

## SCOTTISH SENTENCING COUNCIL

### STANDING ORDERS

(As approved on 06 December 2024)

#### 1 General

- 1.1 The Scottish Sentencing Council (“the Council”) is established under Part 1 of and Schedule 1 to the [Criminal Justice and Licensing \(Scotland\) Act 2010](#).
- 1.2 These standing orders, for regulation of the conduct and proceedings of the Council and any committees established by it, are made under paragraph 9 of Schedule 1 to the 2010 Act.
- 1.3 No standing order is to be made, read, applied or suspended in such a manner that contravenes any rule of law or legislative provision.
- 1.4 These standing orders can only be approved, altered or suspended, in whole or in part, with the agreement of a minimum of seven members of the Council, of whom at least three shall be non-judicial members.
- 1.5 The Lord Justice Clerk is the Chair of the Council (“the Chair”).
- 1.6 Where these standing orders do not make specific provision the Chair, in consultation with the Secretariat, will have discretion to determine all questions of procedure for the conduct and proceedings of the Council.
- 1.7 Where the Chair is unavailable, their function under the standing orders listed in paragraph 1.8 may be discharged by a Council member nominated by the Chair for that purpose. Where no such nomination has been made, or where the person nominated is unavailable, the function may be discharged by any Council member who is a Senator of the College of Justice. If such person is also unavailable, the function may be discharged by any Council member who is a sheriff principal.
- 1.8 The standing orders referred to in paragraph 1.7 are:
  - (a) paragraph 1.6 (General);
  - (b) paragraphs 5.2, 5.3, 5.5, and 5.6 (Items by correspondence);
  - (c) paragraph 7.4 (The Secretariat); and
  - (d) paragraph 10.2 (Freedom of Information and Records Management).

## **2 Membership**

- 2.1 Members are appointed to and hold office in accordance with the provisions of paragraph 2 of Schedule 1 to the 2010 Act and [The Scottish Sentencing Council \(Procedure for Appointment of Members\) Regulations 2015](#).
- 2.2 Members are expected to subscribe to and comply with the Rules of Conduct set out at Annex A.
- 2.3 Members are expected not to comment on any matter in any way that undermines the principle of collective responsibility for decisions of the Council.
- 2.4 Where a dispute arises as to whether a conflict of interest exists in respect of any member, the following procedure will apply:
  - (a) in the event of the potential conflict arising during the course of a Council meeting the Chair of the meeting will have the power to rule as to whether such a conflict exists. In the event of a ruling that a conflict exists, the member concerned will not be permitted to be further involved in that part of the meeting affected by the conflict;
  - (b) in the event that the potential conflict arises outwith a Council meeting (other than at a committee meeting) then the Chair will have power to rule as to whether such a conflict exists. In the event of a ruling that a conflict exists, the member concerned will not be permitted to be further involved in the business affected by the conflict;
  - (c) before ruling in either of the circumstances set out in (a) or (b) above, the Chair may take views of other members of the Council as the Chair deems necessary;
  - (d) a record of the area of potential conflict, the ruling reached and by whom will be retained by the Secretariat.

## **3 Council meetings**

### *Ordinary meetings*

- 3.1 The Council will meet at least four times in each financial year on dates and at times and places determined by the Council.

### *Agenda and papers*

- 3.2 Notice of meetings of the Council, with an agenda detailing the business to be transacted, will be issued to each member not less than seven days prior to the date of the meeting, together with copies of all relevant papers. Late papers will be issued or tabled only in exceptional circumstances.

- 3.3 Any member may propose an item for the agenda of a Council meeting by contacting the Secretariat not less than 15 working days before the date of the meeting.
- 3.4 Any member wishing to raise an urgent item at a Council meeting must give notice at the start of the meeting. The members present will decide whether any such item will be discussed at that meeting, at a subsequent meeting, or not discussed.
- 3.5 An agenda detailing the business to be transacted at a Council meeting will be published on the Council's website not less than seven days prior to the date of the meeting.

