

Response ID ANON-BEZO-YTZO-Y

Submitted to **Ethical standards in public life: consultation on model code of conduct for board members of devolved public bodies**

Submitted on 2021-02-04 13:54:24

Questions

1 Have you used the Code before?

Yes

2 If you answered yes, in what capacity have you used a Code of Conduct? If you used the Code as a Board Member could you please name the public body that you were/are a member of?

Please explain your answer:

The Scottish Charity Regulator (OSCR) is a non-ministerial department of the Scottish Government and a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. The OSCR board has adopted the model code as its Code of Conduct. Board members receive a copy of the Code as part of their induction. Training on the Code is provided for board members.

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

Yes

Please explain your answer:

In the intervening years since the Model Code was last revised there have been significant changes in the cultural life of Scotland that impact upon public bodies, among them the drive to ensure that boards reflect the diversity of the population they serve. It is vital that the Model Code is accessible and relevant to sections of the population unfamiliar with the language and ethos of public sector governance.

4 Do you have any comments on the changes proposed for Section 1: Introduction to the Code?

Please explain your answer:

We agree that the revised and shorter introduction is an improvement. However, rather than begin with an immediate reference to the legislation (para 1.1), we suggest that this section might benefit from a short introductory paragraph explaining the purpose of the Model Code and how public bodies should use it.

5 In Section 2, the Model Code 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?

Please explain your answer:

The 'My Responsibilities' heading appears in section 1 (paragraphs 1.4 to 1.10). We agree that writing the Code in the first person is an improvement that encourages a sense of personal identification with and commitment to the principles in section 2, so that it reads more like a declaration.

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

Please explain your answer:

We support fully the expansion of this section and the greater emphasis given to the expectation that board members will conduct themselves respectfully to all parties and a zero tolerance approach to bullying, harassment and unlawful discrimination in all its forms. This is consistent with the aim of achieving greater diversity on public sector boards which was a principal theme of the Ethical Standards Commissioner's consultation on public appointments last autumn.

We also consider it helpful the revision clarifies the expected relationship between board members and employees and the differentiation between strategic governance and operational management.

We support the introduction of references to the careful use of social media. We also consider it helpful that the reference to small gifts (para. 3.17) has been redefined in more flexible terms. We welcome the expansion of para. 3.29 to recognise that conflicts of interest may arise for board members who are trustees of charities that are not companies.

7 Do you have any comments on the changes proposed for Section 4: Registration of Interests?

Please explain your answer:

We agree that the revised section 4 is an improvement on the present model code but we have a few comments:

Para. 4.3 refers to key definitions and explanatory notes in an annex. However, Annex B provides a number of definitions but there are no explanatory notes. We appreciate that removing definitions of terms to a glossary may assist readability but we consider there is a risk that they might be overlooked. We suggest that words in the text of section 4 that are defined in the annex could be highlighted in some way, perhaps underlined, italicised or with an asterisk. For digital versions of the Code a direct link to defined terms could be embedded.

We suggest that the term 'the holder of an office' in para. 4.4 could usefully be added to the definitions in the annex.

In para. 4.5 we consider the phrase 'remuneration received as a board member' is open to several interpretations. It is unclear whether this means that

remuneration received as a board member of any board must be registered or only remuneration from the particular board in question.

The term 'related undertaking' is defined in Annex B but it does not appear in section 4. The term 'subsidiary' appears several times but is not defined except by reference to the definition of a 'parent undertaking'. In our view the explanation of parent and subsidiary undertakings could be made clearer.

8 Do you have any comments on the changes proposed for Section 5: Declaration of Interests?

Please explain your answer:

We consider the simplified rules for declaring interests to be an improvement. We support the requirement to apply a single objective test to all categories of interest.

9 We have looked to simplify the Model Code in Section 6 covering Lobbying and Access. Do you think the proposed changes achieve this aim?

Please explain your answer:

We support the simplified revision of section 6 and the explicit reference made in para. 6.2 to applying the objective test.

10 Do you have any comments on the changes proposed to Annex A?

Please explain your answer:

We consider the explanation given of the respective functions of and relationship between the Standards Commission and the ESC to be clear and helpful.

11 Overall, how clear and easy to understand do you find the revised Model Code e.g. very clear, mostly clear, sometimes unclear, very unclear.

Please explain your answer:

Mostly clear, but please see our comments with respect to section 4 and Annex B for specific points where we consider there is room for further clarification.

12 Do you have any other comments on the proposed revisions to the ModelCode?

Please explain your answer:

About you

13 What is your name?

Name:

Steven Kent

14 What is your email address?

Email:

steve.kent@oscr.org.uk

15 Are you responding as an individual or an organisation?

Organisation

16 What is your organisation?

Organisation:

Office of the Scottish Charity Regulator (OSCR)

17 The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

18 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

19 I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

20 Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: