

**A**

**Minutes of Meeting of Policy & Resources Committee of Mid Ulster District Council held on Tuesday 2 December 2014 in Cookstown District Council Offices**

**Members Present:** In the Chair, Councillor McPeake (Chair)

Councillors Ashton, Buchanan, Forde, Glasgow, McFlynn, McGinley, McLean, Molloy, M Quinn, Reid and Totten

**Members in Attendance:** Councillor G Shiels

**Officers in Attendance:** Mr A Tohill, Chief Executive  
Mrs Canavan, Lead HR Officer  
Mrs Mezza, Marketing Communications Manager  
Mr Moffett, Change Management Officer  
Mr O'Hagan, ICT Manager  
Mr JJ Tohill, Lead Finance Officer  
Mrs Smith, Council Business Manager (D&STBC)

The meeting commenced at 7.00 pm

**PR64/14 Apologies**

Councillors Elattar, S McGuigan and Mallaghan

**PR65/14 Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

**PR66/14 Receive and confirm minutes of the Policy & Resources Committee held on Tuesday 4 November 2014**

Proposed by Councillor Molloy  
Seconded by Councillor McLean and

**Resolved** That the Minutes of the Meeting of the Policy & Resources Committee held on Tuesday 4 November 2014 (PR50/14 – PR61/14 & PR63/14) were considered and signed as accurate and correct.

**Matters for Decision**

**PR66/14 Occupational Health Services**

The Lead HR Officer stated that a report was brought to the Policy & Resources Meeting held on 4 November 2014 and Members requested further clarity and breakdown of use and purpose of the current Occupational Health Services in place within the existing Councils. The Officer presented a further report setting out the information and sought Member approval for the procurement of Occupational Health Services for Mid Ulster District Council.

Proposed by Councillor McFlynn  
Seconded by Councillor McGinley and

**Resolved** That it be recommended to the Council to approve the procurement of an Occupational Health Services for the Council.

#### **PR67/14 Integrated HR and Payroll System**

The Lead HR Officer presented a report the purpose of which was to seek approval to carry out a procurement exercise to purchase an integrated Time and Attendance, HR and Payroll software solution. The officer stated that moving forward to a single organisation across multiple sites the realisation of improvements in processes and integrated solutions where possible. The officer added that the continued operation of 8 stand-alone systems would prove difficult to manage and whilst the convergence of existing systems to three is being explored as a short term option, the strategic longer term objective would be to establish a single solution.

The Officer referred to a series of advantages for such a system with research showing that it could be deployed as a modular methodology through integrated components in order to meet the ongoing and future needs of the Council. The initial software costs of £50,000 have been budgeted within the ICT convergence budget for Mid Ulster District Council. Annual software and support fees are likely to be in the region of £15,000 per annum based on a 5 year agreement for the council. The support costs for maintaining the existing software systems currently cost £25,000 per annum.

Councillor McLean noted that research has shown that systems have the facility to add modules as things develop and stated that this was an important element.

In response to a question from Councillor Reid the Lead HR Officer stated that the cost has been budgeted for within the ICT convergence budget

Councillor McFlynn noted the reduction in annual maintenance costs, asked if the workforce would continue to clock in and if there would there be any reduction in the human resource element to operate the system.

The Lead HR Officer stated that a swipe system would be used and when staff swipe in or out it would automatically generate information needed. She added that given the increase in staff numbers from transferring services existing resources would continue to be required.

Proposed by Councillor McLean  
Seconded by Councillor McFlynn and

**Resolved** That it be recommended to the Council to approve the procurement of an integrated Time and Attendance, Payroll and HR software system.

#### **PR68/14 Conference and Seminar Attendance Policy**

The Chief Executive advised that this item was premature coming to the Committee and would be brought back to committee when following further discussions.

## **PR69/14      Transferred Functions Grant Regulations – Consultation Response**

The Lead Finance Officer presented a report seeking comment on the proposed Mid Ulster District Council response to The Department of Environment on the proposed methodology and associated draft regulations for the distribution to councils of funding to support the transfer of functions from central to local government as part of the Review of Public Administration. The consultation sought commentary on two questions; a rates neutral budget for transferring functions and proposed methodology for future funding. The officer recommended adoption of the draft response.

Councillor Reid asked if this included all transferring services. The Member made reference to a deputation, which he was part of, from the Council to the NI Assembly Regional Development Committee to provide evidence on functions transferring from DRD and the lack of member knowledge on the process.

The Lead Finance Officer stated that all services will be funded through the proposed mechanism.

The Chair, Councillor McPeake stated that he had attended the first meeting of the Partnership Panel and this consultation document was the main subject discussed. He indicated that all 11 councils represented at the meeting had the same concerns in relation to receiving adequate funding for transferring functions. The Member also referred to the due diligence review being undertaken by Deloitte on the proposed transferring functions grant.

The Chief Executive confirmed that the consultation is about the mechanism for how money will be transferred to councils. He confirmed that correspondence has been provided to the Minister seeking a delegation to meet with him on adequate funding and rates neutrality for transferring functions. He indicated that a response was outstanding but a meeting will continue to be sought.

Councillor McLean stated that everyone was aware for some time of the pending Review of Public Administration and the functions transferring. He added that what affects ratepayers and local government also affects MLAs. It was important for every political party to make representation to their MLAs to get situation resolved.

Proposed by Councillor McGinley  
Seconded by Councillor M Quinn and

**Resolved**      That it be recommended to the Council that response to the Department's consultation on the proposed Local Government (Transferring Functions Grant) Regulations (NI) 2015 is approved.

## **PR70/14      Website and Social Media Convergence**

The Marketing Communications Manager presented a report the purpose of which was to seek endorsement to the approach of converging existing digital media channels. The Officer highlighted that currently across the three councils there were 26 sites in operation. By establishing and applying a new, strong brand across the organisation, the Council would seek to minimise brand dilution and optimise positive

associations and impact on its reputation which can be derived from its complete range of services, functions and responsibilities. A reduction in the number of sites was required to allow a strategic approach for the management of the new Council's web and social media presence. The new approach proposes that, with the exception of a number of sites, all existing web based sites will be replaced by the new council web site and existing social media sites phased out as the council's new social media channels become live and gains momentum.

Recognised exceptions to this corporate approach would include local authority run commercial theatre and arts spaces and distinct visitor attractions. The suggested approach, therefore, would allow the Burnavon, Ranfurly House and, in the future, the Heaney Centre, to maintain separate web and social media channels, but with the creation and maintenance of clear linkages to Mid Ulster District Council through appropriate textual and graphic branding and content planning. Guth, the existing Irish language site, should remain in place and be considered in the context of the Council's development and implementation of a language policy.

Councillor Ashton expressed concern that if all sites merged together users could have difficulty sourcing the information required.

Councillor McLean agreed and stated that the website should have ease of navigation. The Member also referred to automatic answering services which was a faceless and very inappropriate system and expressed the need to have efficient, effective and user friendly systems.

The Marketing Communications Manager stated that with the clever use of URLs the public would be signposted to the information required. The Officer also stated that the web site structure has commenced and will be coming to Council in the New Year and that automation would not be an advocated approach.

Councillor McGinley agreed with the concerns expressed but felt if the website was managed effectively there are a lot of benefits in having a standard approach and overall mother brand.

Proposed by Councillor McGinley  
Seconded by Councillor M Quinn and

**Resolved** That it be recommended to the Council that the approach to the convergence of digital media channels is endorsed.

The Chair, Councillor McPeake, spoke in relation to the need for standardised approach for receiving, capturing and retrieval of Council minutes and papers.

The ICT Manager stated that there had been some initial discussion around the provision of a committee management and a document management paperless solution but this has not been prioritised. The Officer agreed to look at options and bring report to Council at the earliest opportunity.

In response to queries from Councillor Molloy it was agreed to streamline the naming of council and committee papers, inclusive of minutes and documents, being circulated to members by email.

Councillor McLean concurred with the remarks that there was a need for a system to retrieve, access and review council and committee document papers issued to members.

#### **PR71/14      Customer Services Policy**

The Marketing Communications Manager presented a report on the introduction of a Customer Service Policy for Mid Ulster District Council. As an organisation committed to a customer-focused approach to its work, the Council requires a Customer Service Policy and associated procedures, including those for handling complaints, which supports this commitment and communicates the standards expected from both staff and customers.

The Policy has been created to reflect key elements contained in the Customer Service Excellence Standard and the 'framework for effective complaint handling' which is recommended by the Northern Ireland Ombudsman. The policy seeks to create an organisational culture which focuses on the needs of customers, both internal and external, in the design and delivery of services, which values customer views and will listen to and act upon them.

Proposed by Councillor Molloy  
Seconded by Councillor McGinley and

**Resolved**      That it be recommended to the Council that the Customer Service Policy is adopted.

#### **PR71/14      Residents' Magazine and Marketing Activity**

The Marketing Communications Manager presented a report seeking the endorsement of arrangements for a residents' magazine and to consider wider marketing activity to support the Council's operational launch.

Distribution of the first Mid Ulster District Council magazine will take place to some 47,000 households during the week beginning Monday 30 March 2015. The distribution of the magazine has been timed to coincide with the Council assuming full operational responsibility for service delivery to take the opportunity to introduce and build awareness of the Council's brand.

Content will range from information on the Council and Councillors, together with new responsibilities, specifically planning, the 2015-2016 rate and the new corporate plan to the new telephone number, web site, events and stories around key, current and relevant services, highlighting changes, and confirming no change where appropriate. Planned media and social media activity will support the Council's launch, contributing to brand building and the communication of key messages in this initial period.

Design, print and distribution costs for a 16 page magazine delivered direct to all Mid Ulster District Council households will be approximately £12,000, which is within current budgets. To provide some modest additional marketing activity an additional £8,000 budget would be required.

Councillor Ashton stated that this was a very modest budget and asked what type of promotion would be used.

Councillor McLean expressed concern that bill boards would only target people in specific urban catchment areas whilst there was a large rural hinterland to be covered and queried how messages would be communicated to the most vulnerable in our society who do not necessarily come into contact with such marketing. The Member also spoke of the possibility of having business sponsorship in the magazine and asked if £12,000 will cover the cost of distribution.

The Chair, Councillor McPeake, declared support for the need to use bill boards in high usage areas to portray a positive image and the budget, as requested, would be acceptable.

Councillor Reid asked if a month of the billboards, only in main areas, was long enough to catch the public eye. The Member suggested using screen trailers and asked if this had been considered.

In response to Members question the Marketing Communications Manager stated that a combination of methods would be used to keep costs to a minimum. Different messages would focus on the new name, the telephone number and the new website, and with access to 60 bill boards across combined with press activity this would be adequate. Bill board advertising works within two week cycle blocks and the needs of rural area dwellers.

Proposed by Councillor McGinley  
Seconded by Councillor McLean and

**Resolved** That it be recommended to the Council that the arrangements for a residents' magazine are endorsed and that additional £8,000 is allocated to allow supporting marketing activity to take place.

**PR74/14      Data and System Convergence of Environmental, Regulatory and Building Control Services**

The IT Manager presented a report updating members on the convergence of ICT systems affecting Environmental Health (EH), Building Control (BC) and other Licensing and Regulatory functions and to seek approval for the convergence and recurring costs of Information systems within the referred functions.

The Officer advised that each council had its own management information systems (MIS) to maintain the EH, BC and Regulatory and licensing functions, and the new council would need to converge the systems and data from each into a single accessible solution. The Officer confirmed that the vast majority of the service's functions were covered by Tascomi as Councils have already aligned their MIS systems to ease the burden and complexity of migration when the new council establishes on 1 April 2015.

The Officer indicated that Building Control data was now within a single database, segregated with built in security features which will become one solution accessible by all officers at an agreed time when the appropriate staff are appointed. He added

that EH and Licensing has now commenced, and a proposed solution will permit online licensing.

The ICT Officer referred to a series costs which will be incurred as part of the convergence of systems which included:

Service	Cumulative Software Maintenance costs (£)	Transition
Building Control & property cert	£26,500	0
Dog Licensing	£3,075	1500
Environmental Health & LPS	£25,975	5150
Regulatory Licensing	£2,000	0
Online provision	£1500	0
Net Costs	£59,050	6650

The total recurring costs for Mid Ulster District Council in 2015-16 for software maintenance will be reduced by 5% from £59,050 to £57422.50.

Proposed by Councillor McLean  
Seconded by Councillor McFlynn and

**Resolved** That it be recommended to the Council to approve the convergence of Information systems and recurring costs within the Environmental, Building Control and Regulatory functions.

### **Matters for Information**

#### **PR74/14 Proposed New Non-Geographic Mid Ulster District Council Telephone Number**

The Marketing Communications Manager presented a report informing members of the new telephone number for Mid Ulster District Council. The Council agreed in October 2014 to introduce a single non-geographic contact telephone number from the 03 range, specifically intended for use by the public sector and not for profit organisations.

The Officer added that key to the successful implementation of any new telephone number would be its memorability and from the current 03 Gold range the most memorable is considered to be 03000 132 132 and as such has been reserved as the new number for Mid Ulster District Council.

As previously reported and agreed, the cost of purchasing the proposed 03 number is £3,000.

#### **PR75/14 Draft Local Government Reorganisation (Compensation for Loss of Employment) Regulations (Northern Ireland) – Consultation Response**

The Lead HR Officer presented a report informing members of a response to the “Draft Local Government Reorganisation (Compensation for Loss of Employment) Regulations (Northern Ireland) 2015” and indicated that the closing date for submissions was 5 January 2015.



The Officer indicated that the response would be forwarded to Unions for their views/ commentary prior to submission with the DoE

**PR76/14      Open Consultation List**

Executive Arrangements Guidance and Draft Constitution Framework	Closes: 19 December 2014
The Proposed Revocation and Remaking of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006	Closes: 12 January 2015
Local Government Pension Scheme (NI) 2015 - Consultation on cost control arrangements	Closes: 30 January 2015
Commissioner's Guidance on the NI Local Government Code of Conduct for Councillors	Closes: 30 January 2015

**IN COMMITTEE**

Proposed by Councillor McGinley  
Seconded by Councillor McFlynn and

**Resolved** That items PR77/14 and PR78/14 are taken in committee.

**PR79/14      Duration of Meeting**

The meeting was called for 7.00 pm and ended at 8.00 pm.

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_

**B**

<b>Subject</b>	Draft Council Policies for Review
<b>Reporting Officer</b>	Chief Executive

<b>1</b>	<b>Purpose of Report</b>
1.1	To provide members with a number of draft policies for review and consideration before being brought as a recommendation for approval at a future meeting.

<b>2</b>	<b>Background</b>
2.1	Committee previously received and considered a Governance Framework for Council consisting of a series of corporate policies and procedures to be compiled. This was recommended to and subsequently approved by Council. This paper refers to four draft policies.

<b>3</b>	<b>Key Issues</b>
3.1	This paper seeks commentary on (i) draft Whistleblowing Policy; (ii) draft Counter Fraud Policy; (iii) draft Anti-Bribery Policy; (iv) draft Data Protection Policy and (v) draft Managing Notification of Bereavements to Council.
3.1.1	<p>Draft Whistleblowing Policy</p> <p>A whistleblowing policy is intended to provide employees with the process to raise any concerns they may have within the Council over concerns of administrative malpractice and wrong doing which contravenes council policies, procedures and statutory codes of conduct</p>
3.1.2	<p>Draft Counter Fraud Policy</p> <p>This policy sets out the council's position on and how it will deal with fraud and corruption. It includes a fraud response plan. The fraud response plan extends to suspected financial act of impropriety against council's resources and assets.</p>
3.1.3	<p>Draft Anti-Bribery Policy</p> <p>An Anti-Bribery Policy sets out how the Council will deal with alleged and actual circumstances of where officers and members of council are offered bribes. This stems from the Bribery Act 2011 requirements placed upon authorities.</p>
3.1.4	<p>Draft Data Protection Policy</p> <p>This policy details how Council will meet its obligations under the Data Protection Act 1998 on processing personal data, by striking the needs of the organisation to run effectively whilst respecting the rights of individuals. The processing of personal data requires a consistent approach to ensure the Council maintains</p>

	compliance with its legislative responsibilities. This policy has been developed to assist in meeting these requirements.
3.1.5	<p>Managing Notification of Bereavements to Council</p> <p>This short policy confirms and clarifies how bereavements may be raised and acknowledged at meetings of council and its committees. This will policy will aid the efficient and smooth transaction of business.</p>

<b>4</b>	<b>Resources</b>
4.1	<b><u>Financial</u></b> – N/A
4.2	<b><u>Human</u></b> – N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> – N/A
4.4	<b><u>Other</u></b> – N/A

<b>5</b>	<b>Other Considerations</b>
5.1	N/A

<b>6</b>	<b>Recommendations</b>
6.1	That committee members approve the draft policies as referred and appended,

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: draft Whistleblowing Policy
7.2	Appendix 2: draft Counter Fraud Policy
7.3	Appendix 3: draft Anti-Bribery Policy
7.4	Appendix 4: draft Data Protection Policy
7.5	Appendix 5: draft Managing Notification of Bereavements to Council



## **Whistleblowing Policy**

DRAFT

Document Control			
<b>Policy Owner</b>	Director of Finance Internal Audit Manager, Mid Ulster Council		
<b>Policy Author</b>	Chief Executive, Mid Ulster Council		
<b>Version</b>	v1.0		
<b>Consultation</b>	Transition Management Team		Yes / No
	Trade Unions		Yes / No
<b>Equality Screened by</b>		<b>Date</b>	
<b>Equality Impact Assessment</b>	Yes / No	<b>Date</b>	
<b>Approved By</b>	Policy & Resources Committee	<b>Date</b>	
<b>Adopted By</b>	Council	<b>Date</b>	
<b>Review Date</b>	April 2016	<b>By Whom</b>	
<b>Circulation</b>	Mid Ulster District Council Members Mid Ulster District Council Staff		
<b>Document Linkages</b>	Counter Fraud Policy		

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## **1.0 INTRODUCTION**

- 1.1 Workers are the most valuable resource in any organisation, not just because of what they do, but also because they have a unique perspective on frontline services. They are the eyes and ears that witness bad practice and wrongdoing that could harm individuals, colleagues, organisations and members of the public<sup>1</sup>.
- 1.2 Workers are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourage workers and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. It is recognised that certain cases will have to proceed on a confidential basis. This policy makes it clear that this can be done without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.4 This whistleblowing policy is intended to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle to the media or other external bodies.
- 1.5 The Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006 and the Local Government (Accounts and Audit) (Amendment) Regulations (Northern Ireland) 2006 requires local authorities to publish an Annual Governance Statement. Included with the requirements of the Annual Governance Statement is that the local government body must have arrangements in place for whistleblowing.

