

LGRJF

facilitating local government reorganisation

DRAFT REVISED CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

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CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

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IN DISTRICT COUNCILS IN NORTHERN IRELAND

CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

1.0 **INTRODUCTION**

1.1 **Status of the Code**

Under Article 35(1)(b) of the Local Government (Miscellaneous Provisions) (NI) Order 1992, the functions of the Local Government Staff Commission include:

“establishing and issuing a code of recommended practice as regards conduct of officers of councils”.

This Code has been agreed by the Local Government Reform Joint Forum (Joint Forum) and is promulgated under the authority of the Local Government Staff Commission under Section 40(4) (f) of the Local Government Act (NI) 1972.

It is therefore issued by the Local Government Staff Commission as a statutory recommendation for adoption by all councils and the Staff Commission from 1 April 2015.

It is desirable for the protection of the public and the protection of employees that guidance be given to local government employees as to the conduct expected of them. This Code provides guidance to assist councils and their employees in their day-to-day work and sets out the minimum standards of behaviour expected.

The aim of the Code is to set guidelines for council employees which will help maintain and improve standards and protect employees from criticism or misunderstanding.

This Code is a model which councils should adapt to suit their particular requirements, structures and procedures.

2.0 **FRAMEWORK FOR THE CODE**

The public is entitled to expect the highest standards of conduct from all employees who work for district councils and this Code has been developed in line with best practice, existing legislation and the following guidance.

The provisions of this Code apply to all staff employed by councils in Northern Ireland and the Local Government Staff Commission (NI) in the performance of their duties on a day-to-day basis including any additional offices to which they may be appointed in their capacity as a district council employee (see Appendix 1, page 21 for a definition of ‘employee’/‘member of staff’).

2.1 National Agreement on Pay and Conditions of Service (the National Agreement)

The basic principle is stated in Part 2 paragraph 2, Key National Provisions of the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service (the National Agreement):

2. Official Conduct

2.1 *Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.*

2.2 *Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.*

Similar provisions are incorporated in the National Conditions of Service of Chief Officers.

2.2 Seven Principles of Public Life

This Code builds on, and is in keeping with, the seven principles of public life articulated by the Nolan Committee on Standards in Public Life (established in October 1994) which emphasises that those in public life should:

- **Selflessness** *take decisions based solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families, or their friends.*
- **Integrity** *not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.*
- **Objectivity** *in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.*
- **Accountability** *are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.*
- **Openness** *be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.*
- **Honesty** *have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*
- **Leadership** *promote and support these principles by leadership and example.*

2.3 The Northern Ireland Assembly Five Principles of Conduct

The Code also incorporates Five Principles of Conduct adopted by the Northern Ireland Assembly. These are:

- **Public Duty** - a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them; to act in the interests of the community as a whole.
- **Leadership** - promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the public, to ensure the integrity of their council in conducting business.
- **Equality** - promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.
- **Promoting Good Relations** - act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow and that seeks to promote a culture of respect, equality and embrace diversity in all its forms.
- **Respect** - Employees and Councillors are reminded that it is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extended to individuals being subjected to unreasonable and excessive personal attack. They should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Councillors and councils, they should therefore show respect and considerations for others at all times.
- **Good Working Relationships** - Councillors and Employees are servants of the public, and are interdependent upon one another. But their responsibilities are distinct. The working relationship between Councillors and Employees must at all times be professional, courteous and based on mutual respect and trust. Neither party should seek to take unfair advantage of their position. All Councillors and Employees are responsible for ensuring they understand what behaviour is required of them, complying with respective Codes of Conduct. Both share a responsibility for understanding sensitivities and feelings of others and avoiding behaviour that could cause offence or distress.

3.0 CONSULTATION AND IMPLEMENTATION

This Code was drafted and agreed by the Joint Forum in conjunction with the Local Government Staff Commission.

The Code was issued for consultation on 09 July 2014. The Code will be finally revised and issued for implementation with effect from 01 April 2015.

4.0 MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

4.1 Standards of Behaviour, Impartiality and Conflicts of Interest

Council employees (see Appendix 1, page 21 for a definition of ‘employee’/‘member of staff’) are expected to conduct themselves with integrity and honesty in carrying out their duties and must provide the highest possible standard of service to the public. Where it is part of their duties to provide appropriate advice to councillors and fellow employees this must be done with impartiality at all times.

Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service (see paragraph 4.14. *Whistleblowing*).

Responsibility is placed on every member of staff for disclosing to an appropriate manager or officer of the council every potential conflict of interest in which he/she may be involved.

In general employees’ private interests must not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. This includes standards of behaviour outside the working environment and in the use of social media in relation to elected members, fellow officers and the general public.

Employees should not misuse their official position or information acquired in their official duties to further their private interest or those of others.

Employees must report to the appropriate manager any impropriety or breach of the terms of this Code.

4.2 Disclosure of Information

The law requires that certain types of information must be available to members, auditors, government departments, service users and the public (see Appendix 1, page 19 for examples). The Council itself may also decide to be open about other types of information.

The Council should therefore make clear to employees:

- the types of information which must be made available, and to whom;
- the types of information which the Council has voluntarily made open, and to whom;
- the types of information which the Council does not wish to be disclosed without specific permission.

The law also requires that personal information held about individuals must be treated in accordance with the Data Protection Act 1998. Employees must ensure that they process data lawfully in accordance with the data protection principles. The Freedom of Information Act 2000 also gives a right of access to information held by public authorities in accordance with the provisions of the authority's publication scheme.

Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

Any particular information received by an employee from a councillor which is personal to the councillor and does not belong to the council should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by law.

4.3 Political Neutrality

Employees serve the Council as a whole. They must serve all councillors and not just those of a particular group and must ensure that the individual rights of all councillors are respected.

Subject to individual Councils' conventions, employees may be required to advise political groups. In the provision of such advice employees should not compromise their political neutrality. Any advice given should be available to all political groups, if requested.

All employees whether or not politically restricted must follow all lawful policies of the Council and must not let their own personal or political opinions interfere with their work.

4.4 Potential Conflict of Interest Situations

As specified in paragraph 1. *Standards of Behaviour, Impartiality and Conflicts of Interest*, staff are expected to conduct themselves with integrity, impartiality and honesty and their private interests should not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. In particular attention is drawn to the following examples of situations where potential conflicts of interest can occur.

Relationships with Councillors

Employees are responsible to the Council through its senior managers and in many cases in carrying out their duties they also give advice to councillors. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage this relationship and prove embarrassing to other employees and councillors and should therefore be avoided (see paragraph 4.1, page 11 - *Standards etc.* in relation to disclosing every potential conflict of interest).

Employees should deal with councillors in a polite and efficient manner.

They should not approach nor attempt to influence councillors out of personal motives and should report to an appropriate manager if a councillor attempts to pressurise them to deal with a matter outside of Council procedure or policy.

Further advice and guidance is given in the Local Government Employees and Councillors Protocol attached at Appendix 2 .

Contact with the Local Community and Service Users

The community and service users have a right to expect a high standard of service from the Council. Employees have a responsibility to the community they serve and should, ensure courteous, effective and impartial service delivery to all groups and individuals within the community. Employees should always try to be positive, constructive and inclusive. When necessary make extra efforts to communicate with people with disabilities in accordance with Council policies.

Relationships with Contractors, Planning Applicants and those applying for Council Grant

All relationships with external contractors or potential contractors or applicants for planning consent or grant must be made known to the appropriate manager. Similarly any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager.

Orders and contracts, grants and planning decisions must be decided on merit and no special favour should be shown in the tendering process to any businesses or potential suppliers particularly those run by, for example, friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship'). No part of the local community should be discriminated against.

Employees who deal with, engage or supervise contractors or process or determine applications under delegated powers with whom they have previously had, or currently have, a relationship in a private or domestic capacity, should declare that relationship to the appropriate manager.

Employees must not accept money or any other reward from anyone who may benefit from work or funding provided by the council. To do so would, in law, be corrupt.

Bribery & Corruption

Under the Bribery Act 2010 it is a serious criminal offence to

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly.
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly.
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

Political Activity

Employees must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work. While the Council recognises and respects the rights of all employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest for their role within the Council. Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

4.5 Appointments and Other Employment Matters

Employees involved in appointments should at all times act in accordance with the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures).