#### *Chairing*

- 3.6 Meetings will be chaired in accordance with paragraph 7 of Schedule 1 to the 2010 Act.
- 3.7 In accordance with paragraph 7 of Schedule 1 to the 2010 Act, where the Lord Justice Clerk is unable to chair a meeting and is unable to nominate an alternate judicial member to do so, members must nominate a judicial member to chair the meeting.
- 3.8 The Chair of the meeting will regulate discussion and debate and will ensure that all present enjoy equality of opportunity to express their views.

#### *Private papers*

- 3.9 At the commencement of each Council meeting the Council shall determine which papers are to be considered private in terms of standing order 4.5. Private papers may include, but are not restricted to, advice (including legal advice), documents in draft (including draft guidelines, papers for publication and responses to consultations), and papers which have been submitted to the Council in confidence.
- 3.10 Notwithstanding standing order 4.5, where the Council agrees the content of draft guidelines and draft assessments for the purposes of consultation under section 4 of the 2010 Act, the draft guidelines and draft assessments will be published on the Council's website within such time period as the Council may determine and in any case no less than six weeks prior to the submission of the draft guidelines to the High Court of Justiciary for approval.

#### *Quorum*

- 3.11 No business shall be carried out at a Council meeting unless there are at least seven members present, of whom at least three are non-judicial members.
- 3.12 When a Council meeting is not quorate the members present may decide to proceed with a meeting at which items on the agenda are considered. Any recommendations reached will, at the discretion of the Chair, either (a) be put to the next Council meeting for a decision; or (b) be put to the Council using the procedure for consideration by correspondence set out elsewhere in these standing orders. In both situations the

recommendations will be accompanied by a statement that the Council meeting which is making the recommendation was not quorate.

#### *Proceedings*

- 3.13 All decisions must be made by the members of the Council unless an individual or committee has been delegated to deal with a specific issue.
- 3.14 Decisions of the Council will generally be by consensus of those attending meetings.
- 3.15 Any matter put to the vote is decided by a simple majority of those present. In the event of a tie, the Chair of the meeting has a second vote. Proxy voting is not allowed. Members departing early will be treated as non-attending for the purpose of any decision taken after the time of departure.
- 3.16 Decisions of the Council are binding on members and the Secretariat.
- 3.17 A member may have their dissent to a decision of the Council recorded provided they have attended for the whole of the discussion and decision, and ask immediately after the decision is concluded that their dissent be recorded. The recording of any such dissent shall not, however, affect standing order 2.3.

#### *Extraordinary meetings*

- 3.18 The Chair may call a meeting of the Council at any time and shall do so on receipt of a formal request which specifies the business to be transacted at the meeting and which has the support of four members. A request under this standing order must be sent to the Secretariat.
- 3.19 Standing orders 3.4 and 3.6 - 3.17 will apply to extraordinary Council meetings in like manner as to ordinary Council meetings.

#### *Council advisors*

- 3.20 The Council may appoint an advisor (a "Council advisor") who is not a member of the Council.
- 3.21 A Council advisor may be appointed on such terms, and for such period (including no specified period), as the Council thinks appropriate. The Council may reappoint a Council advisor.
- 3.22 A Council advisor may resign their appointment by giving notice to the Chair.
- 3.23 The appointment of a Council advisor can be terminated at any time by the Chair, notwithstanding that the appointment may be for a specified period.
- 3.24 A Council advisor may also be a committee advisor.

#### **4 Minutes and publication of papers**

- 4.1 Minutes will be kept of each Council meeting, recording the members present, apologies tendered for non-attendance, issues considered, and decisions reached.
- 4.2 Within 10 working days of a Council meeting, draft minutes (as revised or approved by the Chair of the meeting) will be circulated to all members. The minutes will thereafter be published on the Council website in draft form, no later than 15 working days after the meeting. The draft minutes will be tabled at the next Council meeting for approval. Once approved, minutes will be published on the Council website in final form and the draft minutes removed.
- 4.3 Where those present at a Council meeting determine that any part of the business conducted is confidential, that part of the proceedings will be minuted separately and will not be published under standing order 4.2.
- 4.4 All or part of a Council meeting may be held in the absence of non-members where the members present determine that it would be appropriate to proceed in that way.
- 4.5 Agendas and papers for Council meetings will be published online alongside draft minutes within 15 working days of a meeting, excluding: documents in draft form (unless already published), private papers, and any papers or part thereof relating to an item determined to be confidential under standing order 4.3.

