

EXECUTIVE DIRECTOR SPONSOR: AMELIA MORGAN

CODES OF CONDUCT – BOARD AND EMPLOYEES AND WHISTLEBLOWING POLICY

Purpose

The Board to review and approve the codes of conduct and whistleblowing policy.

Priority

Routine.

Background

The Board reviews and approves the codes of conduct and whistleblowing policy in accordance with the Matters Reserved to the Board and in line with its Annual Forward Planner.

Key Points for Noting

Code of Conduct - Board

The Ethical Standards in Public Life etc. (Scotland) Act 2000 introduced codes of conduct to ensure that the highest standards of behaviour are maintained by local authority councillors and members of devolved public bodies. Responsibility for ethical standards policy rests with the Scottish Government.

The Scottish Canals Code of Conduct for the Board, attached as appendix 1, reflects the current Model Code of Conduct for Members of Devolved Public Bodies. There are no amendments required.

A consultation seeking views on proposed amendments to the Model Code has been undertaken by the Standards Commission for Scotland. The Board will be advised of updates to the Scottish Canals Code of Conduct for the Board in due course.

The Standards Commission guidance to assist Board members to interpret the provisions of the Members' Codes of Conduct can be viewed at <https://www.scottishcanals.co.uk/wp-content/uploads/sites/2/2017/09/Standards-Commission-Scotland-Guidance-Notes-V2-11-2016.pdf>

Code of Conduct - Employees

Scottish Canals has adapted the Code of Conduct for the Board to apply to its employees. The Code of Conduct for Employees is attached as appendix 2. There are no amendments required.

Whistleblowing Policy

The Whistleblowing Policy, reflecting current best practice, is attached as appendix 3. There are no amendments proposed except for consequential amendments to the reporting options in accordance with changes to Executive Management team personnel. There have been no instances of whistleblowing during the year to date.

Corporate Considerations

- Strategic Priorities: The annual review of the codes of conduct and whistleblowing policy ensures stewardship of internal controls in accordance with the Corporate Plan 2020-23 key aim to excel in governance.
- Health & Safety: There are no Health & Safety issues to report.
- Risk/Risk Appetite: There are no new risks to raise.
- Legal: There are no legal implications to report.
- Financial: There are no financial implications for Scottish Canals' budget.
- Human Resources: The codes of conduct and whistleblowing policy form part of the governance policies circulated to all staff.
- Fair Work First: There are no Fair Work First issues to report.
- Communication: The codes of conduct and whistleblowing policy will be communicated to all staff via NETconsent. The Scottish Canals Code of Conduct for the Board will be added to Scottish Canals' website.
- Community & Third Sector: There are no Community & Third Sector issues to report.
- Commercial: There are no Commercial issues to report.
- Asset: There are no Asset issues to report.
- Environment: There are no Environment issues to report.
- Health & Safety: There are no Health & Safety issues to report.

Conclusions and Recommendations

It is recommended that the Board approve the codes of conduct in the formats attached as appendices 1 & 2 and whistleblowing policy in the format attached as appendix 3 for circulation to all employees via NETconsent.

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CODE OF CONDUCT

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Code of Conduct – Board Members

SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

1.1 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. You must meet those expectations by ensuring that your conduct is above reproach.

1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000, “the Act”, provides for Codes of Conduct for local authority councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland, “The Standards Commission” to oversee the new framework and deal with alleged breaches of the codes.

1.3 The Act requires the Scottish Ministers to lay before Parliament a Code of Conduct for Councillors and a Model Code for Members of Devolved Public Bodies. This Model Code for members was first introduced in 2002 and has now been revised following consultation and the approval of the Scottish Parliament. These revisions will make it consistent with the relevant parts of the Code of Conduct for Councillors.