## **Definitions**

- 1.6 A whistleblower is a worker, former worker, or member of an organisation, who reports misconduct to people or entities that have the power and presumed willingness to take corrective action. Generally the misconduct is a violation of law, rule, regulation and/or a direct threat to public interest, such as fraud, health/safety violations, and corruption.

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<sup>1</sup> Extract from the foreword to "Whistleblowing in the Public Sector", a good practice guide for workers and employers. Published November 2014



## **2.0 POLICY AIM AND OBJECTIVES**

2.1 This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise concerns and receive feedback on any action taken;
- Allow you to take the matter further if you are dissatisfied with the Council's response; and
- Reassure you that you will be protected from possible reprisals or victimisation for whistleblowing in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. A grievance is a personal complaint about someone's own employment situation.

2.3 This whistleblowing policy is intended to cover concerns that fall outside the scope of other procedures. A whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. The concern may be about something that:

- Is unlawful;
- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- Is against the Council's rules or policies (e.g. Health & Safety Policy);
- Has caused damage to the environment;
- Falls below established standards or practice; or
- Amounts to improper conduct.

## **3.0 POLICY SCOPE**

3.1 This policy applies to all Council workers (temporary, permanent, part time, full time and previous) and any agency staff, volunteers or consultants undertaking Council work. It also applies to those contractors working for the Council on Council premises.

## **4.0 POLICY STATEMENT**

- 4.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourage workers and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisal.

## **4.2 Harassment or Victimisation**

The Council is committed to good practice and high standards and wants to be supportive of workers.

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for, or suspected of, the malpractice. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith. However, should you feel that you have suffered harassment, either directly or indirectly, as a result of raising a concern; you should contact the Head of Human Resources.

Any investigation into allegations of potential malpractice will not influence, or be influenced by, any disciplinary or redundancy procedures that may already affect you.

## **4.2 Confidentiality**

The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence, particularly if the PSNI or Local Government Auditor becomes involved. In order to take effective action, the Council will need proper evidence, which may be required to stand up to examination in Courts or Tribunals.

The Council will consult with you and where possible gain your consent prior to any action that could identify you.

## **4.3 Anonymous Allegations**

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much more difficult to investigate but they will be considered at the discretion of the Council. Factors to be taken into account by the Council in exercising discretion would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

#### **4.4 Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, the matter will be dealt with under the Council's disciplinary procedures.

### **5.0 LINKAGE TO CORPORATE PLAN**

- 5.1 This policy contributes towards the delivery of corporate priority, *Systems to Underpin and Deliver Services*, within the Mid Ulster Council's corporate plan for the transitional period 2014-15. This policy contributes to the transaction of corporate business of council. It will have a positive impact on the Council's strategic themes.

### **6.0 PROCEDURE AND IMPLEMENTATION**

#### **6.1 How to raise a concern**

If you have a concern, please raise it in the first instance with your supervisor/line manager.

If you feel unable to raise the matter with your supervisor/line manager, for whatever reason, please contact one of the following officers:

- Your Head of Service or Director;
- The Internal Audit Manager;
- The Head of Human Resources.

It is important to state if you wish to raise the matter in confidence so that appropriate arrangements can be made during any investigation.

If the above channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact:

- The Director of Finance
- The Chief Executive

Concerns may be raised verbally or in another appropriate format. If you wish to phone or meet the appropriate officer they will be able to agree your statement with you. If you wish to make a report you are invited to provide the following details:

- The background and history of the concern (giving relevant dates, names and places) and
- The reason why you are particularly concerned about the situation.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person that you contact that there are reasonable grounds for your concern.

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit Manager. You can get confidential, independent advice from the charity Public Concern at Work. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You can invite your trade union or professional association representative, a friend or someone to act as a guide or support, or an interpreter if necessary to be present during any meetings or interview in connection with the concerns you have raised.

Concerns can be raised through your trade union.

## **6.2 How the Council will respond**

The Council will respond to your concerns. Please note that testing out your concerns is not the same as either accepting or rejecting them.

In order to protect individuals and the Council, the Internal Audit Manager will carry out an initial assessment in strictest confidence in order to establish what action requires to be taken and the results will be reported to the Director of Finance and the Chief Executive.

The action taken by the Council will depend on the nature of the concern. The Council could decide that the matters raised may:

- Be investigated internally by a team of Senior Officers;
- Be referred to the PSNI;
- Be referred to the Local Government Auditor; or
- Form the subject of an independent external inquiry.

The overriding principle, which the Council will have in mind, is the public interest. Concerns or allegations which fall within the scope of specific

procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days of a concern being raised, the person who received notification of your concern will inform you:

- That the concern has been received;
- How the Council proposes to deal with the matter;
- An estimate of how long it will take to provide a final response;
- Whether any initial enquiries have been made; and
- Whether further investigations will take place and if not, why not.

The amount of contact between you and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

When any meeting is arranged, off-site if you so wish, you have the right to be accompanied by your chosen companion. This may be a union or professional association representative, a friend (who is not involved in the area of work to which the concern relates) or someone to act as a guide or support, or an interpreter if necessary.

The Council will do what it lawfully can to support you and minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigations.

### **6.3 How the matter can be taken further**

This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- The Local Government Auditor
- Trade Union
- PSNI

One possibility is that you may wish to rely on your rights under the Public Interest Disclosure (NI) Order 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public

interest. The provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from for example your solicitor, your local Citizens Advice Bureau, the Ombudsman or Public Concern at Work.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential or privileged information. Please check with your manager first.

## **7.0 ROLES AND RESPONSIBILITIES**

**7.1 Workers** - If a worker has a concern, it is their responsibility to raise it in the first instance with their supervisor/line manager.

**7.2 Management** - Managers who receive disclosures from workers should

- Line Managers will have a positive and supportive attitude towards the person raising a concern
- Record as much detail as possible about the concern and agree this record with the worker
- Explain how the Council proposes to deal with the matter;
- Provide an estimate of how long it will take to provide a final response;
- Assure the worker that their confidentiality will be protected as far as possible if they request this;
- Advise the worker to notify line management of any incidents of harassment;
- Refer the worker to available sources of support;
- Pass the information to the Internal Audit Manager so that the appropriate procedures can be initiated.

**7.3 Internal Audit Manager** - the Internal Audit Manager will carry out an initial assessment in strictest confidence in order to establish what action requires to be taken and the results will be reported to the Director of Finance and the Chief Executive.

- That the concern has been received;
- How the Council proposes to deal with the matter;

- An estimate of how long it will take to provide a final response;
- Whether any initial enquiries have been made; and
- Whether further investigations will take place and if not, why not.

## **8.0 IMPACT ASSESSMENT**

### **8.1 Equality Screening and Impact**

A completed Screening Questionnaire has been completed and is attached.

### **8.2 Staff and Financial Resources**

There will be no impact on staff and financial resources as a result of this Policy.

## **9.0 SUPPORT AND ADVICE**

### **9.1 Support & Advice**

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit Manager. You can get confidential, independent advice from the charity Public Concern at Work. The Counter Fraud Policy will assist in the implementation of or compliance with this Policy.

### **9.2 Risk Management**

Failure to effectively implement this Policy increases the risk of the Council not achieving the highest possible standards in terms of openness, probity and accountability; which in turn increases the risk of problems being overlooked or the whistle being blown to the media or other external bodies. This Policy will be monitored regularly to ensure that it is being implemented.

## **10.0 COMMUNICATION**

- 10.1 All Council Workers, agency staff and consultants will have access to a copy of this Policy. Staff will be advised if further information is required in relation to the Policy to contact the Internal Audit Manager for advice and guidance.

## **11.0 MONITORING AND REVIEW ARRANGEMENTS**

11.1 This Policy will be reviewed annually by the Internal Audit Manager.

## **12.0 Acknowledgements**

12.1 Predecessor Council's Counter Fraud Policies, were used as a reference.





## **Counter Fraud Policy**

**DRAFT**

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## **1.0 INTRODUCTION**

- 1.1 Mid Ulster District Council is committed to the prevention of fraud and the promotion of an anti-fraud culture. This Policy covers the prevention, detection and management of fraud and/or corruption and fair dealing in matters pertaining to fraud and/or corruption. It aims to raise the awareness of fraud and its prevention in the Council environment and to give guidance to both the reporting of suspected fraud and how the investigation of that report will proceed.
- 1.2 Mid Ulster District Council operates a zero tolerance attitude to fraud. It requires staff at all times to act with honesty and integrity, to safeguard the public resources for which they are responsible and to report all suspicions of fraud. Staff are assured that any information which they provide will be treated confidentially. Every case of attempted, suspected or proven fraud will be thoroughly investigated and where appropriate referred to the Police Service of Northern Ireland (PSNI) at the earliest juncture. Mid Ulster District Council will seek to recover funds and assets lost through fraud. After full investigation, the Council will take civil, criminal and/or disciplinary action in all cases where it is appropriate to do so. The Council is committed to ensuring that opportunities for fraud are reduced to the lowest possible level of risk.
- 1.3 The Council is committed to protecting the public money it looks after and to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility of fraud, corruption and financial impropriety, the Council will deal with it in a firm and controlled manner.
- 1.4 This Counter Fraud Policy is concerned with internal and external fraud committed against Mid Ulster District Council by Council employees, suppliers of goods and services, contractors in the course of their work or other persons.
- 1.5 The term fraud is commonly used to describe the use of deception, to deprive, disadvantage, or cause loss to another person or party. This can include theft, the misuse of funds or other resources or more complicated crimes such as false accounting and the supply of false information. The terms fraud is used generically in this policy and covers criminal acts such as bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation and collusion.
- 1.6 Prior to 2007 there was no legal definition of fraud and in response to the growing threat of fraud the Government introduced The Fraud Act 2006. The legislation became effective from the 15<sup>th</sup> January 2007. The Fraud Act now provides for a general offence of fraud, with three defined ways of committing fraud. An individual can be prosecuted under the Fraud Act 2006 if he/she makes a false representation, fails to disclose information or abuses his position.

- ***Fraud by false representation*** – if a person dishonestly makes a false representation and intends by making the representation to make a gain for himself or another, or to cause loss to another or expose another to risk of loss. A representation is false if it is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading;
  - ***Fraud by failing to disclose information*** – if a person dishonestly fails to disclose to another person information which he/she is under a legal duty to disclose and intends, by failing to disclose the information, to make a gain for himself or another, or to cause loss to another or expose another to risk of loss; and
  - ***Fraud by abuse of position*** – if a person occupies a position in which he/she is expected to safeguard, or not to act against, the financial interests of another person, and he/she dishonestly abuses that position, and intends, by means of the abuse of that position, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.
- 1.7 The Fraud Act 2006 supplements other legislation, such as the Theft Act (NI) 1969 and the Theft (NI) Order 1978. In addition, the UK Bribery Act 2010 clarifies the law in relation to bribery and corruption – refer to Council’s Anti-Bribery Policy.
- 1.8 While the Fraud Act now provides a legal definition of ‘fraud’, this Policy covers fraud in its widest sense, as understood by a member of the general public. As such it covers cases of theft, false accounting, bribery and corruption to defraud, money laundering etc...

## Definitions

- 1.10 **Fraud** - a fraud is an intentional deception made for personal gain or to damage another individual. Fraud covers matters such as:
- Alteration or falsification of documents or records;
  - Omission of transactions or their effects from financial records or other documents;
  - Creating false transactions;
  - Misappropriation of Council property, including cash or misuse of Council facilities, including telephone and stationery.
- 1.11 **Corruption** – may be defined as including all acts demonstrating a lack of integrity, including bribery. Corruption covers matters such as:
- Accepting bribes, gifts or undue hospitality from other parties in return for favorable treatment.
  - Failure to follow Council procedures without satisfactory explanation and/or approval regarding quotations and tenders to knowingly benefit a particular supplier, whilst not corruption per se, represents a breakdown in application of Council procedures and will be investigated as such.

- 1.12 **Theft** – dishonestly appropriating the property of another with the intention of permanently depriving them of it (Theft Act (NI) 1969). This may include the removal of misuse of funds, assets or cash.
- 1.13 **False Accounting** – dishonestly destroying, concealing or falsifying any account, record of document required for any accounting purpose, with a view to personal gain for another, or with intent to cause loss to another or furnishing information which is or may be misleading, false or deceptive (Theft Act (NI) 1969).
- 1.14 **Bribery** – The Bribery Act 2010 came into effect on 1<sup>st</sup> July 2011. It defines four new criminal offences of offering or paying a bribe; requesting or receiving a bribe, bribing a foreign public official; and failure of commercial organisations to prevent bribery by persons associated with them. For offences committed before 1 July 2011, which involved the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the authority, its members or officers will fall under the Prevention of Corrupt Practices Act.
- 1.15 **Conspiracy to Defraud** – is a common law crime which has been preserved in Statute. It is an offence for two or more persons to agree by dishonesty to embark on a course of conduct which, if the agreement is carried out in accordance with their intentions, will necessarily amount to or involve some third party being deprived of something which is his or to which he is entitled or might be entitled.
- 1.16 **Money Laundering** – while public sector organisations are not normally covered within the list of ‘relevant persons’ to which the Money Laundering Regulations 2007 apply, as a matter of good practice bodies should consider the risk that their systems and processes are at from being used to launder money. Where there is considered to be a risk of such activity bodies should take appropriate actions which may include appointing a money laundering reporting officer and complying with other elements of the Money Laundering Regulations.

## **2.0 POLICY AIM AND OBJECTIVES**

- 2.1 This Policy explains the Council's position on fraud and corruption and includes the Council's Fraud Response Plan as Appendix A, which provides more detailed guidance on how to deal with fraud and corruption. The Fraud Response Plan is not limited to fraud and corruption but is applicable to any suspected act of financial impropriety that may put the Council's resources and assets at risk.
- 2.2 The main message is that the Council expects all employees, Elected Members, contractors, consultants, suppliers and service users to be fair and honest, and to give any help, information and support needed to deal with fraud, corruption and financial impropriety.
- 2.3 The Council will maintain robust control mechanisms to both prevent and detect fraud and corruption. All Line Managers have a responsibility for maintaining documented control systems and must be seen to be setting an example by complying fully with all procedures, regulations and controls.
- 2.4 All members of staff have a responsibility to protect the assets and reputation of the Council and are expected to be alert to the potential for fraud. Line Managers will be expected to brief staff on the common types of fraud perpetrated in their areas of responsibility.
- 2.5 Confidential mechanisms have been established to allow staff to report suspected fraud/financial impropriety. The Fraud Response Plan (Appendix A) provides more information regarding the reporting and investigation of suspected fraud/financial impropriety. Concerns may also be raised using the Council's Whistleblowing Policy. Details on how to raise a concern are detailed in the Council's Whistleblowing Policy.
- 2.6 If fraud or serious financial impropriety is proven to involve staff, disciplinary action will be taken by management. Formal action may be taken in regard to staff who are found, after investigation, to have facilitated fraud as a result of a serious dereliction of duty. Further, if financial impropriety is found to have taken place disciplinary action may also be taken.
- 2.7 The Council is committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, it will be prepared to help and exchange information with other Councils and organisations to deal with fraud.

### **3.0 POLICY SCOPE**

- 3.1 This policy applies to Elected Members, all Council workers (temporary, permanent, part time, full time and previous) and any agency staff, volunteers or consultants undertaking Council work. It also applies to those contractors working for the Council on Council premises and suppliers and service users.

### **4.0 POLICY STATEMENT**

- 4.1 Mid Ulster District Council requires all staff at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. The Council will not accept any level of fraud or corruption; consequently, any case will be thoroughly investigated and dealt with appropriately. Mid Ulster District Council is committed to ensuring that opportunities for fraud and corruption are minimised.
- 4.2 The Council is committed to preventing fraud from occurring and to developing an anti-fraud culture. To achieve this, the Council will:
- Develop and maintain effective controls to prevent fraud;
  - Ensure that if fraud occurs a vigorous and prompt investigation takes place without regard to position held or length of service;
  - Take appropriate disciplinary and legal action in all cases, where justified; and
  - Review systems and procedures to prevent similar frauds.
- 4.3 It is Mid Ulster District Council's policy that there will be consistent handling of all attempted, suspected or proven fraud cases without regard to the position held or length of service of the individual(s) involved.

### **5.0 LINKAGE TO CORPORATE PLAN**

- 5.1 This policy contributes towards the delivery of corporate priority, *Systems to Underpin and Deliver Services*, within the Mid Ulster Council's corporate plan for the transitional period 2014-15. This policy contributes to the transaction of corporate business of council. This policy will have a positive impact on the Council's strategic themes.



## **6.0 PROCEDURE AND IMPLEMENTATION**

### **6.1 Managing the Risk of Fraud**

At a basic level four elements are normally necessary for a fraud to occur:

- People to carry out the fraud. They may be individuals within the organisation, outside the organisation, and / or a group of people working inside or outside the organisation;
- Assets of some form to acquire fraudulently;
- Intent to commit the fraud; and
- Opportunity

Managers must ensure that the opportunities for fraud are minimised. Opportunities to commit fraud may be reduced by ensuring that a sound system of internal control, proportional to risk, has been established and that it is functioning as intended. While some people would never contemplate perpetrating a fraud, others may if they thought they could do it without being detected. A high chance of being caught will often deter such individuals.