#### **5 Items by correspondence**

- 5.1 The Council may consider and, where appropriate, agree items by correspondence (“consideration by correspondence”).
- 5.2 Items will only be circulated for consideration by correspondence with the consent of the Chair.
- 5.3 When an item is circulated for consideration by correspondence, members will be told the date by which they have to respond if they wish to do so. This will be a minimum of two weeks after circulation of the item, unless the Chair considers the item to require more urgent consideration.
- 5.4 If a member does not respond by the date stipulated under paragraph 5.3, it will be assumed that the member is content with what is proposed.
- 5.5 Any item subject to consideration by correspondence will be tabled for discussion at the next Council meeting where:
  - (a) any member requests that the item is tabled; or
  - (b) any member raises an issue which, in the opinion of the Chair, is of such significance as to require discussion at a Council meeting.

- 5.6 Where the Chair has determined that an item is to be tabled for discussion at a Council meeting, the Chair may also request that a relevant committee considers the item before the Council meeting.
- 5.7 The outcome of a consideration by correspondence will be recorded in the minutes of the next Council meeting.

## **6 Committees**

- 6.1 Committees established under paragraph 8 of Schedule 1 to the 2010 Act will operate in accordance with their remit and terms of reference under standing order 6.4(b).
- 6.2 The Council will operate two types of committees: standing committees that will exist until such time as the Council determines otherwise, and working group committees that will exist for a defined period of time.
- 6.3 When establishing a new committee the Council will state whether the committee is to operate as a standing committee or working group committee.
- 6.4 When establishing either a standing committee or a working group committee, the Council will:
- (a) determine the membership of the committee; and
  - (b) establish the remit and terms of reference of the committee.

These may be reviewed and, if appropriate, amended by the Council during the committee's lifetime.

- 6.5 The quorum for all committees established by the Council will, unless the Council provides otherwise for a specified committee or committees, be:
- (a) for committees with an even number of members, one-half plus one; and
  - (b) for committees with an odd number of members, one-half rounded up to the next whole number.
- 6.6 When establishing a working group committee the Council will, in addition to the requirements in standing order 6.4, specify the expected lifetime of the committee. This may be reviewed and, if appropriate, amended by the Council during the committee's lifetime.
- 6.7 When a committee meeting is not quorate the members present may decide to proceed with a meeting at which items on the agenda are considered, and any recommendations reached are put to the next committee meeting for decision if time allows, or otherwise are put to the Council for decision, with a clear statement that the meeting had not been quorate.
- 6.8 A committee may consider and, where appropriate, agree items by correspondence. The circumstances in which a committee might do so, and its arrangements for doing

so, are matters within the discretion of that committee.

#### *Committee Chairs*

- 6.9 Committee members may elect a member to act as Chair:
- (a) at the first meeting of an established committee; and
  - (b) when a committee Chair vacates the position, whether they have left the Council or otherwise.
- 6.10 A committee Chair may at any time resign from that position by intimating this to the Chair of the Council.
- 6.11 Where the Chair of a committee is unable to attend a committee meeting, they shall in advance of that meeting nominate a member to act as Chair for the purposes of that meeting.

#### *Membership*

- 6.12 A Council member's period of appointment to a committee will run concurrently with their appointment to the Council, subject to the Council's power to review the committee's membership under paragraph 6.4, or the member's resignation from the committee under paragraph 6.13.
- 6.13 A committee member may resign as a member of a committee by giving notice in writing to the Chair of the Council.