1.4 As a member of a public body, it is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct.

Appointments to the Boards of Public Bodies

1.5 Public bodies in Scotland are required to deliver effective services to meet the needs of an increasingly diverse population. In addition, the Scottish Government’s equality outcome on public appointments is to ensure that Ministerial appointments are more diverse than at present. In order to meet both of these aims, a board should ideally be drawn from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. It is crucial to the success of public bodies that they attract the best people for the job and therefore it is essential that a board’s appointments process should encourage as many suitable people to apply for positions and be free from unnecessary barriers. You should therefore be aware of the varied roles and functions of the public body on which you serve and of wider diversity and equality issues. You should also take steps to familiarise yourself with the appointment process that your board (if appropriate) will have agreed with the Scottish Government’s Public Appointment Centre of Expertise.

1.6 You should also familiarise yourself with how the public body’s policy operates in relation to succession planning, which should ensure public bodies have a strategy to make sure they have the staff in place with the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively.

Guidance on the Code of Conduct

1.7 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these 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 Code of Conduct.

1.8 The Code has been developed in line with the key principles listed in Section 2 and provides additional information on how the principles should be interpreted and applied in practice. The Standards Commission may also issue guidance. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from Scottish Canals. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.

1.9 You should familiarise yourself with the Scottish Government publication “On Board – a guide for board members of public bodies in Scotland”. This publication will provide you with information to help you in your role as a member of a public body in Scotland and can be viewed on the Scottish Government website.

Enforcement

1.10 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of this Code of Conduct and where appropriate the sanctions that shall be applied if the Standards Commission finds that there has been a breach of the Code. Those sanctions are outlined in **Annex A**.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

2.1 The general principles upon which this Code is based should be used for guidance and interpretation only. These general principles are:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of Scottish Canals and in accordance with the core functions and duties of Scottish Canals.

Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

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 and in a way that is consistent with the functions of Scottish Canals when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

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 Scottish Canals uses its resources prudently and in accordance with the law.

Openness

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, and to maintain and strengthen the public’s trust and confidence in the integrity of Scottish Canals in conducting public business.

Respect

You must respect fellow members of Scottish Canals and employees of Scottish Canals and the role they play, treating them with courtesy at all times. Similarly, you must respect members of the public when performing duties as a member of Scottish Canals.

2.2 You should apply the principles of this Code to your dealings with fellow members of Scottish Canals, its employees and other stakeholders. Similarly, you should also observe the

principles of this Code in dealings with the public when performing duties as a member of Scottish Canals.

SECTION 3: GENERAL CONDUCT

3.1 The rules of good conduct in this section must be observed in all situations where you act as a member of Scottish Canals.

Conduct at Meetings

3.2 You must respect the chair, your colleagues and employees of Scottish Canals in meetings. You must comply with rulings from the chair in the conduct of the business of these meetings.

Relationship with Board Members and Employees of Scottish Canals (including those employed by contractors providing services)

3.3 You will treat your fellow board members and any staff employed by Scottish Canals with courtesy and respect. It is expected that fellow board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a board member you should be familiar with the policies of Scottish Canals in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

Remuneration, Allowances and Expenses

3.4 You must comply with any rules of Scottish Canals regarding remuneration, allowances and expenses.

Gifts and Hospitality

3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or 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.

3.6 You must never ask for gifts or hospitality.

3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in Scottish Canals. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of Scottish Canals.

3.8 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 Scottish Canals may be involved in determining, or who is seeking to do business with your organisation, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of Scottish Canals then, as a general rule, you should ensure that Scottish Canals pays for the cost of the visit.

3.9 You must not accept repeated hospitality or repeated gifts from the same source.

3.10 You should familiarise yourself with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

Confidentiality Requirements

3.11 There may be times when you will be required to treat discussions, documents or other information relating to the work of Scottish Canals 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. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.

3.12 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 purposes of personal or financial gain, or for political purposes or used in such a way as to bring Scottish Canals into disrepute.

Use of Public Body Facilities

3.13 You must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with the public body's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of Scottish Canals.

Appointment to Partner Organisations

3.14 You may be appointed, or nominated by Scottish Canals, as a member of another body or organisation. If so, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.

3.15 Members who become directors of companies as nominees of Scottish Canals will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and Scottish Canals. It is your responsibility to take advice on your responsibilities to Scottish Canals and to the company. This will include questions of declarations of interest.

