



West Lothian
Council

COUNCIL EXECUTIVE

COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW

REPORT BY CHIEF LEGAL OFFICER

A. PURPOSE OF REPORT

To fulfil the requirement of the council's Code of Corporate Governance which requires an annual review of the operation of the Code, and to maintain awareness of the provisions of the Councillors' Code of Conduct in order to promote high standards of conduct.

B. RECOMMENDATION

To note the report.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	In terms of the Ethical Standards in Public Life (Scotland) Act 2000, the council is under a duty to promote observance by councillors of high standards and to assist councillors to observe the Code
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	None
V Relevance to Single Outcome Agreement	none
VI Resources - (Financial, Staffing and Property)	Within existing resources
VII Consideration at PDSP	The Partnership & Resources PDSP at their meeting on 8 June 2012 noted this report and agreed that it be forwarded to the Council Executive for information.
VIII Other consultations	Chief Solicitor and Committee Services Manager.

D. TERMS OF REPORT

1. Background

Under the Ethical Standards in Public Life (Scotland) Act 2000, the council has a duty to promote observance by councillors of high standards of conduct and to assist councillors to observe the Code.

The council's Code of Corporate Governance, audited by the external auditor, requires an annual training session for councillors to be held, and an annual report to the council on the operation of the Councillors' Code of Conduct.

2. Training

The annual training session for councillors for 2011/12 was held on 29 November 2011. 14 councillors attended the session in whole or in part. The format followed the previous years' style of training sessions by dealing with key areas of the Code through an analysis of recent decisions of the Standards Commission and the Chief Investigating Officer (CIO). The key areas covered were –

- statistics and trends arising from decided cases, both national and local, and
- key issues arising from those cases, mainly in other council areas, ie –
 - registering and declaring interests
 - use of council facilities
 - failure to respect councillors and officers, and
 - effect of private conduct of councillors.

In the months leading up to the council elections on 3 May 2012, comprehensive induction training for all members was planned. A number of sessions have now been held covering all aspects of the Councillors' Code of Conduct, and in particular producing fresh registers of interest for all councillors elected on 3 May, and making oral declarations of interest at meetings. Since these induction sessions were held in 2012/13, they will be covered more fully in next year's annual report.

The Standards Commission has offered councils assistance with delivering training sessions following the elections, and have agreed to be represented at our scheduled training session on 2 August 2012. The Commission is also looking for a representative from the CIO's office to come along on 2 August.

3. Register of Members' Interests and Acceptance of Gifts & Hospitality

In accordance with guidance from the Standards Commission, six monthly reminders were issued to members on 25 May 2011 and 1 December 2011 to enable them to keep their entries up to date. However, it is the duty of each councillor to intimate to the Chief Legal Officer any change in their entries in the Register of Interests, including receipt of any gifts and hospitality, within one month of any change taking place.

The six monthly reminders also asked if members wished further training in any aspect of the Code. No issues were raised.

4. Operation of the Code in West Lothian

Complaints alleging breaches of the Code are submitted to the CIO who investigates these complaints to determine whether, in his view, there has been a breach of the Councillors' Code of Conduct. If the CIO finds that there has not been a contravention of the Councillors' Code, the matter ends there and summaries of the more interesting reports are posted on his web site. If the CIO concludes that there has been a breach of the Code, he reports accordingly to the Standards Commission which then decides whether to hold a hearing. The CIO's investigations are required under the 2000 Act to be conducted on a confidential basis which means that no information can be given on any current investigations by the CIO. The Commission's hearings are conducted in public.

On 1 April 2011, the CIO was also appointed to investigate complaints against MSPs, and his title changed to the Public Standards Commissioner (PSC). He now investigates complaints put to him against both councillors and members of devolved public bodies as well as MSPs.