Fraud is just one of the many risks an organisation faces. However, the deliberate nature of fraud can make it difficult to detect and deter. Fraud risk is the vulnerability or exposure an organisation has towards fraud and irregularity. It combines the probability of fraud occurring and the corresponding impact measured in monetary terms.

Mid Ulster District Council will adopt a risk based approach to manage fraud, to enable the organisation to target their resources, both for improving controls and for pro-active detection at problem areas. Fraud, within the Council, will be considered as a set of risks to be managed alongside other business risks. Managing the risk of fraud will be embedded in the entirety of the organisation's risk, control and governance procedures. In broad terms managing the risk of fraud within Mid Ulster District Council will involve:

- Understanding and measuring fraud risk.
- Creating and maintaining the right structures and culture to combat fraud.
- Dealing with fraud risk.
- Deriving assurance over the management of fraud risk.

### **6.2 Internal Controls**

Internal controls are the key element in preventing fraud. They should be documented, communicated to all staff and the importance of compliance regularly reminded to staff. It is the responsibility of Management to ensure controls in their areas of responsibility have been documented and communicated.

Management should periodically monitor compliance with controls. Internal Audit will also test compliance. It should be emphasised that the primary

function of Internal Audit is to evaluate the effectiveness of the overall framework of internal control, with management being responsible for ensuring implementation and monitoring the framework.

Internal Audit will be available to work with management in an advisory and facilitating role in developing and improving the control framework and also in regard to the monitoring arrangements necessary to provide management with evidence of compliance.

Common excuses for non-compliance with controls are that they are no longer applicable, insufficient time is available or they are not appropriate. It is important that such comments are reported to management so that the need for the controls can be re-evaluated.

### **6.3 Management Checks**

The prevention and detection of fraud, corruption and financial impropriety is only possible where strong internal controls are present and constantly applied. Routine checks and monitoring by management to ensure that procedures are being followed are therefore essential. There are two benefits from implementing a culture of strong management controls:

- A deterrent effect when it is known that Management are actively involved in ensuring that procedures are followed; and
- The results of the checks will allow Management to identify any operational areas where controls are not being uniformly applied and investigate whether systems have been exploited.

### **6.4 Corporate Governance**

The subject of Corporate Governance in the public sector is regularly monitored by the Council. The Nolan Committee sets out the seven guiding principles that apply to people who serve the public. The Council will develop its working behaviour around these principles, which are as follows:

#### **Selflessness**

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of the 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**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

The Corporate Governance arrangements in relation to fraud will be overseen by the Chief Executive. The Audit Committee will be updated, as appropriate, on the progress of any fraud investigation.

## **6.5 Staff Training**

Staff provide the best protection against fraud, corruption and financial impropriety. It is important therefore that Council policy on fraud prevention and investigation is fully communicated to all staff. The lack of clear guidance and ignorance of procedures will often be the first excuse used by offenders.

The recruitment of suitable staff is the Council's first defence in preventing fraud and financial impropriety. Best practice recruitment policies such as detailed application forms including a statement on criminal records, written and verbal communication with referees and past employers and verification of educational and professional qualifications will be strictly adhered to.

Staff awareness of policy and procedures is fundamental to the effective operation of systems. Best practice includes:

- Instruction and discussion on control and probity issues as part of staff induction;
- Formal staff training on operational procedures;
- Detailed written instructions for specific tasks;

- Publication of Council policy on fraud, corruption and financial impropriety; and
- Regular staff notices regarding changes to Standing Orders and financial procedures.

Management should ensure that their staff are aware of relevant policies and procedures.

## **6.6 Fraud Detection and Reporting**

The primary responsibility for detecting fraud lies with management through the implementation, documentation and operation of effective systems of internal controls. The Internal Audit Section, through their evaluation of the control framework also have a role to play in preventing and detecting fraud, however this is not the main function of Internal Audit.

Responsibility for internal control rests with management and they should ensure they are effective without regard to audit activity. However, Internal Audit will, during the course of any assignment, exercise due professional care and be alert to indicators of fraud and carry out the review so that they have a reasonable expectation that any fraud occurring would be detected.

All staff have a responsibility to be aware of the potential for fraud and take the necessary steps to minimise the risk to the Council. Management should ensure staff in their areas of operation are familiar with the common types of fraud. The Council is not advocating the creation of an overtly suspicious environment but expects staff to be alert to the potential for fraud in areas where they operate.

Staff should not be dissuaded from reporting suspected fraud or financial impropriety, as all cases will be treated in the strictest confidence. The Council is fully committed to supporting and protecting staff who raise legitimate concerns and the anonymity of individuals who report any suspicions will be preserved if requested unless this is incompatible with a fair investigation or legal imperative. The Council's Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure (NI) Order 1998).

If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the originator. If however the allegation is demonstrably made for an ulterior and undesirable purpose, it will be deemed not to have been made in good faith and disciplinary action may be considered against the individual making the allegation.

Any action to prevent the reporting or any attempts at intimidation will be treated seriously; the person involved may be subject to disciplinary action.

When staff report suspected fraud it is important that their suspicions are treated seriously and that all details provided by the reporting employee are promptly and accurately recorded. They should be repeated to the reporting employee to confirm understanding. All reported suspicions will, in the first place, be referred to the Internal Audit Section.

The Internal Audit Manager will assist the, the Director of Finance and the Chief Executive by reviewing all cases and determining the action that needs to be taken to investigate the allegations. He will also oversee the investigation process and will ensure that the outcomes of each investigation are reported to the Fraud Response Group and the Audit Committee.

Of primary importance, regardless of the method of reporting, is the need to put staff at ease since the decision to report may be traumatic for the individual concerned. Employees reporting fraud must be assured that all information will be dealt with in the strictest confidence and that all reasonable measures will be taken to preserve their anonymity, if requested, unless it is incompatible with a full and fair investigation or legal imperative.

Regardless of the direction that any further internal or Police investigation may take, all reasonable measures will be taken to protect the anonymity of any reporting employee during the initial investigation. The advice of the Director of Organisational Development will also be sought at an early stage.

The member of staff in the organisation who has been notified of the suspected fraud should retain a copy of the details and record the time and date when they notified the Internal Audit Manager or the Director of Finance. The maintenance of detailed and accurate records is important in supporting any subsequent investigations.

As soon as a suspected fraud is reported, management should take whatever steps are deemed necessary to prevent further losses e.g. by changing procedures or suspending payments, without compromising the quality of evidence or alerting the fraudsters.

## **7.0 ROLES AND RESPONSIBILITIES**

Everyone in an organisation contributes to the management of fraud risk. This starts at the top where senior management set the tone of the organisation and promote an anti-fraud culture throughout the organisation.

**7.1 Elected Members** are responsible for promoting an anti-fraud culture throughout the organisation and providing any help, information and support needed to deal with fraud, corruption and financial impropriety.

**7.2 The Chief Executive** has overall responsibility and is accountable for the effectiveness of fraud risk management. The Chief Executive is responsible for:

- Developing and maintaining an effective control environment to prevent fraud;
- Ensuring that rigorous and prompt investigations are carried out if fraud occurs;
- Ensuring that all staff are aware of the organisation's anti-fraud policy and know what their responsibilities are in relation to combating fraud;
- Ensuring that appropriate anti-fraud training and development opportunities are available to all staff;
- Taking appropriate disciplinary / legal action against perpetrators of fraud;
- Taking disciplinary action against a line manager or supervisor where supervisory failure has contributed to the commission of the fraud; and
- Taking appropriate action to recover assets and losses.
- Ensuring that appropriate action is taken to minimise the risk of similar frauds occurring in future.

**7.3 Directors** are responsible for establishing and maintaining a sound system of internal control that supports the achievement of Council policies, aims and objectives. The system of internal control is designed to respond to and manage the whole range of risks faced by Mid Ulster District Council. It is based on an on-going process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them effectively. Managing fraud risk will be seen in the context of the management of this wider range of risks.

**7.4 Management** has primary responsibility for preventing fraud lies with management through:

- Assessing the types of risk (including fraud risk) involved in the operations for which they are responsible;
- Ensuring that an adequate system of internal control exists within their areas of responsibility;
- Ensuring that controls are being complied with and their systems continue to operate effectively;
- Reviewing and testing the control systems for which they are responsible regularly;
- Implementing new controls to reduce the risk of similar fraud occurring where frauds have taken place; and
- Ensuring compliance with anti-fraud policies and the fraud response plan.

However, while Managers are responsible for assessing and controlling the level of risk within their areas of authority, it is the responsibility of all staff to be aware of fraud and take the necessary steps to minimise the risk to the Council.

Managing the risk of fraud is the same in principle as managing any other business risk. It is best approached systematically both at organisational and operational level. Managers should identify risk areas, assess the scale of

risk, allocate responsibility for managing specific risks and implement and test controls to minimise the risks.

Management also have a responsibility to familiarise themselves with common fraud techniques in areas for which they have control. This should include being alert to signs which may indicate that fraud is taking place. These may include:

- Staff under stress without a heavy workload;
- Unexplained wealth and sudden change in lifestyle;
- Staff always working late;
- New staff resigning quickly;
- Original documents being lost and replaced by photocopies;
- Suppliers/contractors/customers insisting on dealing with a particular member of staff;
- Excessive use of correcting fluids;
- Cosy relationships with suppliers/contractors/customers;
- Reluctance of staff to take leave;
- Sudden changes in behaviour; and
- Staff refusing promotion.

Management will support the implementation of this policy and co-operate with Internal Audit, other services and personnel involved in undertaking investigative work and the PSNI in the detection, reporting and investigation of fraud, corruption and financial impropriety, including prosecution of offenders.

#### **7.5 Internal Audit** is responsible for:

- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of controls.
- Ensuring that management has reviewed its risk exposures and identified the possibility of fraud as a business risk.
- Carrying out fraud investigations in line with the organisation's fraud response plan and other related organisational policies.

#### **7.6 Employees** of Mid Ulster District Council must have, and be seen to have, the highest ethical and personal standards and be honest and objective in their work. Every member of staff is responsible for:

- Acting with propriety in the use of official resources and in the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with contractors or suppliers;
- Conducting themselves in accordance with the seven principles of public life set out in the first report of the Nolan Committee 'Standards in Public Life'. They are selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud and alerting managers where they believe the opportunity for fraud exists.

- Reporting known or suspected frauds.
- Assisting in the investigation of suspected fraud; and
- Liaising with PSNI, where required to do so.

The Council expects all people and organisations that are in any way associated with it to be honest and fair in their dealings with it and their clients and customers. The Council expects Members and employees to lead by example in these matters.

The Codes of Conduct for Members and employees set out an approach to work that is both honest and fair. Members and employees must act in line with the codes at all times.

Members and employees have an important part to play in dealing with fraud and corruption and the Council encourages all staff and Members to highlight their concerns if they suspect fraud and / or financial impropriety.

The Council will deal with all information fairly and confidentially. It will endeavour not to reveal the names of the people who gave it the information unless legally required to do so. The Council's Fraud Response Plan (Appendix A) gives more advice on this issue for staff.

The Council expects all managers to deal firmly and quickly with anyone who is responsible for fraud, corruption or serious financial impropriety. The Fraud Response Group may take the decision to refer matters to the PSNI if they suspect any criminal activity has been carried out.

The Council must ensure that any investigative process is not misused and therefore any abuse, such as raising allegations that are demonstrably made for an ulterior and undesirable purpose will be deemed not to have been made in good faith and disciplinary action may be considered against the individual making the allegation.



## **8.0 IMPACT ASSESSMENT**

### **8.1 Equality Screening and Impact**

A completed Screening Questionnaire has been completed and is attached.

### **8.2 Staff and Financial Resources**

There will be no impact on staff and financial resources as a result of this Policy.

## **9.0 SUPPORT AND ADVICE**

### **9.1 Support & Advice**

Advice and guidance on how matters of concern may be pursued can be obtained from the Director of Finance or the Internal Audit Manager. The Whistleblowing Policy and Anti-Bribery Policy will assist in the implementation of or compliance with this Policy.

### **9.2 Risk Management**

Failure to effectively implement this Policy increases the risk of the Council not achieving the highest possible standards in terms of openness, probity and accountability. This Policy will be monitored regularly to ensure that it is being implemented.

## **10.0 COMMUNICATION**

- 10.1 All Elected Members, Council Workers, agency staff and consultants will have access to a copy of this Policy. Staff will be advised if further information is required to relation to the Policy to contact the Internal Audit Manager for advice and guidance. In addition to this training will be organised for staff.

## **11.0 MONITORING AND REVIEW ARRANGEMENTS**

- 11.1 This Policy will be kept under review and reviewed 2 years from its effective date.

## **12.0 ACKNOWLEDGEMENTS**

- 12.1 Predecessor Council's Counter Fraud Policies, were used as a reference.

## **Appendix A - Mid Ulster District Council's Fraud Response Plan**

### **Introduction**

This document is intended to set out the responsibilities of staff and the action that should be taken in relation to suspected fraud and/or financial impropriety.

Staff will often be the first to notice the potential for financial impropriety or indeed actual fraud. Staff suspicious of fraud should in the first instance and if appropriate report their concerns to their line manager. The requirement to alert management is not confined to suspicions about other members of staff, but includes any misgivings staff may have about contractors, consultants, suppliers and service users. If necessary a route other than the line manager may be used to raise such concerns e.g.

- Chief Executive
- Directors
- Head of Finance
- Head of Human Resources
- Internal Audit Manager

Upon receipt of information, the Director of Finance in conjunction with the Internal Audit Manager, will decide whether to carry out an initial assessment of the following:

- Whether to recommend to the Head of Service/Director that an internal investigation under the Council's disciplinary procedure be instigated.
- Whether to have a special investigation or audit carried out in the area in which the fraud has been committed with a view, in particular, to ascertaining whether there are any indicators of fraud or financial impropriety.
- Whether to recommend to the Head of Service/Director and the Chief Executive that a formal report be made to the Police.

After the initial assessment, if it is felt that the case does not relate to fraud or financial impropriety, the details will be referred directly to management for further investigation.

A decision to undertake an internal investigation of fraud or to inform the Police will not be taken unless and until the Chief Executive has been consulted. If an allegation of fraud also involves the investigation of the conduct of Council Officers, that aspect of the investigation will be conducted in accordance with the Council's Disciplinary Procedures.

Where initial enquiries indicate that fraud and/or financial impropriety may have occurred, the Chief Executive will convene a group of senior officers to carry out an investigation. This team will be known as the Fraud Response Group. The Fraud Response Group will consist of the Director of Finance, the Council Solicitor, a rep from Human Resources and the Head of Service from the Department involved. The Internal Audit Manager will present findings from the initial investigation to the Fraud Response Group.

If the Fraud Response Group is satisfied that there is a case to be answered, immediate steps will be taken to safeguard any evidence and prevent further losses.

The investigation will be carried out as a matter of urgency and the report will be submitted initially to the Senior Management Team. The Audit Committee and the Local Government Auditor will be advised of the outcome of all investigations into alleged fraud.

### **Conducting a Full Investigation into Fraud/Financial Impropriety**

When deciding the course of action to be taken, the Fraud Response Group may consider the following issues regarding the purpose of the investigation and whether it is to:

- Simply confirm there is sufficient evidence to support the allegations;
- Identify those involved;
- Consider referral to the PSNI; or
- Quantify potential losses.

There is an obvious requirement to record all details fully, accurately and in a manner that is accessible. In terms of access to records and documentation the access rights of Internal Audit are those as detailed in the Local Government (Accounts and Audit) (Amendment) Regulations (Northern Ireland) 2006. The Internal Audit Manager will also be responsible for ensuring the Chair of the Audit Committee and the Local Government Auditor is notified of suspected fraud.

In exceptional circumstances the Fraud Response Group may meet with the PSNI to decide who is best placed to undertake the full investigation.

### **Staffing Issues**

A representative from the Council's Human Resources Section will be on the Fraud Response Group to provide advice/guidance on employee rights and disciplinary implications (if necessary). At the conclusion of investigations into fraud and/or financial impropriety the Fraud Response Group may consider that further follow up management investigations are necessary (which may or may not result in disciplinary action). If this is the case the Chair of the Fraud Response Group will write to the relevant Director indicating that further follow up investigations should be considered. The final decision on whether or not disciplinary action should be taken will rest with the relevant Director. The relevant Director will provide a written update to the Chair of the Fraud Response Group apprising them of actions taken.

It is important in any investigation that enquiries are conducted within the parameters of relevant laws and regulations. Employees have certain statutory rights and if infringed, the likely success of disciplinary action or prosecution is diminished. It is vital therefore that any interviews with suspects are undertaken strictly in accordance with best practice.

If staff are implicated at this stage and it would appear that there is sufficient

evidence to justify future disciplinary action, the possibility of suspension will be considered by the Fraud Response Group, in conjunction with the relevant Director. Staff should not be dismissed prior to a thorough investigation. In such circumstances, the Council's disciplinary procedure will apply.

### **Referral to Police Service of Northern Ireland**

Fraudulent or corrupt activity is regarded as a breach of contract and where there are reasonable grounds for suspicion then suspension, pending the outcome of enquiries, will be considered.

Where fraud and/or financial impropriety are detected then disciplinary procedures will be instigated and this may lead to dismissal of the individual concerned. In all cases the Council will co-operate fully with the PSNI and pursue prosecutions where possible.

### **Concluding an Investigation**

Reports on the results of investigations will be considered by the Senior Management Team and the Council's Audit Committee.

### **Reports on Control Related Issues arising from investigations**

Internal Audit, where appropriate, will compile a report for departmental management on any control issues that have arisen as a result of the investigation. This report will provide management with key findings and recommendations for improvement, where deficiencies in the control environment has precipitated an investigation into fraud or financial impropriety. A summary report will also be presented to the Council's Audit Committee highlighting system weaknesses and recommendations for improvement. Internal Audit may conduct a follow up review to determine progress against recommendations made and reports the results of the follow up review to the Audit Committee.

### **Communicating Outcomes**

Where enquiries have resulted in disciplinary action or a successful prosecution the Senior Management Team will give consideration to publishing a summary of the details of the alleged fraud and/or financial impropriety for staff circulation.