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 Scottish Canal's Register. It is your duty to ensure any changes in circumstances are reported within one month of them changing.

4.2 The Regulations as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

Category One: Remuneration

4.3 You have a Registerable Interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm; or
- 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:

- you are a director of a board of an undertaking and receive remuneration declared under category one – and
- 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 4.19 below) have made a contract with the public body of which you are a member:

- (i) under which goods or services are to be provided, or works are to be executed; and
- (ii) 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 body to which you are appointed.

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 organisation to which you are appointed and to the public, or could influence your actions, speeches or decision making.

Category Five: Interest in Shares and Securities

4.19 You have a registerable interest where you have an interest in shares comprised in the share capital of a company or other body which may be significant to, of relevance to, or bear upon, the work and operation of (a) the body to which you are appointed and (b) the nominal value of the shares is:

- (i) greater than 1% of the issued share capital of the company or other body; or
- (ii) greater than £25,000.

Where you are required to register the interest, you should provide the registered name of the company in which you hold shares; the amount or value of the shares does not have to be registered.

Category Six: Gifts and Hospitality

4.20 You must register the details of any gifts or hospitality received within your current term of office. This record will be available for public inspection. It is not however necessary to record any gifts or hospitality as described in paragraph 3.7 (a) to (c) of this Code.

Category Seven: 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 body to which you are appointed. 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 In the context of non-financial interests, the test to be applied when considering appropriateness of registration is to ask whether a member of the public might reasonably think that any non-financial interest could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision-making.

SECTION 5: DECLARATION OF INTERESTS

General

5.1 The key principles of the Code, 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 public body. 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 Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in Scottish Canals 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, however, always comply with the objective test (“the objective test”) which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of Scottish Canals.

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. If a board member is unsure as to whether a conflict of interest exists, they should seek advice from the board chair.

5.5 As a member of Scottish Canals you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. Only if you believe that, in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between Scottish Canals and another body. Keep particularly in mind the advice in paragraph 3.15 of this Code about your legal responsibilities to any limited company of which you are a director.

Interests which Require Declaration

5.6 Interests which require to be declared, if known to you may be financial or non-financial. They may or may not cover interests which are registerable under the terms of this Model Code. 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. The paragraphs which follow deal with (a) your financial interests (b) your non- financial interests and (c) the interests, financial and non-financial, of other persons.

5.7 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 a public body. In the context of any particular matter you will need to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your 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 of Scottish Canals as opposed to the interest of an ordinary member of the public.

Your Financial Interests

5.8 You must declare, if it is known to you, any financial interest (including any financial interest which is registerable under any of the categories prescribed in Section 4 of this Code).

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

Your Non-Financial Interests

5.9 You must declare, if it is known to you, any non-financial interest if:

- (i) that interest has been registered under category seven (Non Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

The Financial Interests of Other Persons

5.10 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you any financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable expenses.

There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

5.11 This Code does not attempt the task of defining “relative” or “friend” or “associate”. Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. 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 Scottish Canals and, as such, would be covered by the objective test.

The Non-Financial Interests of Other Persons

5.12 You must declare if it is known to you any non-financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable election expenses.

There is no need to declare the interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

There is only a need to withdraw from the meeting if the interest is clear and substantial.

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.

Frequent Declarations of Interest

5.15 Public confidence in a public body is damaged by perception that decisions taken by that body are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings in respect of your role as a board member you should not accept a role or appointment with that attendant consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively and discuss with their chair. Similarly, if any appointment or nomination to another body would give rise to objective concern because of your existing personal involvement or affiliations, you should not accept the appointment or nomination.

Dispensations

5.16 In some very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non- financial interests which would otherwise prohibit you from taking part and voting on matters coming before your public body and its committees.

5.17 Applications for dispensations will be considered by the Standards Commission and 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 PUBLIC BODIES

Introduction

6.1 In order for Scottish Canals to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making

process. 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 public body 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 in this Code 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 public bodies, those they represent and interest groups.

Rules and Guidance

6.3 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of the public body or any statutory provision.

6.4 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon the public body.

6.5 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 public body.