(1) Numbers of Complaints to PSC in 2004/05 to 2011/12

Since the Code came into operation in May 2003, there has been a total of 31 cases of complaint made against West Lothian councillors. The breakdown is :-

Table 1: Number of complaints to PSC in West Lothian

2004/05	4
2005/06	6
2006/07	4
2007/08	1
2008/09	7
2009/10	6
2010/11	1
2011/12	2
Total	31

Table 1 shows that there were two complaints made to the PSC in 2011/12, and, accordingly, that the number of cases giving rise to complaint to the Standards Commission in 2011/12 was half the average annual number since the Code came into operation

(2) Subject Matters covered by Complaints to PSC in 2004/05 to 2011/12

The subject matters covered in all complaints since the start of the Code are: -

Table 2: Subjects covered by all complaints to PSC in West Lothian

Conduct in the Chamber	9
Payment of allowances	1
Key principles generally	5
Principles of leadership & accountability	2
Principle of respect regarding employee of other public body	1
Dealing with planning applications/declarations of interest	8
Use of council facilities (circular letters to constituents)	2
Declaring financial interests/withdrawal from meeting	2
Other (matters not relevant to Code)	1
Total	31

Of these 31 cases, one case arising in 2008/09 is the subject of a report by the PSC to the Standards Commission alleging breaches of the Code, and a decision of the Standards Commission is deferred pending the outcome of a criminal investigation..

In the other 30 cases, only one case in 2007 resulted in a finding of a breach of the Code through failure to declare a financial interest in a planning matter. The Standards Commission decided not to hold a hearing bearing in mind the circumstances of the individual councillor who had retired from office. As a result, only two cases since the start of the Code in 2003 have resulted in the PSC finding a breach of the Code.

(3) Analysis of Complaints to PSC in 2011/12

An analysis of the two cases dealt with by the PSC in 2011/12 is –

Table 3: Breakdown of PSC cases in West Lothian in 2011/12

Subject Matter	No.	Complainer	PSC's Decision
Conduct at a meeting	1	Member of public	Not merit investigation
Key principles	1	Councillor	Not upheld

(4) Complaints to the Council in 2011/12

In previous years, complaints made to the council about the conduct of councillors have been rare. Any such complaints are made to the Chief Executive who appoints an officer to investigate, usually the Monitoring Officer or his Depute. In 2011/12, four such complaints were received. An analysis of these cases is -

Table 4: Breakdown of complaints to council in 2011/12

Subject Matter	No.	Complainer	CE's Decision
Conduct at a meeting	1	Member of public	Not upheld
Use of council facilities	1	Member of public	Not upheld
Key principles	2	Member of public	Not upheld

In all four complaints, no breach of the Councillor's Code of Conduct was found and so they were not upheld. The complaint involving alleged misconduct at a meeting was also submitted to the PSC who decided not to investigate it, as shown in Table no. 3 above.

5.	Standards Commission's and PSC's Annual Reports for 2010/11
	The Standards Commission's and PSC's annual reports for 2010/11 are the latest ones available. Statistical information from these annual reports was presented to members at the training session on 29 November 2011. It included information on the national trends in numbers and grounds of complaint.
	The Standards Commission's and PSC's annual reports for 2011/12 are expected later this year and information from them will be presented to members once they have been received.

6. The Partnership & Resources PDSP at their meeting on 8 June 2012 noted this report and agreed that it be forwarded to the Council Executive for information.

E. CONCLUSION

The council has experienced 31 complaints since the start of the Code of Conduct in 2003, averaging four each year. Only two cases have resulted in a finding of a breach

of the Code by the PSC. In addition, four complaints against councillors submitted to the council in 2011/12 were found not to have involved any breach of the Code.

Since the start of the Code, the council can demonstrate that high standards of conduct have been maintained and will wish to see such standards of conduct maintained in the future. To assist in doing so, more briefing sessions for members will be arranged where necessary in order to continue to promote observance of the Code and assist members to observe the Code.

More advice on how to comply with the Code is available from the Chief Executive, Chief Legal Officer, Chief Solicitor and the Committee Services Manager.

F. BACKGROUND REFERENCES

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1. Councillors' Code of Conduct containing the Standards Commission's guidance on the Code, available at
http://www.standardscommissionscotland.org.uk/webfm_send/242
2. Presentation to councillors by Chief Legal Officer on 29 November 2011.
3. Annual report for 2010/11 by the Standards Commission and Chief Investigating Officer (now PSC), available at
http://www.standardscommissionscotland.org.uk/webfm_send/213
4. Reports and decisions of the Public Standards Commissioner available at
<http://www.publicstandardscommissioner.org.uk/decisions/>
5. Minute of meeting of the Council Executive of 28 June 2011.
6. Partnership & Resources PDSP Action Note of 8 June 2012.

Appendices/Attachments: None

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(Name of responsible CMT member) Gordon Blair

Date of meeting: 25 June 2012