The publication of summary details may be in the form of a staff notice, briefly covering the case details and reiterating the overall Council policy on fraud.

## Fraud Indicators

Fraud indicators are clues or hints that a closer look should be made at an individual, area or activity. Examples of issues that could be investigated to ensure fraud is not taking place include:

- Unusual employee behaviour (e.g. a supervisor who opens all incoming mail, refusal to comply with normal rules and practices, fails to take leave, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regular working of long hours, job dissatisfaction / unhappy employee, secretiveness or defensiveness).
- Unrecorded transactions or missing records (e.g. invoices, contracts).
- Disorganised operations in such areas as accounting, purchasing or payroll.
- Crisis management coupled with a pressurised business environment.
- Absence of controls and audit trails (e.g. inadequate or no segregation of duties, lack of rotation of duties).
- Low levels of review or approval.
- Policies not being followed.
- Inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation).
- Lack of interest in, or compliance with, internal controls.
- Documentation that is photocopies or lacking essential information.
- Alterations to documents.
- Missing documents such as expenditure vouchers and official records.
- Excessive variations to budgets or contracts.
- Bank and ledger reconciliations are not maintained or cannot be balanced.
- Excessive movements of cash or transactions between accounts.
- Numerous adjustments or exceptions.
- Duplicate payments.
- Large payments to individuals.
- Unexplained differences between inventory checks and asset or stock records.
- Transactions not consistent with the entity's business.
- Deficient screening for new employees including casual staff, contractors and consultants.
- Employees in close relationships in areas where segregation of duties is a key control.
- Unauthorised changes to systems or work practices.
- Lowest tenders or quotes passed over with minimal explanation recorded.
- Single vendors.
- Unclosed but obsolete contracts.
- Defining needs in ways that can be met only by specific contractors.
- Splitting up requirements to get under small purchase requirements or to avoid prescribed controls.
- Suppliers / contractors who insist on dealing with one particular member of staff.
- Vague specifications.
- Disqualification of any qualified bidder.
- Chronic understaffing in key control areas.
- Excessive hours worked by key staff.

- Consistent failures to correct major weaknesses in internal control.
- Management frequently override internal control.
- Lack of common sense controls such as changing passwords frequently, requiring two signatures on cheques or restricting access to sensitive areas.

## **Examples of Fraud**

Below are examples of fraudulent activities. The list is by no means exhaustive, but these examples have been provided to help illustrate the many different kinds of fraud, which can be perpetrated.

### ***Cash Handling***

- Theft;
- Income received not brought into account;
- Illegal transfer or diversion of money;
- Changes and additions to payee details through BACS;
- Accounting records are falsified or amended to allow unauthorised payments;
- Invoices are falsified or duplicated in order to generate false payment;
- Supplier bank account details are changed in order to divert payments; and
- Unauthorised use of cheques and payable orders.

### ***Payroll / Travel & Subsistence***

- Creating fictitious employees who pay is then obtained by the fraudster or by someone in collusion, or obtaining pay that is not consistent with the employee's grade;
- Making false claims for allowances, travel and subsistence; and
- Misuse of corporate credit cards.

### ***Grant Payments***

- Grant funds are misappropriated.

### ***Contracting***

- A contractor could be selected as a result of favoritism or who does not offer best value for money; and
- Payments made for work not carried out as a result of collusion between contractor and employee.

### ***Purchasing***

- Unauthorised use of purchasing systems in order to misappropriate goods or use services for personal gain;
- Short deliveries of goods or services;
- Acceptance of unsolicited goods or expanded orders as a result of fraudulent acceptance of attractions such as free gifts; and
- Orders placed on the internet are not delivered or goods received are not of the desired quality.

### ***Assets***

- Theft or unauthorised use of assets.

***Information***

- Theft of sensitive / restricted documentation or information.

***Money Laundering***

- Individuals or groups pass money transactions through organisational systems.





## **Anti-Bribery Policy**

**DRAFT**

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## **1.0 INTRODUCTION**

- 1.1 Bribery is a criminal offence. Mid Ulster District Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will the Council accept bribes or improper inducements such as gifts or hospitality.
- 1.2 Mid Ulster District Council is committed to the prevention, deterrence and detection of bribery. The Council has a zero-tolerance towards bribery and aims to maintain anti-bribery compliance 'business as usual' rather than as a one-off exercise.
- 1.3 To use a third party as a conduit to channel bribes to others is a criminal offence. Mid Ulster District Council does not, and will not engage indirectly in or otherwise encourage bribery.
- 1.4 The Bribery Act came into effect on 1 July 2011. The legislation requires the Council to demonstrate that it has adequate procedures in place for dealing with circumstances where officers / members are offered bribes. The main practical implication of the Act for Council staff is that they must comply with the requirements of the Council's policies and procedures. More information on the Bribery Act is set out in Appendix A to this Policy.

There are four key offences under the Act:

- Bribery of another person (Section 1)
  - Accepting a bribe (Section 2)
  - Bribing a foreign official (Section 6)
  - Failing to prevent bribery (Section 7)
- 1.5 The Bribery Act makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign official with the intention of obtaining or retaining business or an advantage in the conduct of business.
  - 1.6 There is also a corporate offence under Section 7 of the Act of failure by a 'commercial organisation' to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a 'strict liability' offence. This means that there is no need to provide negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## **Is the Council a ‘commercial organisation’?**

- 1.7 The guidance states that a ‘commercial organisation’ is any body formed in the United Kingdom and “... it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” There are circumstances in which the Council will be a commercial organisation for the purposes of Section 7. This Policy is intended to ensure that the Council has in place the necessary procedures to act as a defence to a Section 7 offence.

## **Definitions**

- 1.8 **Bribery** is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

## **2.0 POLICY AIM AND OBJECTIVES**

- 2.1 The overall aim is This Policy provides a coherent and consistent framework to enable the Council’s employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.
- 2.2 The Council requires all employees, including those permanently employed, temporary agency employees and contractors to:
- Act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible; and
  - Comply with the spirit as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

## **3.0 POLICY SCOPE**

- 3.1 This policy applies to Elected Members, all Council workers (temporary, permanent, part time, full time and previous) and any agency staff, volunteers or consultants undertaking Council work. It also applies to those contractors working for the Council on Council premises and suppliers and service users.

## 4.0 POLICY STATEMENT

The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others.
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecutions.
- Taking firm and vigorous action against any individual(s) involved in bribery.
- Providing information to all employees to report breaches and suspected breaches of this policy.
- Including appropriate clauses in contracts to prevent bribery.

## 5.0 LINKAGE TO CORPORATE PLAN

- 5.1 This policy contributes towards the delivery of corporate priority, *Systems to Underpin and Deliver Services*, within the Mid Ulster Council's corporate plan for the transitional period 2014-15. This policy contributes to the transaction of corporate business of council. It will have a positive impact on the Council's strategic themes.

## 6.0 PROCEDURE AND IMPLEMENTATION

### 6.1 Anti-Bribery Procedures

The Council's procedures cover six principles:

#### ***Proportionality***

The Council has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council's activities. They are also clear, practical, accessible, effectively implemented and enforced.

#### ***Top Level Commitment***

The Chief Executive and Directors are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable through an effective corporate governance framework.

#### ***Risk Assessment***

The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed. This includes financial risks but also risks such as reputational damage.

#### ***Due Diligence***

The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

#### ***Communication (including training)***

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication; including training that is proportional to the risks it faces.

#### ***Monitoring and Review***

Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

## **6.2 Penalties**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 6 months (12 months in England and Wales), or to a fine not exceeding £5,000, or to both.
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

The Council, if convicted under section 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under Section 7, is liable to an unlimited fine.

## **6.3 Bribery is not tolerated**

It is unacceptable to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given.
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to 'facilitate' or expedite a routine procedure.
- Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage from them.
- Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided in return.
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in activity in breach of this policy.

**Facilitation Payments** – are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

**Gifts and Hospitality** – The Council's Policy on Gifts and Hospitality must be adhered to at all times. It is important to note that the acceptance of gifts or hospitality can constitute bribery in some instances.

## 6.4 Raising a Concern

The Council is committed to ensuring that all employees have a safe, reliable and confidential way of reporting any suspicious activity; and wants each and every employee to know how they can raise concerns.

All employees have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved. Please refer to the Council's Whistleblowing Policy and Counter Fraud Policy.

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. The Council has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.



Any queries about these procedures can be raised with the Internal Audit Manager or the Director of Finance.

## **7.0 ROLES AND RESPONSIBILITIES**

7.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All employees are required to avoid activity that breaches this policy. All employees must ensure that:

- They read, understand and comply with this policy; and
- Raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

7.2 As well as the possibility of civil and criminal prosecution, employees that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **8.0 IMPACT ASSESSMENT**

### **8.1 Equality Screening and Impact**

A completed Screening Questionnaire has been completed and is attached.

### **8.2 Staff and Financial Resources**

There will be no impact on staff and financial resources as a result of this Policy.

## **9.0 SUPPORT AND ADVICE**

### **9.1 Support & Advice**

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit Manager or the Director of Finance. The Whistleblowing Policy and Counter Fraud Policy will assist in the implementation of or compliance with this Policy.

### **9.2 Risk Management**

Failure to effectively implement this Policy increases the risk of the Council not achieving the highest possible standards in terms of openness, probity and accountability. This Policy will be monitored regularly to ensure that it is being implemented.

## **10.0 COMMUNICATION**

- 10.1 All Elected Members, Council Workers, agency staff and consultants will be provided with a copy of this Policy. Staff will be advised if further information is required to relation to the Policy to contact the Internal Audit Manager or the Director of Finance for advice and guidance. In addition to this training will be organised for staff.

## **11.0 MONITORING AND REVIEW ARRANGEMENTS**

- 11.1 This Policy will be reviewed in April 2016.

## **12.0 ACKNOWLEDGEMENTS**

- 12.1 The Council's Counter Fraud Policy and Whistleblowing Policy were used as a reference for policy content and principles.

## **Appendix A - The Bribery Act (2010)**

This appendix summarises the Bribery Act (2010)

### Section One of the Act – Offences of bribing another person

A person is guilty of an offence if either of the following cases applies:

Case 1 is where –

- (a) A person offers, promises or gives a financial or other advantage to another person; and
- (b) Intends the advantage –
  - a. To induce a person to perform improperly a relevant function or activity, or
  - b. To reward a person for the improper performance of such a function or activity.

Case 2 is where –

- (a) A person offers, promises or gives a financial or other advantage to another person; and
- (b) That person knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

### Section Two of the Act – Offences relating to being bribed

There are four different case scenarios in relation to this section. In essence an offence is committed where a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by that person or another person).

### Section Six of the Act – Bribery of Foreign Public Officials

While it is unlikely that this section will have any impact on the Council, it includes specific provisions in relation to the offence which relate to the bribery of a foreign public official with the intention of obtaining business or an advantage in the conduct of business.

### Section Seven of the Act – Failure of Commercial Organisation to Prevent Bribery

A relevant commercial organisation is guilty of an offence under this section if a person associated with the organisation bribes another person intending –

- (a) To obtain or retain business for the organisation; or
- (b) To obtain or retain an advantage in the conduct of business for the organisation.

There is, however, a defence for this offence if the organisation can prove that they had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct.

In addition to the provisions of the Bribery Act, Section 117(2) of the Local Government Act 1972 as amended requires that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Council.



# **Data Protection Policy**

DRAFT

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## **1.0 INTRODUCTION**

The processing of personal data is essential to many of the services and functions carried out by Mid Ulster District Council. The Data Protection Act 1998 and Article 8 of the Human Rights Act 1998 both stress the processing of personal data needs to strike a balance between the needs of organisation to function effectively and efficiently whilst respecting the rights and freedom of the individual.

Processing personal data requires a consistent approach and process to ensure the Council maintains compliance with its legislative responsibilities. This policy has been developed in line with these requirements.

## **2. POLICY AIMS & OBJECTIVES**

The primary aims of this policy is to seek

- 1) To ensure Council meets the requirements of the Data Protection Act, to provide assurance to our employees and public that we seek to protect the information we hold and used it for legitimate purposes.
- 2) To ensure that all appropriate staff are properly trained, kept fully informed of their obligations under the Data Protection Act, and that they are aware of their personal data protection liabilities, setting out the standards expected by the Council in relation to processing of personal data and safeguarding individuals' rights and freedoms.

## **3. POLICY SCOPE**

This policy applies to the collection and processing of all personal data by or on behalf of Mid Ulster District Council, regardless of whether it is held physically or electronically.

The Council is committed to a policy of protecting the rights and freedoms of individuals with respect to the processing of all data held by it which affects their privacy, whether in their personal or family life, business or professional capacity.

For definitions of terms, as set out in the Data Protection Act 1998, see Appendix A.

3.1 The Data Protection Act 1998 ('the Act') has two principal purposes:

- i) To regulate the use by those (known as data controllers) who obtain, hold and process personal data on living individuals, of those personal data.
- ii) To provide certain rights (for example, of accessing personal information) to those living individuals (known as data subjects) whose data is held.

The cornerstones of the Act are the eight data protection principles, which prescribe:

- i) Personal data shall be processed fairly and lawfully.
- ii) Personal data must not be processed except for the purpose(s) for which they were obtained or for a similar, analogous purpose. If the



new purpose is very different, the data subject's consent must be obtained.

iii) Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

iv) Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

v) Personal data shall be accurate and, where necessary, kept up to date.

vi) Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

vii) Personal data shall be processed in accordance with the rights of data subjects under this Act.

viii) Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

ix) Personal data shall not be transferred to a country or territory outside the European Economic Area (EEA) unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

The Act applies to Mid Ulster District Council. The Council is fully committed to abiding, not only by the letter, wherever possible, of the highest standard of conduct mandated by the Act. This policy has been written to acquaint staff with their duties under the Act.

### **3) LINKAGES TO CORPORATE PLAN**

In its Corporate Plan for the transitional period, the Council has prioritised the Systems to underpin and deliver services which include the policies, procedures, ICT, contracts, management and organisational structures to facilitate delivery.

The Data Protection Policy is designed to support this stated objective, as well as to contribute to the smooth transfer and harmonisation of services.

## **5. ROLES AND RESPONSIBILITIES**

All Employees of the Council are expected to:

- i) Acquaint themselves with, and abide by the Data Protection Act & principles;
- ii) Read and understand this policy document;
- iii) Understand how to conform to the standard expected in relation to safeguarding data subjects' rights (e.g. the right to inspect personal data) under the Act.

### **Senior Managers**

It is the responsibility of all senior managers to ensure that staff within their areas are made aware of the existence and content of this policy.

Each Director of Service is responsible for ensuring that appropriate technical and organisational measures are taken in their area to protect against unauthorised or

unlawful processing of personal data and against accidental loss or destruction of, or damage to, such data.

The Data Protection Officer and Data Controller is the Head of ICT in Mid Ulster council who will be responsible for :

- Develop and implement our Data Protection Policy.
- Provide information and guidance on the processing of all personal data.
- Produce 'best practice' guidance material for staff.
- Deliver training to staff.
- Process, co-ordinate and respond to all requests for information.
- Maintain the Councils Data Protection registration.

Members Elected members will endorse the policy, its implementation and procedures.

## **6. PROCEDURES & IMPLEMENTATION**

### **Rights of the data subject**

The Data Protection Act gives an individual several rights in relation to the information held about them.

Access covers the right to obtain a copy of the record in permanent form, unless the supply of a copy would involve disproportionate effort or the individual agrees that his/her access rights can be met some other way, for example, by viewing the record.

Access must be given promptly and in any event within 40 days of receipt of the fee and request. If the application does not include sufficient details to identify the person making the request or to locate the information, those details should be sought promptly and the 40-day period begins when the details have been supplied.

If access has been given, there is no obligation to give access again until a reasonable period has elapsed. What is reasonable depends on the nature of the data, the purposes for which it is processed and the frequency with which it has been altered.

The right of access is exercisable by the individual who can :

1. Making a written application to the organisation holding the records;
2. Providing such further information as the organisation may require to sufficiently identify the individual; and paying the relevant fee.

The fee for providing the individual with a copy of a computerised record is £10.

A fee of £10 may be charged for viewing records that have not been added to in the 40 days prior to the access request.

There are two main exemptions from the requirement to provide access to personal data in response to a subject access request. These are:

If the record contains third-party information (e.g. not about the patient or the treating clinician) where that third party is not a healthcare professional and has not consented to their information being disclosed. If possible, the individual should be provided with access to the part of the record that does not contain the third-party identifier.

If access to all or part of the record will seriously harm the physical or mental well-being of the individual or any other person. If possible, the individual should be provided with access to that part of the record that does not pose the risk of serious harm.

## **Complaints about Personal Data Handling and Processing**

If you are a member of staff or another individual, you should contact the Head of ICT to process your complaint under the council complaint procedure.

If you are still dissatisfied, you can go directly to the Information Commissioner, the independent body that oversees the DPA.

You can contact the Office of the Information Commissioner in any of the following ways:

**By telephone:** 028 9027 8757 / 0303 123 1114

### **In writing to:**

The Information Commissioner's Office – Northern Ireland

3rd Floor

14 Cromac Place,

Belfast

BT7 2JB

The ICO also has a website: [www.ico.gov.uk](http://www.ico.gov.uk)

## **7. IMPACT ASSESSMENT**

### **Equality Screening & Impact Assessment**

This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. Under those considerations no significant equality implications have been identified. The policy will therefore not be subject to an equality impact assessment.

### **Staff & Financial Resources**

This policy requires all staff to be regularly trained and updated appropriately

## **8. SUPPORT & ADVICE**

For further information about the policy please contact the Head of ICT.

Relate Guidance and Training materials can be accessed on the Intranet and the Booklet attached.

**Related documentation:** Data Protection Guidance (Personal data) for Mid Ulster District Council.(not developed yet)

Information Security Policy

Information Retention and Disposal Policy

## **9. COMMUNICATION**

The policy information will be communicated internally using a range of appropriate internal communication methods, with external communication via traditional print and digital channels.

The policy will also form part of the induction process for all new staff.

