

REPORT TO ABERDEENSHIRE INTEGRATION JOINT BOARD 9th DECEMBER 2020

CONSULTATION ON REVIEW OF THE MODEL CODE OF CONDUCT

1 Recommendation

It is recommended that the Integration Joint Board (IJB):

- 1.1 Consider and approve the draft response to the consultation on the review of the Model Code of Conduct for Devolved Public Bodies at Appendix 1 to this report.

2 Directions

- 2.1 No direction requires to be issued to Aberdeenshire Council or NHS Grampian as a result of this report.

3 Risk

- 3.1 The report has no direct impact on any of the identified Risks in the Risk Register however does impact on good governance and how members conduct themselves, which in turn impacts on the business of the IJB.

4 Background

- 4.1 As reported to the IJB on the 9th of December 2020, the Scottish Government launched a consultation on a revised version of the Code of Conduct which can be found at <https://consult.gov.scot/public-bodies-unit/ethical-standards-in-public-life/>.
- 4.2 The review of the Code of Conduct presents an opportunity to clarify and refine certain areas of the document which have previously proved difficult to navigate, such as the provision on declarations of interest.
- 4.3 The IJB agreed that the Audit Committee, whose remit includes improving the internal controls and governance of the IJB, would lead in the response to the consultation. The IJB Audit Committee met on the 9th of December 2020 and discussed the proposed Code of Conduct.
- 4.4 The IJB Audit Committee considered that the proposed Model Code of Conduct was in the main an improvement on the current Model Code however there were concerns expressed about the treatment of gifts and hospitality in particular and the removal of the gifts and hospitality register. The other main point of concerns is that the definition of bullying is lacking and so further clarity has been requested on what is meant by bullying.
- 4.4 The consultation period ends on the 8th of February. The proposed response to the consultation forms Appendix 1 to this report.

5 Summary

- 5.1 The report seeks approval for the response to the Consultation on the Model Code of Conduct for members of devolved public bodies.
- 5.2 The Chief Officer, along with the Chief Finance Officer and the Legal Monitoring Officers within Business Services of the Council have been consulted in the preparation of this report and their comments have been incorporated within the report.

6 Equalities, Staffing and Financial Implications

- 6.1 An equality impact assessment is not required because the report seeks views to respond to a consultation by the Scottish Government. The Scottish Government will use the views expressed as evidence for the Equality Impact Assessment for the Code of Conduct.

Angie Wood, Chief Officer
Aberdeenshire Health and Social Care Partnership

Report prepared by Lauren Cowie, Principal Solicitor (Governance)
Date 8th January 2020

Code of Conduct

Revision Consultation questions

The consultation questions set out below focus on changes that have been made to the Model Code. We are specifically seeking your views on the amendments that have been made to the Model Code. However, your views on any aspect of the revised Model Code are welcome. When making general comments please specify which sections of the Model Code you are commenting on. If your response refers to a particular paragraph, rather than the section as a whole, please provide a reference to that paragraph(s) following your response i.e. (paragraph 3.10).

General Questions

1. *Have you used the Code before?*

Yes

Comments

2. *If Yes, in what capacity have you/do you use the Code? If you used the Code as a Board Member could you please name the public body?*

Please provide your comment

This response is on behalf of the Aberdeenshire Integration Joint Board. Members have adopted the model Code of Conduct and apply it whilst acting as a member of the IJB.

3. *Do you agree that there is a need to review and update the current Model Code?*

Yes, it is acknowledged that the Model Code of Conduct would benefit for review and clarity in some areas.

4. *In Section 1, and throughout the Model Code, we have removed unnecessary information to make it easier to understand. Do you have any comments on the changes proposed for Section 1: Introduction to the Code?*

Yes. The removal of additional information makes it easier to understand.

5. *In Section 2, the Model Codes has a new heading "My Responsibilities" which aims to ensure that members accept and endorse that it is their personal responsibility to be aware and comply with the provisions in their Board's Code of Conduct. Do you have any comments on this change in section 2: Key Principles?*

Yes. The members of the IJB prefer the use of the first person in the proposed Model Code as there is a sense of personal ownership of the

provisions of the code, rather than the third person which implies corporate responsibility. The drafting firmly puts the responsibility for compliance onto the Board Member and this is welcomed.

- 6. In Section 3, General Conduct, the respect provision has been extended to everyone that a member could come into contact or engage with when acting as such, e.g. employees of other public bodies as well as other board members and the general public. We have also included information relating to the use of social media and highlighted that bullying and harassment is totally unacceptable. This section also cover Gifts and Hospitality. These provisions have been amended to make it clear that they should not be sought or accepted with the exception of minor gifts or hospitality that a member would normally be expected to be offered in their everyday role.*

Do you have any comments on the proposed changes in Section 3?

Yes

The changes are welcomed, particularly respect to the Chair at 3.9 which strengthens the position as laid out in Standing Orders and may be useful in volatile situations during meetings. The strengthening of the position of the Chair, and that disrespect is a breach of the Code of Conduct is welcomed.

The definition of bullying would benefit from clarity, it is not clear what is meant by bullying and so explicit guidance with examples on this issue would be particularly welcomed.

There were some concerns raised regarding 3.10 in terms of collective decision-making and corporate responsibility. There may be implications for non-voting professional members who have advised against a course of action and may have professional conflicts. This requires further clarity and guidance. The principle however of corporate responsibility, democracy and accepting of Board decisions is accepted.

Concerns were raised around the proposed changes in respect of gifts and hospitality. 3.13 could be read as conflicting with 3.14. The current section is much clearer and is much more open and transparent. There is a real concern that the removal of the gift and hospitality register dilutes openness and transparency, and that the public may be left thinking that the process is much more opaque. This has the potential to be detrimental to public confidence in decision making and the integrity of those sitting on the Board. This should be avoided and reinstating the previous provisions with a clear de minimus level and requirement to register is preferred. It is not clear what the rationale for removal of these provisions are.

- 7. Section 4 has been amended to reflect the changes made throughout the Model Code and to make clearer what kind of information needs to be registered. Do you have any comments on the changes proposed for Section 4: Registration of Interests?*

Clarity would be welcomed on what is meant or captured by “other roles” described at 4.13.

Further to response given above regarding section 3, the members do not agree that the gifts and hospitality register should be removed.

8. *Do you have any comments on the changes proposed for Section 5: Declaration of Interests? The changes have been made to make it clearer that members need to take responsibility for declaring matters of interest.*

The clarity in this section is welcomed, particularly clarity on where there is an interest, a Board member should not remain in the discussion nor decision making. However there were some concerns mooted that there could be situations where a Board member with particular skills or experience may be required to step out of a discussion due to a legitimate interest which could be detrimental to the overall discussion. Overall, the clarity and 3 stage process of connection, interest, declaration is welcomed.

9. *Public bodies aim to be open and accessible to the views and opinions of others, and to make their decisions based on the widest possible evidence and arguments. As a Member you will probably be approached by those wishing to make their views known. This is perfectly legitimate but care is needed. We have looked to simplify the Model Code in Section 6 covering Lobbying and Access. Do you think the proposed changes achieve this aim?*

There were no concerns raised about this section of the Model Code.

10. *The information in Annex A has been extended to include information about the role of the Ethical Standards Commissioner and the sanctions available to the Standards Commission following a finding of a breach of the Code and what these mean. Do you have any comments on the changes proposed to Annex A?*

No, this appears to be a sensible approach.

11. Overall, how clear and easy to understand do you find the revised Model Code?
- Very clear
 - Mostly clear**
 - Sometimes unclear
 - Very unclear