#### *Council's delegated authority to its committees*

- 6.14 Delegated authority for each committee will be contained in the remit and terms of reference for each committee as agreed by the Council. This may include consideration at first instance of correspondence, policy proposals, or requests for guidance, unless in the view of the Secretariat they are of sufficient significance to merit reference to the Chair and/or the Council.
- 6.15 The Council may, at its discretion, delegate specific matters to committees.
- 6.16 Generally, committees will be expected to take matters as far as appropriate before making recommendations to the Council. Where items are routine they will stay with the committee until the final stage of decision-making.
- 6.17 Nothing in these standing orders or the remit and terms of reference of any committee affects the ability of the Council to deal with any matters at first instance that might otherwise fall to a committee.

### *Reporting of committees*

- 6.18 Where committee activity has been carried out between Council meetings, a report on that, whether oral or written, will be provided to the Council at its next meeting.

### *Procedure*

- 6.19 Agendas and minutes for standing committees will be published online.
- 6.20 Committee papers are private and will not be published, unless the committee determines otherwise.
- 6.21 All or part of a committee meeting may be held in the absence of non-members where the members present determine that it would be appropriate to proceed in that way.
- 6.22 Where those present at a committee meeting determine that any part of the business conducted is confidential, that part of the proceedings will be minuted separately and will not be published.

### *Committee advisors*

- 6.23 A committee may appoint an advisor (a “committee advisor”) who is not a member of the Council.
- 6.24 A committee advisor may be appointed on such terms, and for such period (including no specified period), as the committee thinks appropriate. A committee may reappoint a committee advisor.
- 6.25 The appointment and reappointment of committee advisors is subject to the approval of the Chair of the Council. In particular the appointment of a committee advisor can be terminated at any time by the Chair of the Council, notwithstanding that the appointment may be for a specified period.
- 6.26 A committee advisor may resign their appointment to a committee by giving notice in writing to the Chair of that committee.
- 6.27 A committee advisor is not a member of the committee to which they have been appointed.

### *Conflicts of interest*

- 6.28 Where a dispute arises at a committee meeting as to whether a conflict of interest exists in respect of any member or advisor, the following procedure will apply:
- (a) the Chair of the meeting will have the power to rule as to whether such a conflict exists. In the event of a ruling that a conflict exists, the member or advisor concerned will not be permitted to be further involved in that part of the meeting affected by the conflict;



- (b) before ruling in the circumstances set out in (a) above, the Chair of the meeting may take views of other members of the committee, or Council members, as the Chair deems necessary;
- (c) a record of the area of potential conflict, the ruling reached and by whom will be retained by the Secretariat.

## **7 The Secretariat**

7.1 The Secretariat to the Council has authority to:

- (a) respond to formal consultations on behalf of the Council where it appears to the Secretariat that nothing in the consultation engages the Council's interests and a formal response only is required;
- (b) deal with any correspondence relating to a matter outwith the remit of the Council, to include forwarding that correspondence to any other public authority which the Secretariat considers to be better placed to deal with the matter;
- (c) reply, on behalf of the Council, to correspondence and enquiries where the substance of the response does not require a decision to be made by the Council;
- (d) engage with external organisations, stakeholders, and the public in order to promote the aims and work of the Council; and
- (e) carry out such work as is delegated to it by the Council.

7.2 If there is any doubt as to whether correspondence requires a decision to be made by the Council under standing order 7.1(c), the Secretariat must consult the Chair or, in the Chair's absence, the most senior judicial member of the Council prior to issuing any response.

7.3 The members of the Secretariat have such authority to carry out expenditure as is delegated to them by the Scottish Courts and Tribunals Service. Items of expenditure of over £25,000 are subject to approval by the Council, or where it is not practicable to obtain the Council's approval, the Chair or a judicial member nominated to chair meetings under paragraph 7(3) of Schedule 1 to the 2010 Act.

7.4 The Secretariat may at any time consult the Chair of the Council as to the proposed exercise of any function delegated to it under paragraph 7.1, and must do so if the Secretariat considers that the matter in question may be controversial.