## **10. MONITORING & REVIEW ARRANGEMENTS**

The effectiveness of the policy will be monitored using feedback from those staff involved in its implementation and data collated on performance against standards.

Formal review, with any appropriate recommendations for change, will take place 1 year following implementation.

## **Mid Ulster District Council**

Data Protection Registration Number: **A8020770**

## APPENDIX A

### Definitions

The Act refers to a number of defined terms including the following:

**Personal Data** - Data relating to a living individual who can be identified from that information or from that data and other information in possession of the data controller. It includes, but is not limited to, name, address, telephone number, id number. It also includes expression of opinion about the individual, and of the intentions of the data controller in respect of that individual. It should be noted that personal data covered by the Act can be held in any format, electronic (including web-sites and emails), paper-based, photographic etc. from which the individual's information can be readily extracted.

**Data Controller** - Any person (or organisation, in this case Mid Ulster District Council) who makes decisions with regard to particular personal data, including decisions regarding the purposes for which personal data are processed and the way in which the personal data are processed.

**Data Subject** - Any living individual who is the subject of personal data held by an organisation.

**Processing** - Any operation related to organisation, retrieval, disclosure and deletion of data and includes: Obtaining and recording data, accessing, altering, adding to, merging, deleting data retrieval, consultation or use of data disclosure or otherwise making data available.

## **APPENDIX B**

### **SUBJECT ACCESS REQUEST FORM**

If you wish to receive details of personal data concerning you which you believe the Council holds, complete the attached form and post it to the IT Manager with the appropriate fee of £10.

Mid Ulster District Council  
Tel 03000 132 132 email [info@midulstercouncil.org](mailto:info@midulstercouncil.org)

#### **Subject access fee**

The Information Commissioner has prescribed that we are entitled to charge a maximum fee of £10.00 in respect of each request for personal data. (Please note that payment for £10.00 must be enclosed with each subject access form that you submit). Please make cheques or postal orders payable to "Mid Ulster District Council"

#### **Information given if held will include**

1. A copy of the personal data held
2. A description of the personal data held
3. The source (If available) of your data
4. An explanation of the purpose for which we hold and use the personal Data
5. If we have passed the personal data to other organisations or people

#### **Subject identification**

In order to verify your identity and your right to request personal data from our records, we require two pieces of identification, one of which must be a photo-ID (Full driver's licence or passport) and the other a recent utility invoice or bank or building society statement.

#### **Other information**

Please send as much information as you are able to assist us to locate the whereabouts of your personal data, including relevant dates, former names, and your relationship to us.

We are required to provide your information to you promptly and we will send you a response within 40 days as specified by the Information Commissioner.

#### **Information we will not disclose**

Under the Data Protection Act 1998, in certain circumstances we are not permitted to provide you with details of your personal data. If these circumstances apply to your subject access request, we will notify you and return the subject access fee.

**Protection Act 1998 – Subject Access Request Form**

**Please complete the following details for your subject access request:**

**Name (and previous names if relevant):** \_\_\_\_\_

\_\_\_\_\_

**Date of birth:** \_\_\_\_\_

**Current Address:** \_\_\_\_\_

\_\_\_\_\_

**Previous Addresses:** \_\_\_\_\_

\_\_\_\_\_

**Area(s) within the Council where you feel your personal data is held:** \_\_\_\_\_

\_\_\_\_\_

**Approximate date of personal data requested:** \_\_\_\_\_

**Your relationship to the Council:** \_\_\_\_\_

**Checklist**

- I have enclosed copies of two items of identification ☐
- I have enclosed a £10.00 fee ☐
- I have signed this form ☐

I hereby request details of personal data concerning me which are held by Council within 40 days of your receipt of this form, provided that I have properly completed all details and enclosed all relevant information. I give my express consent to Mid Ulster District Council to use, store and process the personal data on this form for the purpose of responding to my subject access request made pursuant to Section 7 of the Data Protection Act 1998.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## **Managing Notification of Breavements to Council**

DRAFT



Document Control			
<b>Policy Owner</b>	Head of Democratic Services (TBC)		
<b>Policy Author</b>	Change Manager, Mid Ulster Council		
<b>Version</b>	v1.0		
<b>Consultation</b>	Transition Management Team	Yes / No	
	Trade Unions	Yes / No	
<b>Equality Screened by</b>		<b>Date</b>	
<b>Equality Impact Assessment</b>	Yes / No	<b>Date</b>	
<b>Approved By</b>	Policy & Resources Committee	<b>Date</b>	
<b>Adopted By</b>	Council	<b>Date</b>	
<b>Review Date</b>	January 2016	<b>By Whom</b>	
<b>Circulation</b>	Mid Ulster Council Members Committee Support Services, Democratic Services		
<b>Document Linkages</b>	Mid Ulster District Council Standing Orders		

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## **1.0 INTRODUCTION**

- 1.1 This policy has been compiled to complement and inform Mid Ulster District Council Standing Orders which guide the regulation of business at its council and committee meetings.

## **2.0 POLICY AIM AND OBJECTIVES**

- 2.1 The overall aim is to confirm and clarify how bereavements may be raised and acknowledged at meetings of council and its associated committees. This will inform members on the efficient and smooth transaction of business.

## **3.0 POLICY SCOPE**

- 3.1 This policy is targeted at all members of council to inform them on the handling and acceptance of acknowledgements of bereavements. Officers charged with the management and administration of meetings should also observe the policy to ensure its application during the transaction of business.

## **4.0 LINKAGE TO CORPORATE PLAN**

- 4.1 This policy contributes towards the delivery of corporate priority, *Systems to Underpin and Deliver Services*, within the Mid Ulster Council's corporate plan for the transitional period 2014-15. This policy contributes to the transaction of corporate business of council.

## **5.0 PROCEDURE AND IMPLEMENTATION**

- 5.1 Due to the comprehensive nature of meeting agendas, the extent of business requiring transaction and in the interests of only considering business of relevance to council bereavements will not be taken and recorded in minutes on the transaction of business.
- 5.2 Except in the case of business required by statute, or when in the opinion of the chairperson of the meeting the business should be considered by the meeting as a matter of urgency, no business shall be transacted at a meeting of council, a committee or sub-committee other than that specified in the summons for the meeting. Reference in this case should be made to Council's Standing Orders, 4 (3).

## **6.0 ROLES AND RESPONSIBILITIES**

**6.1 Members** should familiarise themselves with and observe this policy during their participation at council and committee meetings.

**6.2 Officers** involved in administering and supporting council and committee meetings should advise Chairpersons on the application of this policy

## **7.0 IMPACT ASSESSMENT**

### **7.1 Equality Screening and Impact**

7.1.1 The policy is currently in draft form and has yet to be subjected to an Equality Screening process to identify if the out workings of the policy could have an adverse impact on the Sec. 75 categories identified within the Northern Ireland Act 1998.

### **7.2 Staff and Financial Resources**

7.2.1 It is not considered that there will be a significant impact on staff and resources on the implementation of this policy.

## **8.0 SUPPORT AND ADVICE**

**8.1** Advice on the application of this policy can be obtained from Head of Democratic Services and officers as delegated with responsibility within the Service.

## **9.0 COMMUNICATION ARRANGEMENTS**

**9.1** Democratic Services will arrange for the Policy to be distributed to all Members and be included within member induction packs provided following their election to Mid Ulster Council. This policy will be appended to the Standing Orders used by the Chairpersons of council and committees to guide the regulation of business transacted.

## **10.0 MONITORING AND REVIEW ARRANGEMENTS**

**10.1** Application and compliance with this policy will be monitored by Democratic Services. A formal review of this policy will be undertaken two years from its adoption by council.

C

<b>Subject</b>	Appointment of Winding up Officer and Internal Auditors for Mid Ulster District Council
<b>Reporting Officer</b>	Lead Finance Officer

<b>1</b>	<b>Purpose of Report</b>
1.1	As notified to Committee at its meeting on 2 September 2014 (paper PPR 28/14 which dealt with the Guidance on the Financial Operation of New Councils during the Shadow Period), Council is required to maintain an adequate system of internal audit and designate an officer to have responsibility for the winding up of the predecessor councils. The officer has also to ensure the preparation of the predecessor councils' accounts in the requisite format.
1.2	This report seeks to provide Members with the information necessary to discharge both duties.

<b>2</b>	<b>Background</b>
2.1	<u>Internal Audit function</u>
2.1.1	Regulation 3(A)(1) of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006 as amended by the Local Government (Accounts and Audit) (Amendment) Regulations (Northern Ireland) Regulations 2006 requires all local government bodies whose accounts are to be subject to audit by a local government auditor (i.e. including new councils) to maintain an adequate and effective system of internal audit.
2.1.2	Paragraph 3.2 of the Guidance issued to councils on the financial operation of new councils during the shadow period states "new councils may utilise the financial expertise, systems and controls of the administrative council." Paragraph 3.3 states, in relation to the requirement to maintain an adequate and effective system of internal audit, "a new council may adopt the systems, financial policies and procedures of the administrative council to meet its legislative obligations."
2.2	<u>Winding up arrangements</u>
2.2.1	Regulation 11(1) of the Local Government (Transitional, Supplementary Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 requires a new council to designate an officer as having responsibility for the winding up of its predecessor councils.
2.2.2	Regulation 11(2) requires the designated officer to ensure that the final statement of accounts of the predecessor councils are prepared in the form required by Regulation 4 of the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2006 as amended by the Local Government

	(Accounts and Audit) (Amendment) Regulations (Northern Ireland) Regulations 2006.
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<b>3</b>	<b>Key Issues</b>
3.1	<u>Internal Audit function</u>
3.1.1	The administrative council is Dungannon and South Tyrone Borough Council and its internal audit function is delivered by outsourcing to Deloitte.
3.1.2	Although it is possible that Deloitte's existing operational internal audit plan for Dungannon and South Tyrone Borough Council already includes provision for sufficient audit resource to confirm that Mid Ulster District Council's has an adequate and effective system of internal control, it is appropriate that the officers be authorised to engage with Deloitte to ensure that this is the case.
3.2	<u>Winding up arrangements</u>
3.2.1	Section 1(2) of the Local Government Act (Northern Ireland) 2011 states:  "A council shall designate an officer of the council as its chief financial officer"
3.2.2	As Mid Ulster District Council has already designated the Chief Executive as the Chief Financial Officer of Mid Ulster District Council, it makes sense for the Chief Executive to also be designated as having responsibility for winding up the predecessor councils.

<b>4</b>	<b>Resources</b>
4.1	<u>Financial</u>
4.1.1	<u>Internal Audit function</u>
4.1.1.1	Potentially a per diem rate to be agreed with Deloitte if sufficient resource has not been reserved in Dungannon and South Tyrone Borough Council's operational internal audit plan.
4.1.2	<u>Winding up arrangements</u>
4.1.2.1	N/A
4.2	<u>Human</u>
4.2.1	N/A
4.3	<u>Basis for Professional/ Consultancy Support</u>
4.3.1	See comments re Deloitte above
4.4	<u>Other</u>

4.4.1	N/A
-------	-----

<b>5</b>	<b>Other Considerations</b>
5.1	N/A

<b>6</b>	<b>Recommendations</b>
6.1	<p>That the Committee recommends to Council that:</p> <ul style="list-style-type: none"> <li>(1) The officers engage with Deloitte to ensure that adequate internal resource is reserved to deliver upon the Council's duty to have an adequate and effective internal audit function</li> <li>(2) The Chief Executive be designated as having responsibility for the winding up of the predecessor councils</li> </ul>

<b>7</b>	<b>List of Documents Attached</b>
7.1	N/A



**D**

**Subject** Regional and Minority Languages - Draft Policy

**Reporting Officer** Chief Executive

<b>1</b>	<b>Purpose of Report</b>
1.1	To advise Members of the preparation of draft policy documents in respect of Regional and Minority Languages and to seek authority to assess the equality impacts of the draft policies.

<b>2</b>	<b>Background</b>
2.1	Council's obligations in respect of Irish and Ulster Scots arise from commitments the UK Government made when the European Charter for Regional and Minority Languages (The Charter) was signed and ratified. The Charter is an international convention designed to protect and promote regional and minority languages. It is designed to protect and promote regional and minority language as a threatened aspect of Europe's cultural heritage. The Charter does not cover sign language or the languages of minority ethnic communities.

<b>3</b>	<b>Key Issues</b>
3.1	<p>The Mid Ulster Council area is made up of a multi-cultural and multi lingual society with linguistic diversity forming part of the cultural and historical heritage of the area. The 2011 census indicates that out of a Mid Ulster District population of 132,025:</p> <ul style="list-style-type: none"> <li>• 22,984 or 17.4% of the population have some ability in Irish;</li> <li>• 8,063 or 6.1% of the population could speak, read, write and understand Irish;</li> <li>• 8,131 or 6.2% of the population have some ability in Ulster Scots; and</li> <li>• 1,056 or 0.8% of the population could speak, read, write and understand Ulster Scots.</li> </ul>

	The European Charter places an onus on Council to proactively promote Irish and Ulster Scots. The district has a growing Irish speaking population and Ulster Scots culture that can enhance the rich linguistic nature and culture of the area and so add to the appeal of the district as a tourist destination. It is therefore proposed to develop an Irish Language Policy and Ulster Scots Policy for the Mid Ulster Council.
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<b>4</b>	<b>Resource</b>
4.1	<p><b><u>Financial</u></b></p> <p>The draft policies will need to be equality screened and may be subject to an EQIA. Professional support of £9,000 would be required to undertake the EQIA</p>
4.2	<b><u>Human resources</u></b> - N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> – N/A
4.4	<b><u>Other implications</u></b> - N/A

<b>5</b>	<b>Other Considerations</b>
5.1	None

<b>6</b>	<b>Recommendations</b>
6.1	Members are asked to consider and comment on the Draft Mid Ulster District Council Irish Language Policy and Draft Mid Ulster District Council Ulster Scots Language Policy.
6.2	Approval is sought to assess the equality impacts of the draft policies.

<b>7</b>	<b>Documents Attached</b>
7.1	<p>Appendix 1 Draft Mid Ulster District Council Irish Language Policy</p> <p>Appendix 2 Draft Mid Ulster District Council Ulster Scots Language Policy</p>

**DRAFT Mid Ulster District Council  
Irish Language Policy**

**DRAFT**

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## Introduction

### Relevant Legislation and Guidance

#### The European Charter for Regional or Minority Languages

The European Charter for Regional or Minority Languages (Part 2 – applies to Irish Language and Ulster Scots), within the territories in which such languages are used and according to the situation of each language, requires Parties to base their policies on:

- The need for resolute action to promote regional or minority languages in order to safeguard them; and
- Facilitation and/or encouragement of the use of regional or minority languages in speech and writing in private and public life.

In particular, Part 3 Article 10 details the Council's obligations as follows:

- Within the Administrative district of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible to:
  - Ensure that users of regional or minority languages may submit oral or written applications in these languages;
  - Allow the administrative authorities to draft documents in a regional or minority language;
- In respect of the local and regional authorities on whose territory the number of users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:
  - The possibility for users of regional or minority languages to submit oral or written applications in these languages;
  - The use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however the use of the official language of the state;
  - The use or adoption, if necessary in conjunction with the name in the official language(s) of traditional and correct forms of place-names in regional or minority languages.
- With regard to public services provided by the administrative authority or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible, to:
  - Allow users of regional or minority languages to submit a request in these languages.

- With a view to putting into effect the above provisions accepted by them, the Parties undertake to take one or more of the following measures:
  - Translation or interpretation as may be required.
- The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

With regard to cultural activities and facilities, Article 12 of the European Charter also details the Council's obligations to ensure that when organising or supporting cultural activities, they make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing.

Article 12 details the following obligations:-

- With regard to cultural activities and facilities, especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas as well as literary work and film productions, vernacular forms of cultural expression, festivals and the cultural industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:
  - to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;
  - to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;
  - to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned as well as of the language(s) of the rest of the population;
  - to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities.

Article 14, Transfrontier Exchanges encourages the Council to foster contacts between users of Irish on a cross border basis “for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form”.

The European Charter is based on a concept of non-discrimination, that is, the majority language group is not discriminated against by the implementation of actions designed to promote and protect the minority indigenous languages.

“The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages”.

### **The Belfast Agreement (1998)**

The Belfast Agreement (1998) under section ‘Rights, Safeguards and Equality of Opportunity: Economic, Social and Cultural Issues (Point 4)’ gives recognition to the Irish language, in particular where appropriate and where people so desire it to:

- Take resolute action to promote the language;
- Facilitate and encourage the use of Irish in speech and writing, in private and public life where there is appropriate demand;
- Seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;
- Make provision for liaising with the Irish language community, representing their views to public authorities and investigating complaints;
- Place a statutory duty on the Department of Education to encourage and facilitate Irish medium education in line with current provision for integrated education;
- Explore urgently with the relevant British authorities, and in cooperation with the Irish Broadcasting authorities, the scope for achieving more wide spread availability of Teilifis na Gaeilge in Northern Ireland;
- Seek more efficient ways to encourage and provide financial support for Irish language film and television production in Northern Ireland; and
- Encourage the parties to secure agreement that this commitment will be sustained by the new Assembly in a way which takes account of the desires and sensitivities of the community.



### **Northern Ireland (St Andrew's Agreement) Act 2006**

This Act places a duty on the Northern Ireland Executive to adopt a strategy for the enhancement and protection of the Irish language.

### **European Charter on Human Rights**

The NI Human Rights Commission has advised that, from a human rights perspective, it is difficult to see any legitimate grounds for objecting to a minority language being promoted by an employer or, more generally, a public body.

On broader issues, the Commission has drawn attention to the fact that there is no "right to be offended" by another party exercising a right. This is a general principle of freedom of expression (ECHR Article 10) which can be read in conjunction with ECHR Article 14 on non-discrimination on grounds that include language.

The Commission has advised that the right to use a regional or minority language in private and public life is an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights (ICCPR), and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

The Commission has concluded that official acknowledgement of a minority language cannot constitute a violation of the rights of those who do not use that language.

