 Report number: **SLAB/2022/16**

Agenda Item: **07**

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| **Report to:** | The Board |
| **Meeting Date:** | 16 May 2022 |
| **Report Title** | Model Code of Conduct for Board Members |
| **Report Category** | For Decision |
| **Issue status:** | Business as usual |

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| **Written by:** | Sarah Lynchehaun – Corporate Governance and Policy Officer |
| **Director responsible:** | Colin Lancaster |
| **Presented by:** | Andrew McIntosh |
| **Contact details:** | [mcintoshan@slab.org.uk](mailto:mcintoshan@slab.org.uk) |

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| **Delivery of Strategic Objectives** | |
| Select the Strategic Objective(s) relevant to the issues | 2. We embed ways of working across the organisation that enhance the quality, consistency and transparency of our decisions and delivery |

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| **Link to Board or Committee Remit** |
| The Board has reserved authority for approving changes to the Board Members’ Code of Conduct. A new Code for approval can be found in Appendix 1. |

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| **Publication of the Paper** |
| We consider this paper is suitable for publication. |

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| **Executive Summary** |
| The changes to the model Code approved by the Scottish Parliament are fairly minor. Overall it is a much clearer and easier read. We have maintained some specific sections on confidentiality of information that Members approved in the previous Code. |

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| **Previous Consideration** | |
| **Meeting** | **Detail** |
| n/a | n/a |

**Report – Background information**

1. The Ethical Standards in Public Life etc. (Scotland) Act 2000 provides for Codes of Conduct for local authority councillors and members of relevant public bodies. The Act requires Scottish Ministers to lay before the Scottish Parliament a Model Code of Conduct for Members of Devolved Bodies. The Act applies to the Scottish Legal Aid Board.
2. A revised Code was approved by the Scottish Parliament on 7 December 2021. The Code is effective from 7 December 2021 and replaces the previous version, which was adopted in 2014.
3. The Standards Commission for Scotland are seeking confirmation from public bodies by 10 June 2022 that the revised code has been adopted.

**Revisions made to the Code**

1. Members were consulted on the changes being proposed to the Code back in January 2021. We then submitted a short response to the Scottish Government’s consultation in February.
2. The changes made to the Model Code of Conduct are fairly minor. The key changes are:

* A general rewrite in first person to encourage Board Members to take ownership of their behaviour.
* Raising awareness of the need for careful consideration when a Board Member uses social media.
* Removing unnecessary information. A lot of ‘padding’ has been removed (backgrounds, introduction sections and reference to statutory provisions)
* Rewriting in plain English to make the Model Code easier to understand.
* Increased emphasis on addressing discrimination and unacceptable behaviour
* Strengthening obligations regarding bullying and harassment
* Strengthening rules around accepting gifts, both to protect Board Members and to build confidence in their impartiality. The language is strengthened from ‘you must not’ to ‘I will never’. It also adds an obligation on Members to inform their organisation if they have been offered gifts or hospitality of a significant value
* Section 5 (declaration of interest) has been redrafted to make it easier to follow and to apply the “objective” test. This section is now much shorter now and cuts out the repetition between registration and declaration of interests
* Section 6 has been amended to make the rules around access and lobbying clearer. It is helpful that the new text includes a definition of lobbying and also that it refers to the application of the objective test when considering lobbying which the current Code does not do.

**Confidentiality**

1. As in previous revisions, we are proposing to keep a necessary addition to the model Code owing to the legal obligation around confidentiality as set out in the Legal Aid (Scotland) Act 1986 s34 and our obligations under GDPR.
2. The suggested addition, which was inserted into the 2014 version, sets out the additional responsibilities of the Board in relation to the above mentioned provisions and highlights the appropriate handling of sensitive information. This is coloured red in the appendix.

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|  | **Governance Links** |
| 1 | Finance and Resources  n/a. |
| 2 | Risk  A robust Code of Conduct helps us mitigate our risk that there is a failure of governance in respect of business conducted by the Board and its membership. |
| 3 | Legal and Compliance  Adoption of a Code pf Conduct is a statutory obligation under the Ethical Standards in Public Life etc. (Scotland) Act 2000. |
| 4 | Performance  n/a. |
| 5 | Equalities Impact  n/a. |
| 6 | Privacy Impact and Data Protection  n/a. |
| 7 | Communications and Engagement  n/a. |

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| **Conclusion and next steps** |
| **It is recommended that the updated Code is approved by the Board. If approved, the Code will be published on our website in due course.** |

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| **Appendices/Further Reading** |
| **Appendix 1 –** [**Revised Code of Conduct for approval**](https://www.slab.org.uk/app/uploads/2019/03/SLAB-Board_members-Code-Of-Conduct.pdf)**.** |