6.6 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that 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 this Code.

6.7 You should not accept any paid work:-

(a) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.

(b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence the public body and its members. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, membership of Scottish Canals, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

6.8 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 Scottish Canals.

ANNEX A**SANCTIONS AVAILABLE TO THE STANDARDS COMMISSION FOR BREACH OF THE CODE**

- (a) Censure – the Commission may reprimand the member but otherwise take no action against them;
- (b) Suspension – of the member for a maximum period of one year from attending one or more, but not all, of the following:
 - i) all meetings of the public body;
 - ii) all meetings of one or more committees or sub-committees of the public body;
 - (iii) all meetings of any other public body on which that member is a representative or nominee of the public body of which they are a member.
- (c) Suspension – for a period not exceeding one year, of the member's entitlement to attend all of the meetings referred to in (b) above;
- (d) Disqualification – removing the member from membership of that public body for a period of no more than five years.

Where a member has been suspended, the Standards Commission may direct that any remuneration or allowance received from membership of that public body be reduced, or not paid.

Where the Standards Commission disqualifies a member of a public body, it may go on to impose the following further sanctions:

- (a) Where the member of a public body is also a councillor, the Standards Commission may disqualify that member (for a period of no more than five years) from being nominated for election as, or from being elected, a councillor. Disqualification of a councillor has the effect of disqualifying that member from their public body and terminating membership of any committee, sub-committee, joint committee, joint board or any other body on which that member sits as a representative of their local authority.
- (b) Direct that the member be removed from membership, and disqualified in respect of membership, of any other devolved public body (provided the members' code applicable to that body is then in force) and may disqualify that person from office as the Water Industry Commissioner.

In some cases the Standards Commission do not have the legislative powers to deal with sanctions, for example if the respondent is an executive member of the board or appointed by the Queen. Sections 23 and 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 refer.

Full details of the sanctions are set out in Section 19 of the Act.

ANNEX B

DEFINITIONS

“Chair” includes Board Convener or any person discharging similar functions under alternative decision making structures.

“Code” code of conduct for members of devolved public bodies

“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 262(1) of the Companies Act 1985. A “group”, within s262 (1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

“Parent Undertaking” is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the 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 rights in the undertaking.

“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.

“Public body” means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

“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.

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CODE OF CONDUCT

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Code of Conduct - Employees

SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

- 1.1 The Scottish public has a high expectation of those who work for Scottish Canals and the way in which they should conduct themselves in undertaking their duties. You must meet those expectations by ensuring that your conduct is above reproach.
- 1.2 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these 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 Code of Conduct. Failure to adhere to the Code of Conduct can result in disciplinary action including dismissal from employment.
- 1.3 No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from your line manager.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

- 2.1 Scottish Canals will be known for the highest standards of business ethics. The following general principles should be followed by employees in their day to day duties:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of Scottish Canals and in accordance with our core functions and duties.

Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

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 and in a way that is consistent with the functions of Scottish Canals when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

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 Scottish Canals uses its resources prudently and in accordance with the law.

Openness

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, and to maintain and strengthen the public's trust and confidence in the integrity of Scottish Canals in conducting public business.

Respect

You must respect fellow employees of Scottish Canals and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties.

SECTION 3: GENERAL CONDUCT

3.1 The rules of good conduct in this section must be observed in all situations where you act as an employee of Scottish Canals and when you come into contact with other employees, our customers and our suppliers.

Conduct at Meetings

3.2 You must respect your colleagues in meetings. You must comply with rulings in the conduct of the business of these meetings.

3.3 You will treat fellow staff employed by Scottish Canals with courtesy and respect. It is expected that fellow employees will show you the same consideration in return.

Scottish Canals promotes a safe, healthy and fair working environment for all. As an employee you should be familiar with our policies in relation to bullying and harassment included in the Equality and Diversity policy in the workplace and also lead by exemplar behaviour.

Remuneration, Allowances and Expenses

3.4 You must comply with any rules of Scottish Canals regarding remuneration, allowances and expenses.

Gifts and Hospitality

3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or 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.