### **DCAL Consultative Document 2012 - Draft Strategy for Protecting and Enhancing the Development of the Irish Language**

In July 2012 DCAL published a consultative document containing proposals for a strategy for protecting and enhancing the development of the Irish language, with a consultation period lasting for 20 weeks, from Wednesday 11 July until Tuesday 27 November 2012. The results of the consultation are not yet available.

The consultative document sets out a number of key aims of the draft Irish language strategy:

- To create a framework where Irish can flourish and be shared by all who wish to use it;
- To protect and support the development and learning of Irish; and
- To promote wider understanding of the background to the Irish language.

The draft strategy has the following objectives:

- To increase the number of those who can access Irish medium education;
- To increase the number of those that use public services through the Irish language; and
- To increase access to Irish language media.

Key areas for action include:

1. Education
2. Family Transmission of the Language – Early Intervention
3. Administration, Services and Community
4. Media and Technology
5. Legislation and the Status of the Language
6. Economic Life

Under the administration heading, the draft strategy specifically states that local authorities should:

- Adopt Irish language policies and plans and appoint Irish language officers where needed;
- Maximise the provision of services through Irish;
- Expand/initiate facilities for the use of Irish in their council/committee meetings;
- Guard against any diminution of services provided through the Irish language as a result of those authorities with Irish language policies and services being merged under the Review of Public Administration (RPA) with those authorities that do not;
- Provide an Irish or bilingual version of all publications, official documents and forms in line with the approach of this Strategy and the European Charter for Regional or Minority Languages;
- Facilitate the proper preservation and signposting of Irish place-names and the naming of new housing developments to reflect local or national heritage; and
- Encourage tourism and cultural initiatives through Irish.

The draft strategy envisages Foras na Gaeilge providing support to local authorities to develop language planning initiatives. It also envisages that an Irish Language Bill will be prepared and presented to the Assembly at the earliest possible time.

## **Policy Aim and Objectives**

Mid Ulster District Council recognises that we live in a multi-cultural and multi lingual society and that the Irish language is an integral part of the linguistic, cultural and historical heritage of this area.

Irish is the first official language of the Republic of Ireland and was accorded minority language status in Northern Ireland by the UK Government in March 2000. Irish was made an official working language of the European Union on 1<sup>st</sup> January 2007.

The 2011 Census indicates that 22,984 people (17.4%) out of a district population of 132,025 have some knowledge of Irish. In particular 8,063 (6.1%) people could speak, read, write and understand Irish. As such the Council recognises that the proactive promotion of Irish, as well as catering for the needs of its growing Irish speaking population, can enhance the rich linguistic culture of the area and add to the appeal of the area as a tourist destination. This policy will facilitate and encourage the use of Irish in speech and writing, in private and public life.

### **Policy Aim**

Operating within the spirit of the European Charter for Regional or Minority Languages, and having due regard to the status afforded to Irish within that Charter, Mid Ulster District Council aims to take resolute and positive actions that will aspire to promote, enhance and protect the Irish language within the Council and District.

### **Policy Objectives**

- To encourage the use of Irish in both speech and writing within the District and Council.
- To promote a range of initiatives that will reduce intolerance and promote understanding of the Irish language across the District and within the Council.
- To preserve townland names through the use of appropriate signage.
- To recognise and celebrate the Irish language within the broader context of linguistic and cultural diversity across the District and Council.
- To maintain and develop links between groups using Irish with other groups using Irish and/or Ulster Scots.

## **Policy Guiding Principles**

The Mid Ulster District Council Irish Language Policy is based on the requirements of Parts II and III of the European Charter for Regional or Minority Languages. The policy presents a number of guiding principles from which the Council will implement a range of positive actions to promote, enhance and protect the Irish language whilst encouraging its use in speech and writing in private and public life. Specific measures for implementation relating to each guiding principle are included in Appendix 1.

### **Guiding Principle 1: Support for the Irish Language**

Mid Ulster District Council is committed to the protection and encouragement of the Irish Language. The Council recognises that the Irish language is an expression of cultural wealth and there is a need for the Council to promote Irish in order to help safeguard and strengthen it.

To this end:

- The Council will prepare a plan for the Mid Ulster Council area on how it will promote the development and promotion of the Irish language. The development plan will identify opportunities to promote and learn the language; and
- The Council, through implementation of the plan, will encourage better understanding of the shared linguistic heritage of Irish. It will also recognise the contribution that the Irish Language can make to the vibrant society within Mid Ulster.

### **Guiding Principle 2: Publications**

The Council's corporate identity will be English and Irish although English will remain the language of communication internally. Employees wishing to communicate with each other in Irish will be facilitated. With regard to Council publications, our policy will facilitate Irish speakers to communicate with the Council orally and in written format through the medium of Irish. All written / printed materials produced by Mid Ulster District Council for public consumption will include Irish where appropriate.

To this end:

- Key corporate documents e.g. Corporate Plan, Annual Report will be made available in English and Irish format;
- Design / publishing of material in the Irish language will be of an equal standard with the same material in English; and
- Council literature and forms should be available to the public in English and Irish format where appropriate, according to need and as resources allow.

**Guiding Principle 3: Publicity**

Mid Ulster District Council will encourage and support radio, TV and video work that broadcast in English and Irish format.

To this end:

- The Council will build relationships with the Irish language media; and
- Where possible and appropriate, media work carried out by Mid Ulster District Council will contain English and Irish elements.

**Guiding Principle 4: Correspondence**

Mid Ulster District Council will ensure that users of Irish may submit oral or written communications in Irish. Mid Ulster District Council will correspond in the chosen language of the recipient, where this choice is known.

To this end:

- Users of Irish may submit oral or written correspondence in Irish to Mid Ulster District Council;
- Any correspondence received in Irish will be responded to in Irish; and
- Translation or interpretation will be available to all staff as may be required.

**Guiding Principle 5: Presentations / Public Speaking / Events**

Mid Ulster District Council will ensure that in planning its presentations, events and festivals that appropriate allowance is made for incorporating the knowledge and use of the Irish language and culture.

To this end Mid Ulster District Council will:

- Use increasing amounts of Irish in presentations;
- Provide simultaneous translation services on request; and
- Where appropriate, incorporate the Irish language and culture within events, festivals and civic celebrations.

**Guiding Principle 6: Staff and Administrative Practices**

Mid Ulster District Council will train Council officers in the detail of this policy so that they will be able to respond appropriately to enquiries in Irish. Staff will be encouraged to use what Irish they have. Fluency in Irish will not be a requirement for any position that would not ordinarily justify the appointment of an Irish speaker.

To this end Mid Ulster District Council will:

- Offer appropriate training and guidance to staff;
- Provide translation services to staff; and
- Provide Irish versions of internal documentation for use by staff on request.

### **Guiding Principle 7: Visibility of Irish**

Mid Ulster District Council will enhance the visibility of Irish and foster different means of accessing the language as part of everyday life.

To this end Mid Ulster District Council will:

- Devise a corporate identity to include Irish reproduced in the same quality and presentational standards and status as English;
- Devise a phased implementation plan for the erection of English and Irish internal and external signage on all Mid Ulster District Council owned properties;
- Initiate a settlement signage programme on request; and
- Maintain an English and Irish street signage programme.

## Appendix 1 – Guiding Principles Specific Measures for Implementation

Timeframe relates to Year 1 – Year 4 of the first term of the Mid Ulster District Council.

Guiding Principle	Measures for Implementation	Timeline
<b>Support for the Irish language</b>	Prepare and implement plan on the development and promotion of the Irish language.	Year 1 – Year 4
<b>Publications</b>	Annual Reports and Corporate Plans will be made available in English and Irish format.	Year 1 and annually
	Mid Ulster District Council's website will include an English and Irish format with the Irish language text updated in line with the English text where possible. Those pages on Mid Ulster District Council's website receiving most user traffic, for example main front pages, will be available initially in English and Irish format. Headings of dynamic sections will also be of English and Irish format, while eventually the entire web site will be English and Irish.	Year 1 – Year 4
	According to needs and as resources allow forms will be produced in English and Irish format.	Year 1
	The format for English and Irish materials will be Irish and English, side-by-side, with both languages of equal size.	Year 1 – Year 4
	According to need and as resources allow, information leaflets, flyers and other Council literature should be available to the public in English and Irish format where appropriate. It is recommended that all such literature should be English and Irish as opposed to being separately produced, in Irish and in English.	Year 1 – Year 4
	Material aimed exclusively at users of Irish may be produced in Irish only.	Year 1 – Year 4
	Newsletters / bulletins will contain articles in Irish, where appropriate.	Year 1 – Year 4

Guiding Principle	Measures for Implementation	Timeline
	Design/ publishing of material in the Irish language will be of an equal standard with the same material in English.	Year 1 – Year 4
<b>Publicity</b>	Relationships with the Irish language media will be established and maintained with press releases being issued in Irish and in English where appropriate.	Year 1 – Year 4
	Where possible and appropriate, radio, T.V. and video work carried out by members of Mid Ulster District Council will contain significant English and Irish elements. Employees will not be excluded from radio, T.V. and video work because of a lack of knowledge of the Irish language.	Year 1 – Year 4
<b>Correspondence</b>	In written communications of English and Irish format, both languages will be placed side-by-side, with the Irish version on the left and the English on the right, or if this is not practicable, by placing the Irish version above the English.	Year 1 – Year 4
	The letterhead and logo of the organisation will be English and Irish.	Year 1 – Year 4
	Any correspondence received in Irish will be responded to in Irish.	Year 1 – Year 4
	When initiating correspondence, Mid Ulster District Council will correspond in the chosen language of the recipient, where this choice is known.	Year 1 – Year 4
	All staff within each department will be trained in the Courtesy Code for Irish which will also make provision for courtesy to employees of the Council who do not speak Irish but come in contact with a member of the public who wishes to communicate in Irish. Contact details for Irish speaking staff will be made known so that a pool of fluent speakers is available to handle enquiries from the public.	Year 1



Guiding Principle	Measures for Implementation	Timeline
	Translation or interpretation will be available to all staff as may be required.	Year 1 – Year 4
<b>Presentations / Public Speaking / Events</b>	Representatives of Mid Ulster District Council, who are comfortable to do so, will aim to use increasing amounts of Irish in their presentations. Standard practice of using Irish at formal occasions and public meetings will be actively promoted.	Year 1 – Year 4
	Visual presentation on PowerPoint or other systems will be English and Irish where appropriate. When English and Irish presentations need to be made, simultaneous translation services will be made available to employees who have no knowledge of the Irish language.	Year 1 – Year 4
	Where large-scale public events are planned, simultaneous translation systems will be made available on request	Year 1 – Year 4
	Mid Ulster District Council will ensure that festivals/ civic celebrations which the Council organises or supports make appropriate allowance for incorporating the knowledge and use of the Irish language and culture.	Year 1 – Year 4
<b>Staff and Administrative Practices</b>	Guidance will be offered to receptionists and telephonists so that they will be able to respond appropriately to enquiries in Irish.	Year 1
	Irish versions of all internal documentation will be made available for use by staff on request e.g. order forms, pay slips, time sheets etc. Translation services will be made available to employees who have no knowledge of the Irish language but who are required to process internal documentation that is in Irish. Administrative staff will ensure that all staff can access the Irish language accent command (Alt Gr+vowel) on all computers.	Year 1 – Year 4
	Translation, correction and proof-reading	Year 1 – Year 4

Guiding Principle	Measures for Implementation	Timeline
	services will be made available to all staff and external providers of these services will be quality-assured.	
	Irish classes at different levels will be available as part of an in-service training programme for staff who wish to avail of it.	Year 1 – Year 4
	All staff will be encouraged to use what Irish they have. Encouragement will be given to the establishment of informal Irish speaking lunches, conversation classes etc. in employees' own time to be convened by Mid Ulster District Council, with the assistance of external groups/individuals when required.	Year 1 – Year 4
	Mid Ulster District Council recognises the importance of identifying situations or posts in which the use of Irish is an essential duty of the job. Fluency in the Irish language will not be a requirement for any position that would not ordinarily justify the appointment of an Irish speaker.	Year 1 – Year 4
<b>Visibility of Irish</b>	An implementation plan will be devised for branding, logos and the erection of English and Irish internal and external signage on all Mid Ulster Council owned properties including buildings and offices.	Phased
	An approach using English and Irish will be taken to advertising where appropriate.	Year 1 – Year 4
	Council's street signage programme of English and Irish, resident-liaison and street-name translation index service will be maintained.	Year 1 – Year 4
	An English and Irish settlement signage programme will be initiated on request.	Year 1 – Year 4

**DRAFT Mid Ulster District Council  
Ulster Scots Policy**

**DRAFT**

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## **Introduction**

### **Relevant Legislation and Guidance**

#### **The European Charter for Regional or Minority Languages**

The European Charter for Regional or Minority Languages (Part 2 – applies to Ulster-Scots Language and Ulster-Scots), within the territories in which such languages are used and according to the situation of each language, requires Parties to base their policies on:

- The need for resolute action to promote regional or minority languages in order to safeguard them; and
- Facilitation and/or encouragement of the use of regional or minority languages in speech and writing in private and public life.

Part II of the Charter highlights the need to base policies, legislation and practice on the principles of recognising, promoting and encouraging the use of Ulster-Scots to preserve and safeguard the language. Part II of the Charter places the onus on the Council to proactively encourage the use of Ulster-Scots in speech and writing in private and public life.

#### **The Belfast Agreement (1998)**

The Belfast Agreement (1998) under section 'Rights, Safeguards and Equality of Opportunity: Economic, Social and Cultural Issues' also makes reference to Ulster-Scots.

Paragraph 3:

"3. All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Ulster-Scots language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland."

Following the signing of The Belfast Agreement (1998) an Ulster-Scots language body was created; the Boord o Ulstèr-Scotch which seeks to "promote the study, conservation and development of Ulster-Scots as a living language; to encourage and develop the full range of its attendant culture; and to promote an understanding of the history of the Ulster-Scots people".

In 2003 the British and Irish Governments released a Joint Declaration as part of a move towards the re-establishment of devolution. The Governments stated that they intended to expand on the commitments given to Ulster-Scots within The Belfast

Agreement (1998) “The British Government... will also take steps to encourage support to be made available for an Ulster-Scots academy”.

### **Northern Ireland (St Andrew’s Agreement) Act 2006**

Additional provisions were made for Ulster-Scots in the St Andrew’s Agreement – Annex B, in which it states:

“The Government firmly believes in the need to enhance and develop the Ulster-Scots language, heritage and culture and will support the incoming Executive in taking this forward”

### **European Charter on Human Rights**

The NI Human Rights Commission has advised that, from a human rights perspective, it is difficult to see any legitimate grounds for objecting to a minority language being promoted by an employer or, more generally, a public body.

On broader issues, the Commission has drawn attention to the fact that there is no “right to be offended” by another party exercising a right. This is a general principle of freedom of expression (ECHR Article 10) which can be read in conjunction with ECHR Article 14 on non-discrimination on grounds that include language.

The Commission has advised that the right to use a regional or minority language in private and public life is an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights (ICCPR), and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

The Commission has concluded that official acknowledgement of a minority language cannot constitute a violation of the rights of those who do not use that language.

### **DCAL Consultative Document 2012 – Draft Strategy for Ulster-Scots**

In July 2012 DCAL published a consultative document containing proposals for a strategy for the Ulster-Scots language, heritage and culture as a key building block under Priority 4 ‘Building a Strong and Shared Community’ in the Executive’s Programme for Government 2011-2015. There was a consultation period lasting for 20 weeks, from Wednesday 11 July until Tuesday 27 November 2012. The results of the consultation are not yet available.

The purpose of this public consultation was to seek views and feedback on the content of the draft Ulster-Scots language, heritage and culture strategy, which includes aims, objectives and areas for action to proactively protect, enhance and develop the Ulster-Scots language, heritage and culture.

The key aims of the draft strategy are to:

- Create a framework where the Ulster-Scots language, heritage and culture can flourish and be shared and enjoyed;
- Protect and support the development and learning the Ulster-Scots language, heritage and culture; and
- Promote wider understanding and recognition of the Ulster-Scots language, heritage and culture.

The draft strategy has the following objectives:

- Increase educational provision of all aspects of Ulster-Scots language, heritage and culture;
- Increase access to Ulster-Scots language media including online material;
- Promote the economic benefits of the Ulster-Scots language, heritage and culture; and
- Promote research in relation to the Ulster-Scots language, heritage and culture.

Key areas for action to protect, enhance and develop the Ulster-Scots language, heritage and culture include Education, Media, Use of Language, Public Services, Culture.

## **Policy Aim and Objectives**

Mid Ulster District Council recognises that we live in a multi-cultural and multi lingual society and that Ulster-Scots contributes to the linguistic, cultural and historical heritage of this area. The 2011 Census indicates that 8,131 people (6.2%) out of a district population of 132,025 have some knowledge of Ulster-Scots. In particular 1,056 (0.8%) people could speak, read, write and understand Ulster-Scots.

As such the Council recognises that the proactive promotion of Ulster-Scots, as well as catering for the needs of its growing Ulster-Scots speaking population, can enhance the rich linguistic culture of the area and add to the appeal of the area as a tourist destination. This policy will facilitate and encourage the use of Ulster-Scots in speech and writing, in private and public life.

### **Policy Aim**

Operating within the spirit of the European Charter for Regional or Minority Languages, and having due regard to the status afforded to Ulster-Scots within that Charter, Mid Ulster District Council aims to take positive action to promote the use of Ulster-Scots in the District and within the Council.

### **Policy Objectives**

- To facilitate and encourage the use of Ulster-Scots in both speech and writing within the District and Council;
- To promote a range of initiatives that will reduce intolerance and promote understanding of Ulster-Scots across the District and within the Council; and
- To recognise and celebrate Ulster-Scots within the broader context of linguistic and cultural diversity across the District and Council; and
- To maintain and develop links between groups using Ulster-Scots with other groups using Ulster-Scots and/or Irish.