The Code of Procedures at Part D, Stage 2 – Conflict of Interest, page D:52 states:

"Responsibility is placed on every panel member to disclose to an appropriate manager or officer of the council where potential conflict of interest may be present, for example partners or persons where a family relationship is deemed to exist, or if an individual has agreed to act as a referee for an applicant"

And

"Where a potential conflict of interest exists, the issue is not about satisfying the conscience of the individual. Public perceptions and also those of other candidates must be considered and, in such cases, it may be appropriate for the individual to withdraw from the recruitment exercise."

Similarly, employees should not be involved in decisions in relation to discipline, promotion or pay adjustments for any other employee who is a friend, a person to whom the employee owes (or is owed) an obligation, partner or person where a family relationship is deemed to exist (see Appendix 1, page 19 for a definition of 'family relationship'). For further examples of potential categories of interests see Appendix 1, page 19 which are based on the relevant section in the Northern Ireland Local Government Code of Conduct for Councillors - www.doeni.gov.uk/index/local_government/code_of_conduct.htm

4.6 Outside Commitments

An employee must not subordinate his/her duty to the Council to his/her private interests or put himself/herself in a position where duty and private interests conflict. The Council should not attempt to preclude officers from undertaking additional employment outside their hours of duty with the Council, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

Employees should devote their whole-time service to the work of their Council and shall not engage in any other business or take up any other additional appointment without the express consent of the Council. Where an officer wishes to engage in other business or take up additional appointment/s he/she must seek the permission of the Council and act at all times in accordance any contractual obligations in this respect.

Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

Employees of councils should be aware of their responsibilities under the European Working Time Directive.

4.7 Personal Interests

Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest. Employees must declare to an appropriate manager any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- membership of an organisation receiving grant aid from the council
- membership of an organisation or pressure group which may seek to influence the Council's policies
- membership of an organisation which may seek to influence the performance of an employee in carrying out their duties
- having a beneficial interest in land which is within the Council's district and is subject to any planning application.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to their line manager.

The Council recognises and respects the right of all employees to become members of organisations. It only requires that employees declare personal interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation.

4.8 Equality Issues

All members of the local community, customers and employees have a right to be treated with fairness and equity.

In this regard employees must:

- be made aware of their obligations under Section 75 of the Northern Ireland Act 1998 and relevant equality law (see Appendix 1, paragraph 5, page 21);
- co-operate with the Council in the application of any policies agreed by the Council relating to equality issues;

- not take discriminatory action or decisions or encourage or put pressure on fellow employees to take discriminatory action or decisions;
- report any concerns about discriminatory conduct to their line manager or other appropriate employee.

4.9 Separation of Roles During Tendering

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors. Employees who are privy to confidential information relating to the tendering process should not disclose that information to any unauthorised party or organisation.

Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding process.

Employees should ensure that in awarding contracts, no special favour is shown to current or recent former employees or their friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship') to businesses run by them or employing them in a senior or relevant managerial capacity.

4.10 Fraud and Corruption

Employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained (see paragraph 4.12. for guidance on *Hospitality*).

4.11 Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

4.12 Hospitality and Gifts

Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when they are part of the life of the community or where the Council should be seen to be represented. They must be properly authorised and recorded in accordance with the Council's agreed procedure.

When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.

Employees should not accept significant personal gifts from contractors, members of the public and outside suppliers, although the Council may wish to allow employees to keep items of token value such as pens, diaries etc.

When considering whether or not to accept authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality, for instance during a tendering period of a contract for which the provider may be bidding.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where:

- it is clear that the hospitality is corporate rather than personal;
- where the Council consents in advance;

or

- where the Council is satisfied that any procurement decisions are not compromised.

Where a visit is necessary, to inspect equipment for example, the Council should consider meeting the cost of the visit to avoid jeopardising the integrity of the Council in subsequent procurement decisions.

4.13 Sponsorship - Giving and Receiving

Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service neither an employee nor any friends, partners or persons where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship') must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.

Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

4.14 Whistleblowing

If an employee becomes aware of activities which he/she believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the Council's confidential reporting procedure, or any other procedure designed for this purpose.

4.15 Breaches of the Code of Conduct

Any breach by an employee of any part of the Code of Conduct or its supporting policies and guidance may render the employee liable to disciplinary proceedings. It should be noted that a breach of the Code and its supporting policies and guidance will be subject to the provisions of the council's disciplinary or other related procedures.

