at key external events;
- Strategic relationship building;

- Provide mentoring support to staff in the delivery of programmes of work including providing direction, advice, leadership and high level guidance or input into substantive activities or projects;
- Sit on interview panel when the Commission recruits new staff and be actively involved in the selection process;
- Provide Chair support to any internal committees or advisory panels established by the Commission;
- Foster constructive relationships with the Commission's stakeholders that encourage them to engage with the Commission and supporting the Chair in building and maintaining positive and effective working relationships with stakeholders;
- Publicly championing the work of the Commission.

The Commission Members commit to undertake self-evaluation against governance responsibilities for purposes of continuing improvement and effectiveness of Commission governance. This may involve the support and guidance of an external third party facilitator.

An effective relationship between the Commission and the staff team characterised by openness and integrity is important for the successful delivery of the Commission's objectives.

## **6. Delegation**

The Chair of the Commission is given delegated authority to discharge such powers of the Commission, as she/he deems necessary in order to deal with the business of the Commission between formal meetings. These actions will be reported to the next meeting of the Commission.

The majority of operational decisions are delegated to the Chair and Executive Director, in line with her/his responsibilities for managing and reporting to the Commission in accordance with its strategic plan.

The Commission may decide to delegate responsibility for specified matters to individual Commissioners or committees. Decisions taken by

individual Commissioners or committees under delegated powers will be recorded in written minutes available to the Commission as a whole.

## **7. The Role of the Chair**

The Chair should:

- Lead in ensuring that Commission Members comply with the Code of Conduct and the principles on the relationship between the Commission and the staff team (as set out in this handbook);
- Represent the collective view and decisions of the Commission and act as a conduit between Commission Members and the Staff Team. The Chair will have the latitude to interpret and apply this in the course of carrying out this role;
- Lead in ensuring the implementation of the Strategic Plan and Operational Plan;
- Work in partnership with the Staff Team in leading the organisation's relationships and communication with key stakeholders; and
- Exercise Chair's action in taking urgent decisions, where it is not practical to consult with Commission Members, subject to keeping them informed. If the Chair feels that a collective position needs to be taken by the Commission (if it is not already known) in order to deal with an urgent matter of business every effort will be made to contact the other Commissioners either as an urgent meeting or via email correspondence to clarify this.
- Lead in ensuring the Staff Team comply with the principles on the relationship between the Commission and the Staff Team set out above;
- Establish systems for monitoring performance and holding staff members to account;
- Serve as official spokesperson for the Commission;



- Evaluate the Commission members on an annual basis and send a copy of the report to the SPCB;
- ‘As Accountable Officer, be responsible for signing the accounts of the expenditure and receipts of the Commission, ensuring the propriety and regularity of the finances of the Commission and ensuring that the resources of the Commission are used economically, efficiently and effectively. The Chair is answerable to the Parliament for the exercise of those functions’ (Scottish Commission for Human Rights Act 2006, Schedule 1, Paragraph 13).

## **8. Conduct of Commission Members**

Commission Members must also:

- Comply at all times with this handbook and with the rules relating to the use of public funds;
- Comply at all times with their terms and conditions of appointment as a Commissioner, as set out in their SPCB appointment documents;
- Ensure that they comply with the Commission’s rules handling conflict of interest and on the acceptance of gifts and hospitality;
- Act in good faith and in the best interests of the Commission;
- Not use information gained in the course of their public service to promote their private interests, or those of connected persons, firms, businesses or other organisations;
- Comply with the Commission’s policy and protocols on use of IT;
- Familiarise themselves and ensure that they comply with the Commission’s rules on declaration and registration of interests and on the acceptance of gifts and hospitality;
- Not disclose to outside parties working papers of the Commission and its meetings, except where these are published documents;

- Not occupy paid party political posts or hold particularly sensitive or high-profile unpaid roles in a political party;
- Not take part in either national or local political activities;
- On matters directly affecting the work of the Commission, Members should not make political speeches or engage in other political activities;

## **9. Procedure for Commission Meetings and collective responsibility**

The Chair appoints the advance dates of the monthly Commission meetings in consultation with the Commission Members. An annual schedule of meeting dates will be issued. Commission meeting minutes for the business items are usually written in a format that does not provide detailed reporting of the discussion and does not disclose individual views. All Commission meeting minutes are available for public view as they are published on the Commission's website.

Commissioners have collective responsibility for decisions of the Commission and any public statement arising from these decisions. At times, this may result in having to support Commission decisions that may be contrary to individual positions. The Commission seeks to debate issues to achieve consensus on major decisions. The Commission should strive through discussion to reach consensus. However, where this is not possible, collective decisions will be based on a simple majority vote. Where a vote is taken and the result is tied, the Chair will hold the casting vote.