### **Policy Guiding Principles**

The Mid Ulster District Council Ulster-Scots Language Policy is based on the requirements of Part II of the European Charter for Regional or Minority Languages. The policy presents a number of guiding principles from which the Council will implement a range of positive actions to promote, enhance and protect the Ulster-Scots language whilst encouraging its use in speech and writing in private and public life. Specific measures for implementation relating to each guiding principle are included in Appendix 1.



**Guiding Principle 1: Support for the Ulster-Scots Language**

Mid Ulster District Council is committed to the protection and encouragement of the Ulster-Scots language. The Council recognises that the Ulster-Scots language is an expression of cultural wealth and there is a need for the Council to promote Ulster-Scots in order to help safeguard it.

To this end:

- The Council will prepare a plan for the Mid Ulster Council area on how it will promote the development and promotion of the Ulster-Scots Language. The development plan will identify opportunities to promote and learn the language; and
- The Council, through implementation of the plan, will encourage better understanding of the shared linguistic heritage of Ulster-Scots. It will also recognise the contribution that the Ulster-Scots language can make to a vibrant society within Mid Ulster.

**Guiding Principle 2: Publications**

With regard to Council publications, our policy will facilitate Ulster-Scots speakers to communicate with Council orally and in written format through the medium of Ulster-Scots. Written/printed materials produced by Mid Ulster District Council for public consumption will include Ulster-Scots where appropriate. Employees wishing to communicate with each other in Ulster-Scots will be facilitated.

To this end:

- Design/publishing of material in the Ulster-Scots Language will be of an equal standard with the same material in English.

**Guiding Principle 3: Publicity**

Mid Ulster District Council will encourage and support radio, TV and video work that broadcast in English and Ulster-Scots format.

To this end:

- The Council will build relationships with the Ulster-Scots language media; and
- Where possible and appropriate, media work carried out by Mid Ulster District Council will contain English and Ulster-Scots elements.

**Guiding Principle 4: Correspondence**

Mid Ulster District Council will ensure that users of Ulster-Scots may submit oral or written communications in Ulster-Scots. Mid Ulster District Council will correspond in the chosen language of the recipient, where this choice is known.

To this end:

- Users of Ulster-Scots may submit oral or written correspondence in Ulster-Scots to Mid Ulster District Council;
- Any correspondence received in Ulster-Scots will be responded to in Ulster-Scots; and
- Translation or interpretation will be available to all staff as may be required.

### **Guiding Principle 5: Presentations / Public Speaking / Events**

Mid Ulster District Council will ensure that in planning its presentations, events and festivals that appropriate allowance is made for incorporating the knowledge and use of the Ulster-Scots language.

To this end Mid Ulster District Council will:

- Permit the use of Council facilities for Ulster-Scots language sessions
- Establish an Ulster-Scots courtesy code.

### **Guiding Principle 6: Staff and Administrative Practices**

Mid Ulster District Council will train Council officers in the detail of this policy so that they will be able to respond appropriately to enquiries in Ulster-Scots. Fluency in Ulster-Scots will not be a requirement for any position that would not ordinarily justify the appointment of an Ulster-Scots speaker.

To this end Mid Ulster District Council will:

- Offer appropriate training and guidance to staff; and
- Provide translation services to staff.

### **Guiding Principle 7: Visibility of Ulster-Scots**

Mid Ulster District Council will enhance the visibility of Ulster-Scots and foster different means of accessing the language.

To this end Mid Ulster District Council will:

- Provide language awareness/development sessions for staff
- Promote linkages between Ulster-Scots and/or Irish language groups

## Appendix 1 – Guiding Principles Specific Measures for Implementation

Timeframe relates to Year 1 – Year 4 of the first term of the Mid Ulster District Council.

Guiding Principle	Measures for Implementation	Timeline
<b>Support for Ulster-Scots Culture and Heritage</b>	Prepare and implement plan on the development and promotion of the Ulster-Scots language and culture.	Year 1 – Year 4
<b>Publications</b>	The format for English and Ulster-Scots materials will be Ulster-Scots and English, side-by-side, with both languages of equal size.	Year 1 – Year 4
	According to need and as resources allow, an increasing amount of Council literature should be available to the public in an English and Ulster-Scots format where appropriate. It is recommended that all such literature should be English and Ulster-Scots as opposed to being separately produced, in Ulster-Scots and in English.	Year 1 – Year 4
	Material aimed exclusively at users of Ulster-Scots may be produced in Ulster-Scots only.	Year 1 – Year 4
	Newsletters / bulletins will contain articles in Ulster-Scots, where appropriate.	Year 1 – Year 4
	Design/ publishing of material in the Ulster-Scots language will be of an equal standard with the same material in English.	Year 1 – Year 4
<b>Publicity</b>	Relationships with the Ulster-Scots language media will be established and maintained with press releases being issued in Ulster-Scots and in English where appropriate.	Year 1 – Year 4
	Where possible and appropriate, radio, T.V. and video work carried out by members of Mid Ulster District Council	Year 1 – Year 4

Guiding Principle	Measures for Implementation	Timeline
	will contain significant English and Ulster-Scots elements. Employees will not be excluded from radio, T.V. and video work because of a lack of knowledge of the Ulster-Scots language.	
<b>Correspondence</b>	In written communications of English and Ulster-Scots format, both languages will be placed side-by-side, with the Ulster-Scots version on the left and the English on the right, or if this is not practicable, by placing the Ulster-Scots version above the English.	Year 1 – Year 4
	Any correspondence received in Ulster-Scots will be responded to in Ulster-Scots.	Year 1 – Year 4
	All staff within each department will be trained on the Courtesy Code for Ulster-Scots which will also make provision for courtesy to employees of the Council who do not speak Ulster-Scots but come in contact with a member of the public who wishes to communicate in Ulster-Scots.	Year 1
	Translation or interpretation will be available to all staff as may be required.	Year 1 – Year 4
<b>Presentations/Public Speaking/Events</b>	Visual presentation on PowerPoint or other systems will be English and Ulster-Scots where appropriate. When English and Ulster-Scots presentations need to be made, simultaneous translation services will be made available to employees who have no knowledge of the Ulster-Scots language.	Year 1 – Year 4
<b>Staff and Administrative Practices</b>	Guidance will be offered to receptionists and telephonists so that they will be able to respond appropriately to	Year 1

Guiding Principle	Measures for Implementation	Timeline
	enquiries in Ulster-Scots.	
	Translation, correction and proof-reading services will be made available to all staff and external providers of these services will be quality-assured.	Year 1 – Year 4
	Mid Ulster District Council recognises the importance of identifying situations or posts in which the use of Ulster-Scots is an essential duty of the job. Fluency in the Ulster-Scots language will not be a requirement for any position that would not ordinarily justify the appointment of an Ulster-Scots speaker.	Year 1 – Year 4
	Ulster-Scots classes at different levels will be available as part of an in-service training programme for staff who wish to avail of it.	Year 1 – Year 4
<b>Visibility of Ulster-Scots</b>	Promote linkages between Ulster-Scots and/or Irish language groups	Year 1 – Year 4
	Ulster-Scots language text will be increasingly incorporated into Mid Ulster District Council's website. Those pages on Mid Ulster District Council's website receiving most user traffic, for example main front pages, will be available initially in English and Ulster-Scots format.	Year 1 – Year 4
	Permit the use of Council facilities for Ulster-Scots language sessions	Year 1 – Year 4

**E**

<b>Subject</b>	<b>EU Services Directive</b>
<b>Reporting Officer</b>	<b>Lead Officer for Finance</b>

<b>1</b>	<b>Purpose of Report</b>
1.1	To update Members in relation to Council's responsibilities with respect to the EU Services Directive

<b>2</b>	<b>Background</b>
2.1	The EU Services Directive came into effect on 28 December 2009 with the aim of opening up the EU internal market for service provision in the EU.
2.2	Services covered by the Directive are "economic activities" normally provided in exchange for a remuneration and which is not provided under a contract of employment. There are a number of exclusions from the Directive, e.g. financial services and electronic communications services and networks.

<b>3</b>	<b>Key Issues</b>
3.1	Mid Ulster Council, like the legacy councils, is a competent authority (defined as a body which has supervisory or regulatory functions in the UK in relation to service activities).
3.2	Competent authorities must ensure that all requirements imposed on service providers are compliant with the Provision of Services Regulations 2009 (the Regulations). They must also be reported on via the Department for Business Innovation & Skills (BIS) to the European Commission. Authorisations and associated information also need to be accessible remotely and electronically through businesslink.gov.uk (the UK Point of Single Contact (PSC)).
3.3	As a competent authority Council must put a relevant authorisation online through business link. This can either be done via: <ul style="list-style-type: none"> <li>• An electronic form on its website enabling a service provider to apply for and pay for an authorisation (the PSC on businesslink.gov.uk will link directly to that form). In such circumstances the website must satisfy the information requirements of the Regulations and provide the necessary deep links to the PSC; or</li> <li>• A form incorporated into businesslink.gov.uk</li> </ul>
3.4	Council will have to register on the Internal Market Information System (IMI) in order to reply to and make requests for assistance from other EEA states.
3.5	Council, as a competent authority, must comply with the European Commission recommendation issued in March 2009 on the exchange of data via IMI.

<b>4</b>	<b>Resources</b>
4.1	<p><b><u>Financial</u></b></p> <p>Assumed to be minimal as intention is to transfer Dungannon &amp; South Tyrone Borough Council's deep links and registration on IMI to the new Council.</p>
4.2	<p><b><u>Human</u></b></p> <p>N/A</p>
4.3	<p><b><u>Basis for Professional/ Consultancy Support</u></b></p> <p>Support will be sought from BIS as required</p>
4.4	<p><b><u>Other</u></b></p> <p>N/A</p>

<b>5</b>	<b>Other Considerations</b>
5.1	This matter will be advanced via the Environmental Health and Building Control Transition Working Group.

<b>6</b>	<b>Recommendations</b>
6.1	That Members note the above.

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1 - Summary of EU Services Directive Requirements



**Summary of EU Services Directive Requirements**

Considered by Policy and Resources Committee

On

Tuesday, 13 January 2015

## **Background**

The EU Services Directive came into effect on 28 December 2009 with the aim of opening up the EU internal market for service provision in the EU.

It is intended to break down barriers for cross-border trade in services between the 27 Member States plus Norway, Iceland and Liechtenstein (European Economic Area (EEA)) making it easier for service providers to set up business and offer their services elsewhere in the EEA by:

- Removing regulatory and administrative barriers that make it difficult for service providers to trade across borders;
- Requiring each Member State to set up online portals called Points of Single Contact (PSC) where providers can find the information they need and apply for authorisations online to do business in that Member State;
- Facilitating greater co-operation between authorities across the EEA, thereby improving supervision across the single market and reducing burdens on business; and
- Giving consumers more confidence to shop for cross-border services through better access to information.

Services covered by the Directive are “economic activities” normally provided in exchange for a remuneration and which is not provided under a contract of employment. There are a number of exclusions from the Directive, e.g. financial services and electronic communications services and networks.

## **Key Issues**

### **Competent Authorities**

Mid Ulster Council, like the legacy councils, is a competent authority (defined as a body which has supervisory or regulatory functions in the UK in relation to service activities).

Competent authorities must ensure that all requirements imposed on service providers are compliant with the Provision of Services Regulations 2009 (the Regulations). Such requirements (e.g. authorisation schemes, including certification and registration processes and approval systems and continuing requirements) must be checked to

ensure that they are non-discriminatory, proportionate and necessary. They must also be reported on via the Department for Business Innovation & Skills (BIS) to the European Commission. Authorisations and associated information also need to be accessible remotely and electronically through [businesslink.gov.uk](http://businesslink.gov.uk) (the UK PSC).

## **The Provision of Services Regulations 2009**

The Provision of Services Regulations 2009 (the Regulations) set out a number of rules designed to make the process more efficient and equitable. In particular:

- All authorisations, licence applications and administrative procedures applicable to service providers must be processed within a reasonable time period, which **must** be fixed and made public in advance. Mandatory timescales will run only from the time when **all** valid documentation has been submitted, online and/or by post.
- Applications not responded to within the set time period (or set extension time) will be deemed to have been granted tacitly. This concept of tacit approval can be circumvented if a derogation can be justified by overriding reasons relating to the public interest (ORRPI), e.g. public safety.
- Authorisations must generally be for an indefinite period except in a limited number of circumstances, e.g. because of an ORRPI such as public safety.
- Although authorisations must generally be for the whole of the UK, authorisations granted by district councils will only have effect in relation to the relevant district council area.
- Fees charged must be proportionate to the effective cost of the process, i.e. they must cover no more than the actual cost of the authorisation process. Enforcement costs must not be assimilated with the application fee.

The Regulations define a formality as a process where a service provider is required to give information to a competent authority by way of application, authorisation request, renewal, return, declaration or notification, whether or not a formal response is required before the service provided may commence operation in the UK.

Previous engagement by the 26 legacy councils has resulted in a list of formalities (e.g. licences, certificates and registrations) managed by district councils in Northern Ireland being found within the scope of the Directive.

### **Point of Single Contact**

A key requirement is that governments must establish a Point of Single Contact (PSC). The UK's PSC is on [businesslink.gov.uk](http://businesslink.gov.uk). The competent authority side of the PSC is called the Electronic Licence Management System (ELMS).

As a competent authority Council must put a relevant authorisation online through businesslink. This can either be done via:

- An electronic form on its website enabling a service provider to apply for and pay for an authorisation (the PSC on [businesslink.gov.uk](http://businesslink.gov.uk) will link directly to that form). In such circumstances the website must satisfy the information requirements of the Regulations and provide the necessary deep links to the PSC; or
- A form incorporated into [businesslink.gov.uk](http://businesslink.gov.uk)

Regardless of the choice made, Council needs to:

- Provide an appropriate link to the [businesslink.gov.uk](http://businesslink.gov.uk)
- Ensure its website meets the information requirements of the Regulations
- Provide information on the website about what public registers are available, how they can be accessed and, where appropriate, provide a link to that page
- Identify the means of redress which are generally available in the event of a dispute
- Check that its administrative processes are compliant with the Regulations and provide contact details of other associations or organisations from who an applicant may obtain practical assistance
- Ensure that it is able to accept electronic payments.

Although BIS met the development costs for authorisations that existed before 28 December 2009 and were notified by 28 February 2010,

competent authorities are expected to bear the cost of developing forms for incorporation on [businesslink.gov.uk](http://businesslink.gov.uk). The cost and timescales for any changes requested to existing forms or for developing new forms will be determined on a case by case basis by BIS.

It is Council's responsibility to ensure that its information on the PSC on [businesslink.gov.uk](http://businesslink.gov.uk) is kept up to date (for example, changes to fees).

### **Internal Market Information System**

Competent authorities are obliged to cooperate with their counterparts in other EEA states using the Internal Market Information System (IMI), which is a secure internet based messaging system developed by the European Commission.

Council will have to register on the IMI system in order to reply to and make requests for assistance from other EEA states.

### **Data Protection**

Council, as a competent authority, must comply with the European Commission recommendation issued in March 2009 on the exchange of data via IMI. In particular, Council should:

- Use privacy notices to tell service providers that their personal data may be exchanged with other authorities via IMI and advise them of their rights of access
- Ensure that their registration with the Information Commissioner's Office (ICO) reflects this potential use of personal data

**F**

<b>Subject</b>	Making of Council Bye Laws
<b>Reporting Officer</b>	Change Manager

<b>1</b>	<b>Purpose of Report</b>
1.1	To update Members on the making of bye laws for the use and application by Mid Ulster District Council from 1 April 2015

<b>2</b>	<b>Background</b>
2.1	The Department of the Environment has issued guidance on the making of bye laws. This guidance is currently subject to the outcome of a consultation exercise which has now closed.
2.2	For background purposes a bye-law is a local law, particularly affecting a given geographical area, made by a statutory body under an enabling power established by an Act of Parliament, an Order of Council or an Act of the NI Assembly. Appendix 1 provides further information on the legislative background to bye-laws and their development by Councils.
2.3	Bye-laws are required to address an existing problem and should be; (i) consistent and not in conflict with general law; (ii) clear and certain in its terms; (iii) reasonable and not unduly restrictive; (iv) intra vires; (v) enforceable; (vi) general in nature; and (v) obligatory upon all persons equally and indiscriminately. It should be noted that bye laws cannot be made on matters where provision is already made for the same in legislation, for example dogs are provided for by the Council applying relevant parts of the Clean Neighbourhoods and Environment Act (NI) 2011.
2.4	<p>An audit has identified that bye laws currently exist for 9 subject areas across Cookstown, Dungannon &amp; South Tyrone and Magherafelt Councils. 27 separate bye-laws are in place. The subject areas are:</p> <ul style="list-style-type: none"> <li>• Cosmetic Piercing</li> <li>• Semi-permanent Skin Colouring</li> <li>• Tattooing</li> <li>• Hairdressers</li> <li>• Ear Piercing and Electrolysis</li> <li>• Acupuncture</li> <li>• Use of Designated Pleasure Grounds</li> <li>• Rules and Regulations of Public Cemeteries</li> <li>• Consumption of Alcohol in Public Places</li> </ul>
2.5	Some by-laws relate to specific geographical areas within districts whilst the remaining relate to specific strands of business.