3.6 You must never ask for gifts or hospitality.

3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in Scottish Canals. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of Scottish Canals.

3.8 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 Scottish Canals, may be involved in determining, or who is seeking to do business with Scottish Canals, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of Scottish Canals then, as a general rule, you should ensure that your Scottish Canals pays for the cost of the visit.

3.9 You must not accept repeated hospitality or repeated gifts from the same source.

3.10 Any hospitality whether declined or accepted will require to be registered using the form attached as **Annex A**.

3.11 You should familiarise yourself with our policy on anti – bribery in line with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

Prizes

3.12 There may be occasions when employees enter, or are entered, into competitions either by virtue of their employment or at events which they attend in their role as an employee. In some circumstances, if a prize is won, these may be indistinguishable from gifts and could be perceived as potential bribes. Accordingly, the policy in respect of gifts set out above will apply.

3.13 In general, if an employee wins a prize, and this is related to their employment, the prize must be recorded, unless it is of a token value. Those with a value of £50 or more must be surrendered if they are awarded by a supplier or prospective supplier to Scottish Canals.

3.14 If prizes are awarded in other circumstances, the Director of Finance and Business Services should be consulted for a decision on whether it would be appropriate for the employee to retain the prize. This will be a matter of judgement depending on the individual circumstances in each case.

Confidentiality Requirements

3.12 There may be times when you will be required to treat discussions, documents or other information relating to the work of Scottish Canals in a confidential manner. You may receive information of a private nature which is not yet public, or which perhaps would not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.

3.13 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 purposes of personal or financial gain, or for political purposes or used in such a way as to bring Scottish Canals into disrepute.

Use of Scottish Canals Facilities

3.14 You must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with our policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as an employee of Scottish Canals.

Appointment to Partner Organisations

3.15 You may be appointed, or nominated by Scottish Canals, as a member of another body or organisation. Such appointments must be approved by the Chief Executive prior to appointment. If appointed, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.

3.16 Employees who become directors of companies as nominees of Scottish Canals will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such employees between the company and Scottish Canals. It is your responsibility to take advice on your responsibilities to Scottish Canals and to the company. This will include questions of declarations of interest.

SECTION 4: DECLARATION OF INTERESTS

4.1 Personal interests are required to be registered using the form attached as **Annex B**. It is your duty to ensure any changes in circumstances are reported within one month of them changing.

SECTION 5: LOBBYING AND ACCESS TO SCOTTISH CANALS

5.1 In order for Scottish Canals to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. 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 Scottish Canals conducts its business.

Rules and Guidance

5.2 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of Scottish Canals or any statutory provision.

5.3 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon Scottish Canals.

5.4 The public must be assured that no person or organisation will gain better access to or treatment 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 employee of Scottish Canals.

5.5 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that 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 this Code.

5.6 You should not accept any paid work:-

- (a) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.
- (b) to provide services as a strategist, adviser or consult for example, advising on how to influence Scottish Canals. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, employment by Scottish Canals, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

5.7 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 your line manager.

Annex A REGISTER OF GIFTS AND HOSPITALITY

Accepting modest hospitality is an accepted courtesy of a business relationship. However, you should be aware of the risk of being perceived by others to have been influenced in making a business decision as a result of accepting such hospitality.

The frequency and scale of hospitality accepted should not be significantly greater than Scottish Canals would be likely to provide in return. As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) gifts received on behalf of Scottish Canals.

Hospitality should not be accepted at periods that may be considered sensitive, i.e. Shortly before an award of contract or conduct of a tender procedure which may involve the party offering the hospitality.