## **8 Decisions reserved to the Council**

8.1 Decisions on the following matters are reserved to the Council:

- (a) business plan, annual report and general programme of work;
- (b) standing orders;
- (c) draft and final guidelines and assessments for consultation or submission to the High Court of Justiciary, as the case may be; and
- (d) the establishment of committees of the Council, their remit and terms of reference, reporting arrangements and membership.

## **9 Communications**

### *Communications with the public*

- 9.1 The Council website will be the primary means for communicating the activities of the Council and any committees established by it. The Secretariat will maintain the website and publish information held by the Council on it in accordance with the Council's publication scheme and any other relevant policies or procedures.
- 9.2 The Secretariat will receive and log all correspondence to and from the Council. Any such correspondence received or sent by an individual member in relation to the Council will be copied to the Secretariat for this purpose.
- 9.3 The Secretariat will present significant items of correspondence to the Council or relevant committee.

### *Communications with members*

- 9.4 Correspondence with Council and committee members will primarily be via email. This includes issuing of papers for meetings. The Secretariat will make adjustments or provide documents in alternative formats where these are required by persons with additional needs.

### *Communications with the media*

- 9.5 The Secretariat will liaise with the media as required on behalf of the Council, including as to the following:
  - (a) promoting the work of the Council in accordance with any agreed communications strategies;
  - (b) issuing media releases on Council activities and on developments relating to the Council's work; and
  - (c) responding to media enquiries.

- 9.6 The Secretariat will present any significant matters to the Chair for approval. Notwithstanding any provision elsewhere in these standing orders, in the Chair's absence or unavailability approval will be sought, in descending order and subject to their availability, from:
- (a) a senator member;
  - (b) a sheriff principal member; or
  - (c) the Chair of the Communications and Engagement Committee.
- 9.7 Members who receive enquiries from the media in respect of the work of the Council should pass these to the Secretariat.

#### *Public statements*

- 9.8 Public statements concerning the Council will normally be made by the Chair, or by the Secretariat acting on behalf of the Chair.
- 9.9 Members may carry out promotional activity, including making public statements, with the prior agreement of the Council.
- 9.10 Where a member wishes to undertake promotional activity in their official capacity without the Council's prior agreement (or if delegated to a committee, without the committee's prior agreement), they will seek the Chair's approval through the Secretariat.

## **10 Freedom of Information and Records Management**

### *Freedom of Information (Scotland) Act 2002*

- 10.1 The Secretariat will log and maintain all significant and relevant documents and information pertaining to the Council and any committees established by it in accordance with the requirements of the Freedom of Information (Scotland) Act 2002 ("FOISA") and the Data Protection Act 1998.
- 10.2 The Secretariat will respond to requests made under FOISA on behalf of the Council. The Secretariat will seek the approval of the Chair in respect of all non-routine requests as to any response.
- 10.3 Where information or data is requested which contains individual Council or committee members' opinions, or which relates to a Council or committee member in particular, the Secretariat will take all reasonable steps to notify the member or members in question of the request and proposed response before issuing any reply.

## **11 Confidentiality**

- 11.1 All members, the Secretariat and any other person present at Council and committee meetings, have a duty:
- (a) not to discuss items of business agreed under standing orders 4.3 and 6.22 to be confidential with any person who was not present at that meeting unless authorised to do so by the Chair; and
  - (b) not to disseminate correspondence not otherwise publicly available (including agendas, papers, draft rules and minutes of meetings, or parts thereof) beyond the membership or the Secretariat, except with the approval of the Chair.
- 11.2 The Secretariat will ensure that members' attention is drawn to any confidential items.
- 11.3 This standing order is without prejudice to the terms of the Public Interest Disclosure Act 1998.

## **12 Members' expenses**

- 12.1 All expenses will be payable by the Scottish Courts and Tribunals Service as provided for by paragraph 6A of Schedule 1 to the 2010 Act.
- 12.2 Members will be entitled to claim for such costs associated with Council business in accordance with the Council's expenses scheme as determined by the Lord Justice General and the Scottish Ministers under paragraph 6A of Schedule 1 to the 2010 Act.