LEGAL AND OTHER PROVISIONS RELATING TO THE CODE OF CONDUCT

1. Disclosure of Information (paragraph 4.2, page 11)

Data Protection Act 1998.

Freedom of Information Act 2000.

Part 8, sections 42-52 of the Local Government Act (Northern Ireland) 2014 deals with Access to meetings and Documents.

Obligations of Discovery in connection with litigation.

2. Potential and/or Perceived Conflict of Interest Situations (paragraph 4.4, page 12)

Persons who owe you an obligation, or to whom you owe an obligation – this might include a debtor, creditor, fellow member of an organisation.

Very close personal relationships may also create a conflict, e.g. a good friend.

Family Relationship

Stage 2 - Composition of Panels paragraph entitled Canvassing on page D:50 of the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures) states that a relevant family relationship is deemed to exist between a Council officer and/or member and the person (i.e. the contractor, potential contractor, partner in a business etc.) if they are husband or wife, or partner (civil or otherwise), or if the person is the:

- parent
- son or daughter
- brother or sister
- uncle or aunt
- nephew or niece
- grandparent
- grandson or grand-daughter
- foster child or foster parent
- dependent

of the Council officer or member, or of the spouse or partner (whether civil or otherwise) of the Council officer or member.

For the purposes of potential conflicts of interest, as outlined in this Code, this definition is extended to cover partner relationships.

Potential Categories of Interest

Examples of potential Categories of Interest based on the Northern Ireland Local Government Code of Conduct for Councillors, May 2014 (see paragraph 5.2) are:-

- (a) any employment or business carried on by you;
- (b) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated or non-remunerated director;
- (c) any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a councillor;
- (d) any corporate body which has a place of business or land within your council's district, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) any contract for goods, services or works made between your council and you or a firm in which you are a partner, an unincorporated body (i.e. Industrial & Provident Society), a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (f) any land in which you have a beneficial interest and which is within your council's district;
- (g) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (h) any body to which you have been elected, appointed or nominated by your council;
- (i) any –
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) professional association; or
 - (ee) private club, society or association operating within your council's district, in which you have membership or hold a position of general control or management; and
- (j) any land within your council's district in which you have a licence (alone or jointly with others) to occupy for 28 days or longer).

4. Appointments and Other Employment Matters (paragraph 4.5, page 14)

Code of Procedures on Recruitment and Selection

Part B - General Principles Underpinning the Code (on page 4) recommends actions to ensure that appointments are made under the merit principle.

Section 41 of Local Government Act (NI) 1972 deals with appointments to councils.

5. Equality Issues (paragraph 4.8, page 15)

Legislation

- The Employment Equality (Sexual Orientation) Regulations (NI) 2003
- The Employment Equality Age Regulations (NI) 2006
- Sex Discrimination (NI) Order 1976
- Fair Employment and Treatment (NI) Order 1998
- Disability Discrimination Act 1995
- Race Relations (NI) Order 1997
- Rehabilitation of Offenders (NI) Order 1978 and Exceptions Order 1979
- Equal Pay Act (Northern Ireland) 1970
- Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000
- Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002
- Parental Rights and Flexible Working under the Employment Rights (Northern Ireland) Order 1996
- Northern Ireland Act 1998
- Human Rights Act 1998

6. Fraud and Corruption (paragraph 4.10, page 16)

Section 46 of Local Government Act (NI) 1972 deals with the declaration of interest where an employee has a pecuniary interest and with recording of such interests. Not to do so will be an offence.

Section 47 of the Local Government Act (NI) 1972 forbids employees to accept payment apart from their salary/wage.

KEY TERMS USED IN THE CODE OF CONDUCT

Employee/s or Member/s of Staff

The terms employee/s or member/s of staff should be taken to mean any individual/s employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Code also applies to seasonal and casual staff, agency works and volunteers while they are engaged in carrying out duties for the council.

Appendix 2

LOCAL GOVERNMENT EMPLOYEES AND COUNCILLORS PROTOCOL

The Draft Local Government Employees and Councillors Protocol has been prepared by the DOE.

This protocol is intended to set out the working relationship between Councillors and Employees of councils. It relates to all aspects of the working environment, both physical and virtual.