

CODE OF CONDUCT

Date policy adopted: 01/04/11

Date of last review: 01/06/21

1. Purpose and Scope

The Code of Conduct sets out requirements and guidelines to define acceptable standards of behaviour. The Code complements the general obligations of good conduct placed on all employees under their contracts of employment when working for the Ethical Standards Commissioner (ESC).

This policy applies to all employees regardless of working pattern or nature of employment contract. It also applies to anyone working within the premises of and / or for the Commissioner (for example sub-contractors, consultants, secondees from another organisation or agency staff). The word employee(s) in the context of this policy should be taken to mean all such individuals, unless specifically referred to as being directly employed by ESC.

2. Implementation, monitoring and review of the policy

Overall responsibility for policy implementation, monitoring and review lies with ESC. Everyone covered by the scope of the policy is obliged to adhere to, and facilitate implementation of the policy. Appropriate action will be taken to inform all new and existing employees and others covered by the scope of the existence of the policy and their role in adhering to it. The policy will be reviewed at such times as legislation or a change to the ESC policy position requires it. The policy will be made available to the general public.

3. Register of Interests

ESC maintains:

- a register of interests for all employees including the Commissioner. The Commissioner and employees must complete a form listing their interests and identifying any actual or perceived conflicts of interest that may arise from these interests with their work for ESC. The form should be completed at least annually and/or within 20 working days of a new interest arising.
- a register of gifts and hospitality listing all such that are offered and accepted.

4. Requirements and Responsibilities

Employees working for ESC must be, and be seen to be, honest, fair and impartial in the exercise of their duties. They must respect all who have contact with ESC office, treating them with courtesy and empathy at all times. Employees should apply this Code to their informal dealings where they are identifiable as an employee of ESC no less scrupulously than in formal business situations.

Employees must not allow their judgement or integrity to be compromised in fact or to be reasonably thought to have been compromised. In particular they must not:

- misuse information which has been acquired in the course of their duties, or disclose, without authority, information which is held in confidence by ESC, or received in confidence from others
- seek to frustrate the policies, decisions or actions of the Commissioner either by declining to take, or abstaining from, action which flows from the Commissioner's decisions or by unauthorised, improper or premature disclosure of any information to which they have had access
- take part in any party political activity (including campaigning) which compromises their impartial service to ESC
- misuse their official position, or information acquired in the course of their official duties, to further their private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share their private interests (for example through membership of societies, clubs and other organisations). Conflicts of interest, or the perception that such conflicts exist, may also arise when the Commissioner or any employee provides a reference for either an individual or commercial firm. Where a conflict of interest arises, they must declare their interest to the Commissioner so that a decision can be made on how best to proceed.
- act in order to gain inappropriate financial or other material benefit for their self, family or friends
- accept gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity in relation to the work of ESC
- offer a gift, hospitality or benefit of any kind to a stakeholder, supplier or other person with the intention of gaining a business and/or personal advantage. Where offering a business gift or hospitality is considered appropriate, for example paying for a meal, this should only be offered with the prior approval of the Commissioner.

Duty and Private Interest - each employee will:

- recognise that their overriding duty is to the work of ESC
- avoid doing anything which could not be justified to the Commissioner, the Scottish Parliament, or the public.
- understand that it is not enough to avoid actual impropriety and at all times avoid situations which could give rise to suspicion or the appearance of improper conduct. As a consequence of this, any employee must immediately declare to a member of the senior management team their intentions if they apply for any position or propose to take any action that may be reasonably viewed as giving rise to an actual or perceived conflict. ESC may suspend that individual from their usual duties or contract for the period during which that individual applies for any such position. Specifically, ESC may suspend from normal duties any individual who stands as an MP, MSP, MEP, Local Councillor or political Party Officer and may revoke any contract made with the individual should that individual fail to resign immediately on being elected or appointed.
- take work-related decisions solely in terms of the purpose and objectives of ESC and never to gain financial or other material benefits for themselves or others

- avoid giving references for individuals or commercial firms where these set up the potential for an actual or perceived conflict of interest. The Commissioner can delegate the authority to provide references as appropriate. ESC can provide one of two types of reference:
 - where substantive information is held by ESC relating to an individual's or contractor's performance in a role, such as evidence of good or poor performance against a contract or service level agreement, this may be used as content for a reference.
 - where no such information on individuals is held, references may only refer to other factual information held on that individual (such as length of term served)
- In all cases, no reference can be provided unless the person providing it has consulted the Commissioner on the content.

Personal Interest - each employee will:

- disclose precisely any direct or indirect financial interest or any other interests which are not financial but which might influence judgement or give the impression that the person was acting for personal motives. Any person declaring such an interest will withdraw from any actions or meeting in which such matters are relevant
- ensure that private or personal financial interests never influence decisions and that any position within the organisation is never used for personal gain
- ensure that no special advantage is gained by virtue of their position, by using the services of a consultant, contractor, professional advisor or other individual or firm that works for ESC. If it is intended to use the services of any such body or individual, the arrangement should be declared to the Commissioner before the transaction takes place

Use of Confidential and Private Information – each employee will:

- ensure that confidential information, acquired as a result of their position with ESC, is not disclosed to anyone other than those who have the right to the information (see the Confidentiality Policy for further information).
- ensure that such confidential information is not used for the personal advantage of themselves or others known to them.

Gifts and Hospitality – each employee will:

- not accept any offer by way of gift or hospitality which could give rise to a reasonable suspicion that they might be influenced as an employee of ESC to show favour, or disadvantage, to any individual or organisation
- decline to accept such gifts other than those which are obviously modest, including seasonal gifts like a calendar or diary, or whose refusal might reasonably be anticipated to cause offence
- consider whether there may be a reasonable perception that any such gift received by their spouse or partner or by any company in which they have a controlling interest, or by a partnership of which they are a partner, can or would influence their judgement

- treat with caution any offer of gift, favour or hospitality made to them personally and ensure that they discuss the offer with their line manager.
- refuse hospitality other than normal hospitality associated with their duties, such as a working lunch when representing ESC at an official event.
- record gifts and hospitality accepted on the register set up for that purpose.

5. Breaches of this Code

Anyone who does not comply with this policy, and is directly employed by ESC, may be subject to disciplinary action as set out in the disciplinary procedures.

Any other person covered by this policy, and found not to comply, will be reported to the relevant office/employer. This may also result in ESC terminating any contract which has been affected by the breach.

Equality Impact Assessment

Does this policy comply with the general Public Sector Equality Duty (s149 Equality Act 2010)?

This policy applies to all employees. Its impact was considered when drafting. We consulted with all employees prior to publication to identify and address any issues.

Data Protection Impact Assessment

Have we considered any effect the policy may have on the collecting, processing and storing of personal data?

The records generated by this policy will contain personal data and may contain sensitive and special category personal data. Suitable retention and destruction policies are in place to manage this material.

Information Security Impact Assessment

Have we considered the impact any policy may have on our cyber-resilience?

This policy should have no impact on our cyber-resilience.

Records Management Impact

Have we considered the impact any policy may have on our ability to manage our records?

This policy should have no impact on our ability to manage our records.

Version	Description	Date	Author
1.0	First draft	01/06/21	Public Appointments Officer