Any hospitality whether declined or accepted will require to be registered with Nicola Christie, Head of Legal Services, 1 Applecross Street, Glasgow, G4 9SP and/or emailed to

nicola.christie@scottishcanals.co.uk or
cath.mitchell@scottishcanals.co.uk

Employee Name	
Description of Gifts/Hospitality	
Company providing Gifts/Hospitality	
Date of Gifts/Hospitality	
Estimated Value	
Gifts/Hospitality ACCEPTED or DECLINED	

Employee

Date

**Line Manager
Approval**

Date

Annex B **DECLARATION OF INTERESTS**

Name:	
Position within Scottish Canals:	
Date:	

Employment: <i>Details of all my employers in the last 12 months:</i>
Business: <i>Details of all businesses in which I am a partner or sole proprietor:</i>
Company directorships: <i>Details of all companies of which I am a director:</i>
Trusteeships: <i>Details of all charities of which I am a trustee:</i>

Membership of organisations, public bodies etc.: <i>Details of all organisations of which I am a member <u>and</u> have a position of general control or management</i>

Professional memberships: <i>Details of professional bodies of which I am a member, student member, associate or fellow:</i>			
Declaration of interest of immediate family:		<i>Details of business interests, company directorships and trusteeships of immediate family (to include spouse / partner, siblings, children and parents)</i>	
Name	Relationship to me	Organisation name	Nature of interest

Declaration:

I, confirm that I have disclosed all of my financial and non-financial interests and those of my immediate family. I understand that it is my responsibility to disclose to the Company Secretary any additional interests as they arise.

Signed:

Date:

VERSION CONTROL

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WHISTLEBLOWING POLICY

1. INTRODUCTION

Scottish Canals, in common with all organisations, faces the risk of things going wrong or of unknowingly harbouring malpractice. We have a duty to identify and take measures to remedy all malpractice particularly with regard to issues of fraud and corruption.

By knowing about malpractice at an early stage we can take the necessary steps to safeguard the interests of all staff, protect Scottish Canals and stop fraud and corruption before it happens.

In short, do not hesitate to ‘speak up’ or ‘blow the whistle’ on malpractice.

Malpractice – in the context of this policy may refer to any of the following:

- Failure to comply with a legal obligation
- Unprofessional acts
- Misuse or inappropriate use of Scottish Canals funds or resources
- A criminal offence
- A miscarriage of justice
- The endangering of an individual's health and safety
- Damage to the environment
- Breach of Scottish Canals' Code of Conduct
- Deliberate concealment of information relating to any of the above

1.1 OBJECTIVES

To prevent malpractice by Scottish Canals, its employees, sub-contractors and partners by enabling staff to raise concerns with Scottish Canal's management or, if necessary, the Chair of the Audit & Risk Committee.

We recognise, however, that you may be worried that by reporting such issues you will be opening yourself up to victimisation, detriment or risking your job security.

Such fears are understandable, this policy is therefore designed to provide you with information about the Public Interest Disclosure Act as well as the process by which you may whistleblow. This policy also explains that you have certain protections in place to do so safely, providing you are acting in good faith.

1.2 SCOPE

This policy applies to all employees.

1.3 ROLES & RESPONSIBILITIES

By promoting a culture of openness Scottish Canals wants to encourage you to raise issues which concern you at work.

2. POLICY PRINCIPLES

By encouraging a culture of openness within Scottish Canals we believe that we can prevent malpractice before it happens.

3. GRIEVANCES

It should be noted that this policy is not our normal grievance procedure. If you have a complaint about your own personal circumstances then you should use the grievance procedure. If you have concerns about malpractice within the organisation then you should use the procedure outlined in this policy.

4. PROTECTION OF WHISTLEBLOWERS

The management of Scottish Canals is committed to this policy. If the policy is used to raise a concern in good faith we give you our assurance that you will not suffer any form of retribution, victimisation or detriment.

Concerns will be treated seriously and actions taken in accordance with this policy. If you ask us to treat the matter in confidence we will do our utmost to respect your request. Scottish Canals will do its best to protect the identity of individuals who raise concerns and do not want their names to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required as part of the evidence necessary to show that an allegation is correct. If we are in a position where we cannot maintain confidentiality as a matter of law we will discuss the matter with you first. We will give you feedback on any investigation and be sensitive to any concerns you may have as a result of any steps taken under this procedure.

Remember, if you do not tell us who you are it will be much more difficult for us to look into the matter, to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, this procedure is not appropriate for concerns raised anonymously.

Whistleblowers receive protection under the Public Interest Disclosure Act (PIDA). Further information about the protection afforded under this Act can be found using the resources listed at the end of this policy (Appendix 2).