# **MEMBERS' RULES OF CONDUCT**

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## **SECTION 1: INTRODUCTION TO THE RULES OF CONDUCT**

- 1.1 These Rules of Conduct are informed by the recommendations of the Committee on Standards in Public Life and are similar to codes of conduct for other public bodies.
- 1.2 The Scottish public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties for the public body. As a member of the Scottish Sentencing Council (the Council”) you must meet those expectations by ensuring that your conduct is above reproach. Although the Rules relate to your behaviour as a member of the Council, as a consequence of your membership of the Council, the Rules may equally apply to you in your private life.
- 1.3 It is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of these rules of conduct.

### **Guidance on the Rules of Conduct**

- 1.4 You must observe the Rules of Conduct. It is your personal responsibility to comply with them and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change. You must not at any time advocate or encourage any action contrary to the rules of conduct.
- 1.5 The Rules have been developed in line with the key principles listed in Section 2 of the Ethical Standards in Public Life (Scotland) Act 2000 and provides additional information on how the principles should be interpreted and applied in practice. No such document can provide for all circumstances and if you are uncertain about how the Rules apply, you should seek advice initially from the Secretariat. The Secretariat may refer the matter to the Chair. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.

### **Enforcement**

- 1.6 Failure to adhere to these Rules could give rise to grounds for your removal as a member of the Council under the provisions of paragraph 5 of Schedule 1 to the 2010 Act.

## **SECTION 2: KEY PRINCIPLES OF THE RULES OF CONDUCT**

2.1 The general principles upon which these Rules of Conduct are based are:

### **Public Service**

You have a duty to act in the interests of the Council of which you are a member and in accordance with the statutory responsibilities of the Council.

### **Selflessness**

You have a duty to take decisions solely in terms of the public interest. Unless appointed in your capacity as a member of a particular organisation or body, you should bear in mind at all times that your membership of the Council is not representational of any personal or professional group or any professional body. In particular, you should not allow any potential professional or personal interest or gain to influence your contribution to written or oral discussions within the Council.

### **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 make decisions solely on merit when carrying out Council business.

### **Accountability and Stewardship**

You are accountable for your decisions and 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 Council uses its resources prudently and in accordance with the law.

### **Openness**

Subject to Council Standing Orders 11 and 12, you have a duty to be as open as possible about your decisions and actions, giving reasons for your 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 public 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 Council and its members in conducting public business.

### **Respect**

You must respect fellow members of the Council and its employees and the role they play, treating them with courtesy at all times.



## **SECTION 3: GENERAL CONDUCT**

### **Allowances**

- 3.1 You must comply with any rules regarding remuneration, allowances and expenses.

### **Gifts and Hospitality**

- 3.2 You must never canvass or seek gifts or hospitality.
- 3.3 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 Council. As a general guide, it is usually appropriate to refuse offers except:
- (a) 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;
  - (b) normal hospitality associated with your duties and which would reasonably be regarded as inappropriate to refuse; or
  - (c) gifts received on behalf of the Council.
- 3.4 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 cohabitee 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.
- 3.5 You must not accept repeated hospitality from the same source. You must inform the Secretariat of details of any gifts and hospitality received, which will maintain a record available for public inspection.
- 3.6 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 Council may be involved in determining, or who is seeking to do business with the Council, and which a person might reasonably consider could have a bearing on your judgement.

### **Confidentiality Requirements**

- 3.7 There may be times when you will be required to treat discussions, documents or other information relating to the work of the Council 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.

- 3.8 It is unacceptable to disclose any information to which you have privileged access, for example derived from a confidential document, either orally or in writing. In the case of other documents and information, you are requested to 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 Council into disrepute.

#### **SECTION 4: REGISTRATION OF INTERESTS**

- 4.1 The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called “registerable interests”. You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the Council’s Register.
- 4.2 These Rules set out the categories of interests which you must register. Section 8 contains key definitions to help you decide what is required when registering your interests under any particular category. These categories are listed below with explanatory notes designed to help you decide what is required when registering your interests under any particular category.