Where a Commissioner has a strong objection to a decision, at their request, their dissent may be recorded in the minutes. Where a Commissioner feels strongly about an issue and/or a public statement arising from it, they should seek to resolve this in good faith with the Chair. If the issue is not resolved, the Commissioner should in line with their corporate governance responsibilities, avoid speaking publicly against the Commission.

A matter that has been agreed at an ordinary or special meeting of the Commission may not be re-opened at a subsequent meeting within three months, unless the majority of Commissioners agree to do so. If a Commissioner resigns as a result of a disagreement with Commission policy, they may state the basis for the resignation, but will be expected to maintain confidentiality regarding the discussions around the issue of resignation.

## **10. Agenda Items**

A draft agenda is agreed by the Chair in advance of the Commission meeting. This is emailed to the Commission Members by the Executive Assistant (EA) who will invite feedback on any other agenda items that they wish to be added. The EA will consult with the Chair before a final agenda and any accompanying papers are emailed to Commission Members 7 days in advance of the Commission meeting. The minutes of the previous month's Commission meeting are also emailed at this time. No changes to the agenda will be made after this time, thus any additional business items or matters for decision that crop up in the interim will be discussed under Any Other Business (AOB).

For each Commission meeting there are a number of standing agenda items. Where there are four appointed Commissioners a quorum is the Chair and two members of the Commission. Disclosure of conflict of interest is requested at the beginning of each Commission meeting in relation to any agenda items.

## **11. Public Comment**

The Chair is the official media spokesperson for the Commission. In the absence of the Chair, their designate is authorised to act as spokesperson for the Commission within agreed policy positions. All communications by Commissioners on behalf of the Commission with the media should be agreed with the Chair or, in their absence, the Head of Communications.

Commissioners require the express permission of the Chair to represent the Commission in dealings with outside individuals or bodies and must

report back to the Commission on all such dealings. When Commissioners are asked by the media to participate in a personal or professional capacity, they should make it clear that they are not commenting on behalf of the Commission and that the public comment cannot be seen as compromising their ability to carry out their role within the Commission in an unbiased and apolitical manner. This applies equally, where Commissioners are invited in a personal or professional capacity to participate in a conference, seminar, meeting or other external event.

## **12. Interaction with Staff**

The Commission Members and the staff team should work together in a way that:

- Demonstrates mutual respect;
- Draws on their respective skills, knowledge and perspectives;
- Ensures sharing of information about the Commission and the context in which it operates;
- Recognises the clear separation between governance and management roles and responsibilities, which the Commission delegates to the Executive Director;
- Enables an active and ongoing dialogue about the Commission's current performance and future direction; and
- Identifies opportunities and risks, maximises performance and enables learning and development.

## **13. Continuing Professional Development (CPD)**

Continuing Professional Development is vital to the success of a Commission Member and the Commission as a whole. Commission Members are supported to undertake continuous professional development so that they may effectively perform their duties. A budget

for CPD is set each year to which Commission Members and staff can apply. Applications to this fund in excess of £800 per person per annum will not normally be considered unless there is significant added value to the Commission in addition to the individual. Applications are considered on merit and are on a first come basis. If a Commission Member wishes to participate in CPD they should contact the Business Manager to check budget availability and to obtain the relevant application form to be completed in full by the Commission Member and returned to the Business Manager and Chair for consideration and authorisation.

## **14. Performance Appraisal**

The Chair of the Commission is responsible for the performance appraisals of the Commission Members and meets annually with Commission Members to complete the appraisal. Prior to such meetings the Chair completes and provides the Commission Member with a performance appraisal form. Each Commission Member then completes the performance appraisal form with responses to the Chair's appraisal. Performance appraisals are conducted against the duties and roles as specified in the Commission Member appointment contracts and against the standards outlined in this Handbook. After the appraisal meeting the Chair and the Commission Member then agree the final completed performance appraisal form. The form, including the Chair's comments and those of the Member, is then submitted by the Chair to the Scottish Parliament Corporate Body. A copy of said form is kept on the record of the Commission and is accessible to the Chair and the Commission Member. Copies of the reports will be destroyed by the SPCB and the SHRC within 6 months of the member demitting office.

The Chair is subject to annual performance appraisal by an independent evaluator appointed by the Scottish Parliament Corporate Body. The Chair's appraisal includes scrutiny of audit reports, annual accounts, operational and strategic reports and the Commission's annual report and any other reports as requested by the independent evaluator. The Chair meets with the independent evaluator each year. A report is prepared by the independent evaluator which the Chair has an opportunity to see and comment on. The report and any Chair

comments on the report is submitted to the Scottish Parliament Corporate Body.