5. WHISLEBLOWING PROCESS

5.1 RAISING CONCERNS INTERNALLY

Tell your line manager

If you are concerned about any form of malpractice you should normally first raise the issue with your line manager. There is no special procedure for doing this - simply tell them about the problem or put it in writing if you prefer.

At whatever level you raise the issue, you should declare whether you have a personal interest in the issue at the outset. If your concern falls more properly within the grievance procedure your manager will tell you.

If you feel unable to tell your line manager

If you feel you cannot tell your line manager, for whatever reason, you should raise the issue with the next tier of management or, if the issue is related to financial issues, the Director of Finance and Business Services.

If you feel that you cannot disclose to the next tier of management or Director of Finance and Business Services because you believe that the individual may be implicated in the malpractice you should raise the matter in confidence with another member of the Executive Management Team.

The Executive Management Team are entrusted with the duty of investigating staff concerns about illegal, improper or unethical behaviour.

You should also approach one of the Executive Management Team to draw attention to cases where there is evidence of irregular or improper behaviour elsewhere in Scottish Canals, but where you have not been personally involved, or if you are required to act in a way which, for you, raises a fundamental issue of conscience.

If you feel unable to raise the matter within Scottish Canals

If you feel that the people within the office with whom you could normally raise the issue are parties to, or supportive of, the behaviour causing concern, you may report the matter to the chair of the Audit & Risk Committee.

The chair of Audit & Risk Committee is Michelle Wailes. Michelle Wailes is a member of Scottish Canals' board.

5.2 RESPONDING TO WHISTLEBLOWING

After you have raised your concern we will decide how to respond in a responsible and appropriate manner. Usually this will involve making internal enquiries first but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised.

If you have raised a concern we will, as far as possible, keep you informed of the decisions taken and the outcome of any enquiries and investigations carried out. However, we will not be able to inform you of any matters which would infringe our duty of confidentiality to others.

5.3 RAISING YOUR CONCERN EXTERNALLY (EXCEPTIONAL CASES)

In all but the most exceptional of circumstances concerns about malpractice should be raised internally.

The purpose of this policy is to give you the opportunity and protection you need to raise your concerns internally without reporting the concern to external bodies. It is, therefore, expected that raising concerns internally will be the most appropriate action to be taken in almost all cases and so you must try to do so.

If, however, you feel you cannot raise your concerns internally and you honestly and reasonably believe that your allegations are true, you should consider raising the matter with the police or the appropriate regulator e.g. Health and Safety Executive, Environmental Health Department. If you do take this route to whistleblow an issue you may be required to demonstrate why you thought the normal internal procedure was not appropriate.

You are strongly recommended to take advice before following this course of action though, as The Public Interest Disclosure Act only affords protection to whistle blowers in prescribed circumstances.

5.4 WIDER WHISTLEBLOWING DISCLOSURES

If you have good reason for not using the internal or regulatory disclosure procedures described above, you might consider making wider disclosure by reporting the matter to the media or making a posting on the internet.

You are recommended to take legal advice before following this course of action though, as the Public Interest Disclosure Act only affords protection to whistle blowers in prescribed circumstances.

If you have not followed internal procedures, whistle blowing disclosures to the media or by other public disclosure will generally be considered to be an unreasonable course of action. Reporting your concerns for public circulation, even if done in good faith, before raising them in accordance with these procedures may result in disciplinary proceedings, which could lead to dismissal.

5.5 LIMITS TO PROTECTION

It is important to note that a disclosure will not be protected under PIDA where you are committing an offence by making that disclosure, for example the Data Protection Act.

6. SOURCES OF ADVICE

It is recommended that you obtain advice about whistleblowing and PIDA at an early stage if you intend to report malpractice. This is important so that you know the extent of the protection which will be provided to you under PIDA.

If you are a member of a trade union you may wish to seek advice about raising an issue from a trade union representative. You may also wish to seek advice from Public Concern at Work which is an independent charity set up to provide advice and guidance about whistleblowing issues. Contact details for Public Concern at Work are set out at the end of this policy.