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

- 4.3 You have a registerable interest where you 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; or
  - (f) undertaking a trade, profession or vocation or any other work.
- 4.4 In relation to 4.3 above, the amount of remuneration does not require to be registered and remuneration received as a member does not have to be registered.
- 4.5 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, “Related Undertakings”.
- 4.6 If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.

- 4.7 When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.
- 4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.
- 4.9 Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.
- 4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.
- 4.11 Registration of a pension is not required as this falls outside the scope of the category.

### **Category Two: Related Undertakings**

- 4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.
- 4.13 You must register the name 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 you are a director and from which you receive remuneration.
- 4.14 The situations to which the above paragraphs apply are as follows:
  - (a) you are a director of a board of an undertaking and receive remuneration – declared under Category One – and
  - (b) you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

### **Category Three: Contracts**

- 4.15 You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 5.7 below) have made a contract with the Council or the SCTS:
  - (a) under which goods or services are to be provided, or works are to be executed; and
  - (b) which has not been fully discharged.
- 4.16 You must register a description of the contract, including its duration, but excluding the consideration.

#### **Category Four: Houses, Land and Buildings**

- 4.17 You have a registerable interest where you 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 Council.
- 4.18 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the Council and to the public, or could influence your actions, speeches or decision-making.

#### **Category Five: Shares and Securities**

- 4.19 You have a registerable interest where you have an interest in shares which constitute a holding in a company or organisation which may be significant to, of relevance to, or bear upon, the work and operation of the Council. You are not required to register the value of such interests.
- 4.20 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in shares and securities could potentially affect your responsibilities to the Council and to the public, or could influence your actions, speeches or decision-making. If in doubt, you may consult with the Secretariat or the Chair.

#### **Category Six: Non-Financial Interests**

- 4.21 You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the Council. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.
- 4.22 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any non-financial interest could potentially affect your responsibilities to the Council and to the public, or could influence your actions, speeches or decision-making.

### **SECTION 5: DECLARATION OF INTERESTS**

#### **Introduction**

- 5.1 The key principles of the Rules, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for you to declare certain interests in proceedings of the Council. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.

- 5.2 The Council inevitably has dealings with a variety of organisations and individuals and the Rules indicate the circumstances in which a business or personal interest must be declared. Public confidence in the Council and its members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason.
- 5.3 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.
- 5.4 If you feel that, in the context of the matter being considered, your involvement is neither capable of being viewed as more significant than that of an ordinary member of the public, nor likely to be perceived by the public as wrong, you may continue to attend the meeting and participate in both discussion and voting. The relevant interest must however be declared. It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. Where there is dubiety or dispute as to whether or not a conflict arises, standing order 2.3 will apply.

### **Interests which Require Declaration**

- 5.5 Interests which require to be declared may be financial or non-financial. They may or may not be interests which are registerable under the Rules. 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.

### **Financial Interests**

#### ***Shares and Securities***

- 5.6 Any financial interest which is registerable must be declared. You may have to declare interests in shares and securities, over and above those registerable under category five of Section 4 of the Rules. You may, for example, in the course of employment or self-employment, be engaged in providing professional advice to a person whose interests are a component of a matter to be dealt with by a board.
- 5.7 You have a declarable interest where an interest becomes of direct relevance to a matter before the Council and you have shares comprised in the share capital of a company or other body and the nominal value of the shares is:
- (a) greater than 1% of the issued share capital of the company or other body; or
  - (b) greater than £25,000.
- 5.8 You are required to declare the name of the company only, not the size or nature of the holding.

### ***Houses, Land and Buildings***

- 5.9 Any interest in houses, land and buildings which is registerable under category four of Section 4 of these Rules must be declared, as well as any similar interests, which arise as a result of specific discussions or operations of the Council.

### **Non-Financial Interests**

- 5.10 Non-financial interests include: membership or holding office in other public bodies, clubs, societies, trade unions and organisations, including voluntary organisations. They become declarable if and when members of the Council might reasonably think they could influence your actions, speeches or decision making.
- 5.11 You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role as a member of the Council. In the context of any particular matter, you will have to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is irrelevant or without significance. In reaching a view you should consider whether the interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a member as opposed to the interest of an ordinary member of the public.

