

## INTRODUCTION TO THE CODE OF CONDUCT

- 1 The Ethical Standards in Public Life etc. (Scotland) Act 2000 provides for Codes of Conduct for members of relevant public bodies and imposes on them a duty to help their members to comply with the relevant code, and establishes a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the codes.
- 2 The principles driving that Code of Conduct – independence, confidentiality and conflicts of interest – apply equally to employees of the Scottish Legal Complaints Commission (SLCC) staff. You must observe the rules of conduct contained in this Code. It is your *personal* responsibility to comply with these and review your personal circumstances regularly particularly when your circumstances change.
- 3 You must not at any time advocate or encourage any action contrary to the Code of Conduct

## ENFORCEMENT

- 4 Failure to comply with the code of practice may result in formal action under the SLCC disciplinary procedure.

## KEY PRINCIPLES OF THE CODE OF CONDUCT

- 5 Employees of the SLCC should conduct themselves with integrity, impartiality and honesty. They should not deceive or knowingly mislead SLCC Commissioners, fellow employees, the Public, Practitioners, Ministers or Parliament.
- 6 The general principles upon which the Staff Code of Conduct of SLCC are based are:
  - **Public Service**  
You have a duty to act in the interests of the SLCC of which you are an employee and in accordance with the core tasks of the SLCC.
  - **Selflessness**  
You have a duty to act solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.
  - **Integrity**  
You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.
  - **Objectivity**  
You must act and make recommendations solely on merit when carrying out public business.

- **Accountability and Stewardship**

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

- **Openness**

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

- **Honesty**

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

- **Leadership**

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

- 7 You should apply the principles of this Code to your dealings with any organization, members of the public, members of the SLCC and fellow employees.

## **CONFLICTS OF INTEREST**

- 8 A conflict of interest might arise where a person's financial, professional or personal interest conflicts or could potentially conflict with the interests of the SLCC and its key principles.

- 9 When considering whether there is a conflict of interest you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must keep in mind that the test is whether a member of the public, acting reasonably, might think that a particular interest could influence you.

- 10 Such conflicts can arise, for example, in the following circumstances:

- having a financial interest in an entity connected with a case; for example a shareholding in a company that might be party to or the subject of an investigation;
- receiving or due to receive a pension from an entity that is connected with a case;
- being a current or former partner, director, officer or employee of an entity, firm or predecessor firm which is or may be subject to a complaint;
- being a current or former partner, director, officer or employee of an entity, firm or predecessor firm which is connected with a case;
- a past or continuing professional involvement with any individual, firm, organization or matter connected to a complaint; or
- having a spouse, partner or immediate family member who has one of the interests outlined above.

## **INDEPENDENCE AND IMPARTIALITY**

- 11 It is important that you should act and be seen to act objectively and independently. You should not be biased or prejudiced and should not be involved in acting, making recommendations or taking decisions where there is a real likelihood that you may be perceived to be biased. The test is whether a member of the public, acting reasonably, might think that a particular interest could affect your independence and impartiality.
- 12 In addition to the conflicts of interested illustrated above perceptions of bias or prejudice might arise in various other circumstances, for example:
  - where there is a close personal, business or family relationship with an individual or firm which is the subject of or party to a complaint;
  - previous involvement in a dispute with an individual or firm which is the subject of or party to a complaint;
  - involvement or close connection with other legal or disciplinary proceedings connected to a complaint or party to a complaint;
  - a past or continuing professional involvement with any individual, firm, organization or matter connected to a complaint; or
  - publication of views or comments relating to any individual, firm, organization or matter connected to a complaint.
- 13 When in doubt, ask your manager.

## **GIFTS AND HOSPITALITY**

- 14 You must never canvass or seek gifts or hospitality.
- 15 You are responsible for your decisions connected with the offer or acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the SLCC. As a general guide, it is usually appropriate to refuse offers except:-
  - isolated gifts of a trivial character or inexpensive seasonal gifts such as a calendar or diary, or other simple items of office equipment of modest value;
  - generally accepted hospitality offered as part of normal business and which would reasonably be regarded as inappropriate to refuse; or
  - gifts received on behalf of the SLCC.
- 16 You must not accept any offer by way of gift or hospitality which could give rise to a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or partner or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public. You should not accept repeated hospitality from the same source.

- 17 Subject to paragraph 15, you must record details of any gifts and hospitality received and the record must be made available for public inspection. If you decide that it is appropriate to do so and accept a gift or hospitality, you must advise your line manager of the nature of the gift or hospitality and from whom it was accepted. You must also ensure the gift or hospitality is recorded in the register of SLCC employees' interests.
- 18 You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision the SLCC may be involved in determining, or who is seeking to do business with the SLCC, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit to inspect files, documents, land or property, then as a general rule you should ensure that the SLCC pays for the costs of these visits.

## **CONFIDENTIALITY**

- 19 There may be times when you will be required to treat discussions, documents or other information relating to the work of the SLCC in a confidential manner. You will often receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. There are provisions in legislation on the categories of confidential and exempt information and you must always respect and comply with the requirement to keep such information private.
- 20 It is unacceptable to disclose any information to which you have privileged access - even to close family members. You must not disclose information from documents (reports, letters, memo's etc), obtained orally, by email, from files and so on. You must exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event, such information should never be used for the purpose of personal or financial gain, or used in such a way as to bring the SLCC into disrepute.
- 21 Your responsibility to ensure confidentiality extends to documents you take out of the office. You are responsible for ensuring their safety in transit and for ensuring they are not read by any unauthorised person (including family members). All files and documents taken out of the office should be kept in a secure place (such as a locked cupboard or filing cabinet) when not in use.
- 22 Except as permitted by (a) and (b) below, you are bound by the provisions of Section 43 of the Legal Profession and Legal Aid (Scotland) Act 2007. Under the Act, no information as defined in the Act, furnished to the SLCC (or any person acting on its behalf including employees) shall be disclosed. Such information may be disclosed:-
  - a. For the purpose of enabling or assisting the SLCC to exercise any of its functions.
  - b. Where the disclosure is required by or by virtue of any provision made by or under this Act or by any other enactment or other rule of law
- 23 Any person who discloses any information obtained when employed by or acting on behalf of the SLCC shall be guilty of an offence and liable on summary conviction to a fine.

## **DISCLOSURE AND REGISTRATION OF INTERESTS**

- 24 Interests which require to be declared may be financial or non-financial. Should you become aware of any matters which might give rise to a conflict of interest or perception of bias, you should disclose this to your line manager. The decision upon whether or

not a matter notified should be registered and should prevent you from being involved in a particular case or investigation will rest with your line manager.

- 25 Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. If you are in any doubt, err on the side of caution and declare such matters.
- 26 You will be asked to confirm your Register entry on an annual basis and must do so, notifying the SLCC either that the entry remains the same or of any changes required.
- 27 You will also be asked to declare any interests on individual cases and record this on the case management system.
- 28 The SLCC will make its Register of interests open to the public.
- 29 Remember, in considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must keep in mind that the test is whether a member of the public, acting reasonably, might think that a particular interest could influence you.