7. MALICIOUS WHISTLEBLOWING

If you are found to have made allegations maliciously and/or not in good faith, a disciplinary process may be instigated against you. This may result in your dismissal.

It is important to note that as long as you have raised a concern in good faith, you will not be subject to disciplinary action even if the investigation finds your allegations to be unproven.

8. COMPLIANCE & REVIEW

Scottish Canals will take appropriate measures to remedy any breach of the Whistleblowing Policy; in the case of an employee, the matter may be dealt with under the disciplinary process.

The Whistleblowing Policy will be reviewed and updated annually. The policy will also be reviewed in the event of major organisational, legislative or infrastructure change.

9. FURTHER INFORMATION & GUIDANCE

For more information on whistleblowing and related legislation visit: <http://www.pcaw.co.uk>

If you need independent advice about a whistleblowing issue you can telephone Public Concern at Work on 020 3117 2520.

APPENDIX 1: FREQUENTLY ASKED QUESTIONS

I told my line manager a number of weeks ago that I believe that a colleague is misusing Scottish Canals resources. Nothing seems to have happened since. What should I do?

Speak with your line manager to ask how the investigation is progressing. If you feel that no or insufficient progress has been made you must inform your manager's manager.

I have serious concerns that malpractice is prevalent within my team and that my manager and the more senior managers know about the situation but have chosen to ignore it. What should I do?

You must contact the Chair of the Audit & Risk Committee and inform him or her of your concerns.

I believe that a colleague is stealing from Scottish Canals. How do I deal with this?

This issue should be dealt with by using this whistleblowing procedure. You must, therefore, inform your line manager.

I believe that malpractice is happening within Scottish Canals and I am thinking of going to the press about it. What are the implications of this?

You should try to exhaust all internal mechanisms for whistleblowing or refer to the relevant regulatory body. You should be aware that going directly to the press may limit your protection under the Public Interest Disclosure Act (PIDA) and you may be liable for dismissal. It is advised that you seek advice from your trade union, if you are a member, or contact Public Concern at Work before taking this course of action.

What does PIDA do?

PIDA protects workers who make a protected disclosure of information, concerning certain types of matters relating to their employment, from being dismissed or penalised by their employers as a result of the disclosure. The Act also has the effect of making confidentiality clauses unenforceable where there is a protected disclosure.

Who may claim the protection of PIDA?

Members of staff are workers within the definition contained in PIDA and may make a qualifying disclosure of information if they reasonably believe that the disclosure would tend to show that Scottish Canals is involved in a relevant failure.

What disclosures are protected?

Not all disclosures of information are protected by PIDA. Protection only arises in relation to protected disclosures. Protected disclosures are:

- qualifying disclosures (defined below) made to an appropriate party; and
- made in accordance with the differing conditions for disclosure applying to each different type of recipient of the information.

A qualifying disclosure is:

“any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following.

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;

- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health or safety of any individual has been, is being or is likely to be endangered;
- (e) That the environment has been, is being or is likely to be damaged; or
- (f) That information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.”

PIDA refers to those matters covered by (a) to (f) above as relevant failures.

A disclosure will not be a qualifying disclosure if the person making it commits an offence by making it (e.g. if the disclosure would breach official secrets legislation or if it would be in breach of Data Protection Act legislation). You would therefore not receive protection under PIDA if you made a disclosure in these circumstances.

To whom may a disclosure be made?

A protected disclosure may be made to one of the following recipients, these are:

- the worker’s employer;
- a legal adviser;
- a regulatory body (referred to as a prescribed person – including the Information Commissioner);
- and
- a third party.

The circumstances in which disclosures may be made vary depending upon the intended recipient of the information. The most likely recipient of information from Scottish Canals staff concerning misconduct will be Scottish Canals as the employer of the worker in question. To be protected by PIDA, a worker wishing to make a disclosure must make sure that s/he reasonably believes that the disclosure tends to show a relevant failure and s/he must make the disclosure in good faith. You may need independent legal advice to direct you in understanding this legislation.

VERSION CONTROL

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