## **15. Travel and Expenses**

Members of the Commission will be reimbursed for the cost of any travel and other expenses in connection with their official duties that they actually and necessarily incur as follows:

- travel to and from home to the Commission's normal meeting venue, and
- travel and subsistence when they are required to work at other locations.

All travel and accommodation bookings will be made by the EA using the corporate credit card. Travel will be by standard class only. Commission members should retain receipts for any expenses incurred during the course of their duties.

Unless there are exceptional circumstances, all claims should be made timeously and within 4 months of the date when the expense was incurred otherwise the claims is lost.

Training on submitting travel and expenses claims will be provided by the SPCB.

Any questions relating to expenses should be directed to Officeholder Services.

# Appendix 1: Six Principles of Good Governance

'The Good Governance Standard for Public Services' the Independent Commission on Good Governance in Public Services 2004.

## **Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users**

- Being clear about the organisation's purpose and its intended outcomes for citizens and service users.
- Making sure that users receive a high quality service.
- Making sure that taxpayers receive value for money.

## **Good governance means performing effectively in clearly defined functions and roles**

- Being clear about the functions of the governing body.
- Being clear about the responsibilities of non-executives and the executive, and making sure that those responsibilities are carried out.
- Being clear about relationships between Commissioners and the public.

## **Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour**

- Putting organisational values into practice.
- Individual Commissioners behaving in ways that uphold and exemplify effective governance.

## **Good governance means taking informed, transparent decisions and managing risk**

- Being rigorous and transparent about how decisions are taken.
- Having and using good quality information, advice and support.
- Making sure that an effective risk management system is in operation.
- Good governance means developing the capacity and capability of the governing body to be effective
- Making sure that appointed and elected governors have the skills, knowledge and experience they need to perform well.
- Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.
- Striking a balance, in the membership of the governing body, between continuity and renewal.

**Good governance means engaging stakeholders and making accountability real**

- Understanding formal and informal accountability relationships.
- Taking an active and planned approach to dialogue with and accountability to the public.
- Taking an active and planned approach to responsibility to staff.
- Engaging effectively with institutional stakeholders.



# Appendix 2: The Seven Principles of Public Life

*(originally published by the Nolan Committee)*

## **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

## **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

## **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **Leadership**

Holders of public office should promote and support these principles by leadership and example.

*The Committee on Standards in Public Life was established by the then Prime Minister in October 1994, under the Chairmanship of Lord Nolan, to consider standards of conduct in various areas of public life, and to make recommendations.*

# Annex E: Definitions

“the Act” refers to the Scottish Commission for Human Rights Act 2006

“Bullying” is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted.

"Chair" includes the Chair of the Commission / Board Chair or any other individual discharging a similar function to that of a Chair or Chair under alternative decision-making structures.

“Code” is the code of conduct for members of your devolved public body, which is based on the Model Code of Conduct for members of devolved public bodies in Scotland.

"Cohabitee" includes any person who is living with you in a relationship similar to that of a partner, civil partner, or spouse.

“Confidential Information” includes:

- any information passed on to the public body by a Government department (even if it is not clearly marked as confidential) which does not allow the disclosure of that information to the public;
- information of which the law prohibits disclosure (under statute or by the order of a Court);
- any legal advice provided to the public body; or
- any other information which would reasonably be considered a breach of confidence should it be made public.

"Election expenses" means expenses incurred, whether before, during or after the election, on account of, or in respect of, the conduct or management of the election.

“Employee” includes individuals employed:

- directly by the public body;

- as contractors by the public body, or
- by a contractor to work on the public body's premises.

“Gifts” a gift can include any item or service received free of charge, or which may be offered or promised at a discounted rate or on terms not available to the general public. Gifts include benefits such as relief from indebtedness, loan concessions, or provision of property, services or facilities at a cost below that generally charged to members of the public. It can also include gifts received directly or gifts received by any company in which the recipient holds a controlling interest in, or by a partnership of which the recipient is a partner.

“Harassment” is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable. Harassment can be experienced directly or indirectly and can occur as an isolated incident or as a course of persistent behaviour.

“Hospitality” includes the offer or promise of food, drink, accommodation, entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.

“Relevant Date” Where a member of the Commission member had an interest in shares at the date on which the member was appointed as a member, the relevant date is – (a) that date; and (b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

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

“Remuneration” includes any salary, wage, share of profits, fee, other monetary benefit or benefit in kind.

“Securities” a security is a certificate or other financial instrument that has monetary value and can be traded. Securities includes equity and debt securities, such as stocks bonds and debentures.

“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.

ends