### **Interests of Other Persons**

- 5.12 The interests known to you of relatives and close friends may have to be declared. These Rules do not attempt the task of defining “relative” or “friend”. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the Council.

### **Making a Declaration**

- 5.13 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

5.14 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words “I declare an interest”. The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

### **Effect of Declaration**

5.15 You must consider the relationship between the interests which have been declared and the particular matter to be considered and relevant individual circumstances surrounding the particular matter.

5.16 In the final analysis the conclusive test is whether, in the particular circumstances of the item of business, and knowing all the relevant facts, a member of the public acting reasonably would consider that you might be influenced by the interest in your role as a member of the Council and that it would therefore be wrong to take part in any discussion or decision-making. If you, in conscience, believe that your continued presence would not fall foul of this objective test, then declaring an interest will not preclude your involvement in discussion or voting. If you are not confident about the application of this objective yardstick, you must play no part in discussion and must leave the meeting room until discussion of the particular item is concluded.

### **Dispensations**

5.17 In very limited circumstances dispensations can be granted by a majority of the other members of the Council in relation to the existence of financial and non-financial interests which would otherwise prohibit you from taking part and making decisions on matters coming before the Council and its committees. Applications for dispensations should be made as soon as possible in order to allow proper consideration of the application in advance of meetings where dispensation is sought. You should not take part in the consideration of the matter in question until the application has been granted.

## **SECTION 6: LOBBYING AND ACCESS TO MEMBERS OF THE COUNCIL**

### **Introduction**

6.1 Participation by organisations and individuals in the decision-making process will be encouraged. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the Council conducts its business.

6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some

of these organisations and individuals will make their views known directly to individual members. The Rules set out how you should conduct yourself in your contacts with those who would seek to influence you. They are designed to encourage proper interaction between members of the Council and interest groups.

## **Rules and Guidance**

- 6.3 You must not, in relation to contact with any person or organisation who lobbies, do anything which contravenes these Rules of Conduct or any other relevant rule of the Council or any statutory provision or act in any way which could bring discredit upon the Council.
- 6.4 The public must be assured that no person or organisation will gain better access to, or treatment by, you as a result of employing a company or individual to lobby on a fee basis on their behalf. You must 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 you accord any other person or organisation who lobbies or approaches you. Nor should those lobbying on a fee basis on behalf of clients be given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming from another member of the Council.
- 6.5 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation who is lobbying and the motive for lobbying. You 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 you know the basis on which you are being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in these Rules.
- 6.6 If you have concerns about the approach or methods used by any person or organisation in their contacts with you, you must seek the guidance of the Secretariat.

## **SECTION 7: CONSEQUENCES OF BREACH OF THE RULES OF CONDUCT**

- 7.1 Where any member is in breach of the rules of conduct, this could lead to consideration of whether that member should be removed in accordance with paragraph 5 of Schedule 1 to the 2010 Act.

## **SECTION 8: DEFINITIONS**

“A person” means a single individual or legal person and includes a group of companies.

“Any person” includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.



“Cohabitee” includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

“Group of companies” has the same meaning as “group” in section 474(10) of the Companies Act 2006. A “group”, within section 474(1) of the Companies Act 2006, means a parent undertaking and its subsidiary undertakings.

“Member” means a person appointed as a member of the Council under Schedule 1 to the 2010 Act.

“Parent Undertaking” is an undertaking in relation to another undertaking, a subsidiary undertaking, if:

- (a) it holds a majority of the voting rights in the undertaking; or
- (b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or
- (c) it has the right to exercise a dominant influence over the undertaking
  - (i) by virtue of provisions contained in the undertaking’s memorandum or articles or
  - (ii) by virtue of a control contract; or
- (d) it is a Councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or Councillors, a majority of the voting rights in the undertaking.

“Public body” means a devolved statutory public body or body corporate.

“Related Undertaking” is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

“Remuneration” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

“Spouse” does not include a former spouse or a spouse who is living separately and apart from you.

“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.