<b>3</b>	<b>Key Issues</b>
3.1	Mid Ulster Council is enabled to make bye-laws under the Local Government (Transitional) Regulations (NI) 2014 but they will not become operational until 1 April 2015. This ensures that bye-laws confirmed by Mid Ulster Council will remain in place after the predecessor councils cease to exist on 1 April 2015.
3.2	Council will be required to review the bye laws in place across the three councils to identify (i) if duplicate bye-laws are in place; (ii) if they are conflicting or (iii) if they extend to areas that will not be in the new council area (the area transferring to Armagh, Banbridge and Craigavon).
3.3	Council has 3 options on bye-laws; (i) Adopt some or all bye-laws; (ii) Revoke bye-laws; and (iii) Make new bye-laws
3.3.1	<i>Adoption of Existing bye-laws:</i> to be processed through the normal council decision making process taken to the relevant council committee with responsibility for the subject area and then ratified by full council. If the bye law being confirmed is being extended to cover another area then this will be considered a new bye-law
3.3.2	<i>Revoke:</i> to be agreed by resolution of council and will not have effect until approved by the Department which confirmed it. A one month consultation period must be undertaken on the notice of intention to revoke
3.3.3	<i>Amend:</i> to be agreed by resolution of council and will not have effect until approved by the Department which confirmed it. A one month consultation period must be undertaken.
3.3.4	<i>Revoke and Replace:</i> to be agreed by resolution of council and will not have effect until approved by the Department which confirmed it. A one month consultation period must be undertaken on the notice of intention to revoke and replace.
3.4	A working group of relevant officers of the predecessor councils have been tasked to review the existing bye-laws and bring forward recommendations to confirm, revoke, amend or revoke and replace each of the 27 bye-laws, referred to in 2.4, in line with DoE Guidance (Appendix 1).
3.5	Referring to 3.3.1, where reference is made that Bye Laws should be taken through the relevant committee with responsibility for the subject matter, the matter will be initially progressed through the Environment Committee. This is on the basis that the bye laws relate specifically to matters within the remit of the Environment and Development Committees.
<b>4</b>	<b>Resources</b>
4.1	<b><u>Financial</u></b>
4.1.1	Subject to the review of existing bye-laws advertising costs will be incurred but will be dependent on the recommended action from officers in respect of each bye-law.



4.2	<b><u>Human</u></b> – N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> – N/A
4.4	<b><u>Other</u></b> – N/A

<b>5</b>	<b>Other Considerations</b>
5.1	N/A

<b>6</b>	<b>Recommendations</b>
6.1	That members note the contents of this paper documenting the process for reviewing and making bye-laws for Mid Ulster District Council.

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: The Making of Bye Laws: Guidance for Councils (draft)



# The Making of Bye-laws

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Guidance for Councils

DRAFT

November 2014

**DEPARTMENT OF THE ENVIRONMENT**  
**LOCAL GOVERNMENT POLICY DIVISION**  
**GUIDANCE ON BYE-LAWS**

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## **1. INTRODUCTION TO BYE-LAWS**

1.1 A bye-law is a local law, particularly affecting a given geographical area, made by a statutory body under an enabling power established by an Act of Parliament, an Order in Council, or an Act of the Northern Ireland Assembly.

1.2 A bye-law is required to address an existing problem and should be:

- consistent and not in conflict with general law;
- clear and certain in its terms;
- reasonable and not unduly restrictive;
- intra vires;
- enforceable;
- general in nature; and
- obligatory upon all persons equally and indiscriminately.

1.3 Bye-laws cannot be made in respect of matters which are already dealt with in legislation (see Annex A).

## **2. LEGISLATIVE BACKGROUND**

2.1 Part VI of the Local Government Act (Northern Ireland) 1972 (copy attached at Annex B) contains the enabling powers and procedures for bye-laws made by district councils in Northern Ireland.

2.2. Section 90 of the Local Government Act (NI) 1972 sets out the powers enabling district councils to make bye-laws.

- Under subsection (a), bye-laws may be made for the good rule and government of the whole or any part of a council's district.
- Under subsection (b), bye-laws may be made for the prevention and suppression of nuisances in a council's district.
- Under subsection (c), bye-laws may be made by a district council for any purpose for which bye-law making powers have been conferred on it under any other transferred provision.

2.3 Section 91(1) requires bye-laws to be made under the common seal of the council, and specifies that bye-laws do not take effect until confirmed by the Department or Departments concerned. Bye-laws may have to be confirmed by a Department other than the Department of Environment.

2.4 With regard to the provisions in Sections 91-94 of the Local Government Act (NI) 1972:-

- section 91 sets out the procedures that district councils must follow when making bye-laws;
- section 92 defines the penalties for contravention of bye-laws;
- section 93 details the enforcement of bye-laws; and
- section 94 outlines requirements for the evidence of bye-laws.

2.5 The Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014, and, in particular, provision as set out in Regulation 3 - Temporary Modification and Regulation 9 - Continuity of exercise of functions, ensure the existing bye-laws confirmed by councils will remain extant after those councils cease to exist on 1 April 2015. A copy of these Regulations can be accessed via the below link

<http://www.legislation.gov.uk/2014/148/contents/made>

### **3. APPLYING FOR BYE-LAWS AND THE PROCESSES INVOLVED**

#### **Model bye-laws**

3.1 Councils are advised to download the most appropriate set of the Department of Communities and Local Government Model bye- laws ("the DCLG model bye-laws") and adapt these to meet councils requirements to address existing problems within the council area.. The DCLG Guidance notes should be read in conjunction when drafting proposed council bye-laws.

3.2 The DCLG model bye-laws can be accessed via the link below;-

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/model-byelaws>

#### **Points to note**

3.3 In the recital of the bye-laws, Northern Ireland councils will need to include the powers being relied on to make the bye-laws, as these are not provided in the DCLG model bye-laws. Examples might include, amongst others the Local Government Act (Northern Ireland) 1972, the Public Parks (Ireland) Act 1869 and the Recreation and Youth Services (Northern Ireland) Order 1986.

#### **Public Health Acts Amendment Act 1907**

3.4 Sections 82 and 83 of the Public Health Acts Amendment Act 1907 do not extend to all council areas in Northern Ireland. Before a council considers drafting bye-laws for seashores or promenades, the council should first establish if sections 82 and 83 apply to that council area. Where these sections do not apply the council should apply to the Department of the Environment for an Order, made under section 3(1)

of the 1907 Act, to extend the provision of sections 82 and 83 to its district.

- 3.5 Where the Department has made an Order extending section 82 or section 83, bye-laws made under this provision must be specifically for “the prevention of danger, obstruction, or annoyance to persons using the seashore”.

### **Consideration of a bye-laws application**

- 3.6 On receipt of a council's proposed bye-laws, a Department will check jurisdiction, appropriate use of enabling powers, that members of the public have clarity regarding which bye-laws are applied to which grounds/areas, and that the layout and terminology is consistent throughout the document.
- 3.7 Following consideration, the Department will revert to the council;
- (a) to confirm that it is content with the proposed bye-laws and that they will be forwarded to Departmental Solicitors' Office (DSO) to consider if they are suitable for confirmation; or
  - (b) provide further advice to the council, to ask for further information, or request that revised bye-laws are submitted.



## **4. CONFIRMATION OF BYE-LAWS**

4.1 In confirming bye-laws, councils and departments have certain roles.

### **Department's role**

4.2 A Department's role is defined by the Local Government (Northern Ireland) Act 1972 and therefore has to remain within the provisions of this legislation. Overall, the role is to check, in conjunction with DSO, the validity of the bye-laws in that the local authority has the statutory power to make and enforce them, and then to confirm them.

### **Council's role**

4.3 A council's role in creating bye-laws is, firstly, to satisfy itself that any proposed bye-laws are within its power to make. The council should give attention to enforceability as a bye-law should not be introduced if it cannot be enforced.

4.4 The council should endeavour to ensure that a member of the public recognises their responsibility under a set of bye-laws, where the bye-laws apply and that this information is clear and easily accessible to them.

4.5 The council should also give its attention to matters such as style, layout, punctuation and grammar.

### **Confirming bye-laws**

4.6 When the proposed bye-laws have been agreed by the council, the confirming Department(s) and DSO, the bye-laws will be returned to the council who should make arrangements for the signing and sealing of the bye-laws by the Chairman and Chief Executive.

- 4.7 The council must provide enough additional sealed copies for retention by each confirming Department.
- 4.8 The council must make arrangements for the publication and advertisement of the bye-laws as required by section 91(2) of the Local Government Act (Northern Ireland) 1972 (Annex B) and the Department will require evidence of these advertisements.
- 4.9 On receipt of the council's sealed bye-laws, the Department will check carefully to ensure that no further changes have been made. When all necessary Departments have confirmed the bye-laws, a copy will be returned to the council for safe keeping with the additional copy (copies) being retained by the confirming Department(s).

## **5. NEW COUNCIL ARRANGEMENTS FROM 2015**

- 5.1 Given the specific nature of bye-laws, it is likely that councils may have duplicate or conflicting bye-laws, or in some cases, bye-laws that apply to areas outside their boundary.

### **Review of existing bye-laws**

- 5.2 The Department would recommend that all new councils review existing bye-laws during the shadow period to ensure that the bye-laws remain appropriate for the new district area.

### **Options for bye-laws**

- 5.3 Councils will be able to adopt some or all of the existing bye-laws; revoke bye-laws, and make new bye-laws.

### **Adoption of existing bye-laws (unchanged)**

- 5.4 With effect from 1 April 2015 a council will be able to consider the adoption of any existing bye-laws. The consideration and adoption of existing bye-laws should be subjected to the council's normal decision making process i.e. the proposal to adopt any existing bye-laws should be presented to the relevant council committee with responsibility for the subject area of the bye-laws and then the decision of that committee must be ratified at a meeting of the full council.
- 5.5 Adopting existing bye-laws will provide only for the areas stated in the corresponding schedule. Where councils wish to extend existing bye-laws to provide for additional areas, a council will need to submit a revised draft schedule which will be processed as a new revised bye-laws application)

## **Revocation of existing bye-laws**

- 5.6 Councils may decide to revoke existing bye-laws in their entirety and procedures to be followed to achieve this are attached at Annex C, however any revocation will not become effective until 1st April 2015.

## **Amendment of existing bye-laws**

- 5.7 Councils may decide to amend existing bye-laws. However, as a general rule the extent of the proposed amendment should not exceed approximately 50% of the existing bye-laws. Where the extent of the proposed amendment exceeds this level, consideration should be given to the revocation of the existing bye-laws in their entirety and the concurrent replacement with new bye-laws.
- 5.8 The procedures to be followed to amend existing bye-laws are attached at Annex D, however it should be noted that any amendment will not become effective until 1 April 2015. Councils should also note that any amendment to existing bye-laws will be considered as a new bye-laws application and will require the confirming Department(s) approval.

## **Revocation and replacement of existing bye-laws with new bye-laws**

- 5.9 A further option for a council to consider would be the revocation and replacement of existing bye-laws. The revocation of the existing bye-laws and the operational date of the new bye-laws would be on or after 1 April 2015.
- 5.10 A procedure to revoke and replace existing bye-laws can be found at Annex E.

## **Proposals for new bye-laws**

- 5.11 During the shadow period the council can apply to a Department to confirm new bye-laws but they will not become operational before 1 April 2015. A temporary modification was included to this effect in regulation 3 of the Local Government (Transitional, Supplementary Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 S.R. 2014 No.148.
- 5.12 From 1st April 2015 councils may apply for new bye-laws following the procedures contained in section 91 of the Local Government Act (Northern Ireland) 1972 (see Annex B).
- 5.13 Applications for new bye-laws may include the proposed revocation of existing bye-laws where the new bye-law proposes to replace the existing bye-laws.

## **Council's corporate seal**

- 5.14 Under the Local Government (Transitional, Supplementary and Incidental Provisions and Modifications) Regulations (NI) 2014, there is provision for a new Council to resolve to use the seal of one of its predecessor councils in place of its own seal. This is a transitional provision and is intended simply to ensure that new councils have an 'interim' seal to use on legal documents such as contracts etc. until such time as they can procure their own individual seal.
- 5.15 There is no legislative procedure in relation to the procurement of a common seal. Section 120 of the Local Government Act (NI) 1972 makes provision for the use of a council seal, but does not specify any procedure by which one may be obtained.
- 5.16 Likewise, there are no legislative provisions which relate to councils' coats of arms. A coat of arms can be obtained by any individual, family or body corporate. These are granted by the College of Arms, which is

the official heraldic authority for the UK. Further information can be obtained from the College of Arms website: <http://www.college-of-arms.gov.uk/>

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**MATTERS WHICH MAY NOT BE SUITABLE FOR THE INTRODUCTION OF  
BYE-LAWS BECAUSE PROVISION HAS BEEN MADE IN OTHER  
LEGISLATION (*THIS LIST IS NOT EXHAUSTIVE*).**

- dogs are provided for by a council applying Part 5 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the Clean Neighbourhoods Act”);
- damage is provided for by the Criminal Damage (Northern Ireland) Order 1977;
- deface by writing of graffiti is provided for by Part 4 of the Clean Neighbourhoods Act, the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 and the Planning (Northern Ireland) Order 1991;
- affixing any unauthorized notice or bill is provided for by the Planning (Northern Ireland) Order 1991 and Part 4 of the Clean Neighbourhoods Act;
- pollution of water is provided for by the Water (Northern Ireland) Order 1999;
- protection of birds and other animals is provided for by Part II of the Wildlife (Northern Ireland) Order 1985;
- violent, threatening or abusive language is provided for by the Public Order (Northern Ireland) Order 1987;
- noise is provided for by Part III of the Pollution Control and Local Government (Northern Ireland) Order 1978;

- litter is provided for by the Litter (Northern Ireland) Order 1994, the Pollution Control and Local Government (Northern Ireland) Order 1978, and the Waste, Contaminated Land (Northern Ireland) Order 1997, and Part 3 of the Clean Neighbourhoods and Environment Act.;
- public meetings and gatherings are provided for by the Public Order (Northern Ireland) Order 1987 and the Public Processions (Northern Ireland) Act 1998; and
- some vehicles are provided for by Article 48 of the Road Traffic (Northern Ireland) Order 1995, and Part 2 of the Clean Neighbourhoods Act.



**LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972**

**PART VI**

**BYE-LAWS**

**90. Bye-laws.**

A council may make bye-laws in accordance with the succeeding provisions of this Part—

- (a) for the good rule and government of the whole or any part of its district;
- (b) for the prevention and suppression of nuisances in its district;
- (c) for any purpose for which bye-laws may be made by it under any other transferred provision.

**91. Procedure, etc., for making bye-laws.**

- (1) Bye-laws shall be made under the common seal of the council and shall not have effect until they are confirmed by the Ministry concerned.
- (2) At least one month before application for confirmation of bye-laws is made, notice of the intention to apply for confirmation shall be given in at least two newspapers circulating in the locality in which the area to which the bye-laws are to apply is situated.
- (3) For at least one month before application for confirmation is made, a copy of the bye-laws shall be deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment.
- (4) The council by which the bye-laws are made shall, on application, furnish to any person a copy of the bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.
- (5) The Ministry concerned may confirm any bye-law submitted under this section for confirmation, subject to the consents (if any) required by section

9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 [1932 c.11], or may refuse to confirm any such bye-law.

(6) Where a bye-law is to have effect in the district of a council other than the council by which it is made, the Ministry concerned shall consult that other council before confirming the bye-law.

(7) The Ministry concerned may fix the date on which a bye-law is to come into operation, and if no date is so fixed the bye-law shall come into operation at the expiration of one month from the date of its confirmation.

(8) A copy of the bye-laws, when confirmed, shall be printed and deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the council determines.

## **92. Penalties for contravention of bye-laws.**

(1) Except as provided by any other statutory provision, a person who contravenes a bye-law shall be guilty of an offence and, subject to subsection (2), shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and, in the case of a continuing offence, a further fine not exceeding £2 for each day on which the offence continues after conviction.

(2) Bye-laws may, for offences under subsection (1) in relation to the bye-laws, fix lower maximum fines than the sums mentioned in that subsection, or, if power to fix higher maximum fines than those sums is conferred by the transferred provision conferring the power to make the bye-laws, may fix maximum fines exceeding those sums but not exceeding the higher maxima.

(3) Proceedings in respect of an offence under subsection (1) shall not, without the consent of the Attorney-General, be taken by any person other

than the council by which, or by whose predecessors, the bye-law in question was made.

**93. Enforcement of bye-laws.**

(1) An officer of a council who is authorised by the council in that behalf or a constable, may secure the observance of bye-laws made by the council.

(2) An officer exercising powers conferred under this section, unless in uniform, shall, on request, produce some document showing that he is authorised by the council to exercise those powers.

(3) For the purposes of this section, section 66 of the Police (Northern Ireland) Act 1998 (assault on, and obstruction of, constables, etc.) shall have effect in relation to a person authorised as mentioned in subsection (1) as if he were a constable.

**94. Evidence of bye-laws.**

(1) The production of a printed copy of a bye-law purporting to be made by a council, upon which is endorsed a certificate purporting to be signed by the clerk of the council stating—

- (a) that the bye-law was made by the council;
- (b) that the copy is a true copy of the bye-law;
- (c) that on a specified date the bye-law was confirmed by the government department named in the certificate or was so confirmed subject to any specified consents;
- (d) the date, if any, fixed by the Ministry concerned for the coming into operation of the bye-law;

shall be evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

(2) The validity of a bye-law which has been confirmed by a government department shall not be questioned in any legal proceedings on the ground that that department is not the Ministry concerned.

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**PROCEDURES FOR THE REVOCATION OF BYE-LAWS**

1. Bye-laws may be revoked in accordance with this guidance by resolution of the council which has the power to revoke the bye-laws and the revocation shall not have effect until such revocation is approved by the Department or Departments that confirmed the bye-laws.
2. At least one month before application for revocation of bye-laws is made (the consultation period), notice of the intention to revoke the bye-laws shall be:
  - (a) placed in at least two newspapers circulating in the locality in which the area to which the bye-laws currently apply is situated; and
  - (b) placed on the council's website.
3. For at least one month before application for revocation is made, a copy of the bye-laws shall be deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment.
4. The council by which the bye-laws are to be revoked shall, on application, furnish to any person a copy of the bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.

5. The council shall consider any objections received during the consultation period and publish a report of its considerations of the objections (if any) received and its decision on whether it shall revoke the bye-laws, in the locality to which the bye-laws apply.
6. Where the council decides to revoke the bye-laws it may do so by resolution of the council subject to the approval of the Department or Departments that confirmed the bye-laws.
7. The Department or Departments concerned may approve the revocation of any bye-laws submitted under this section for revocation, subject to the consents (if any) required by section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 [1932 c.11], or may refuse to revoke any such bye-law.
8. Where a bye-law has effect in the district of a council other than the council by which it is revoked, the Department concerned shall consult that other council before confirming the revocation of the bye-law.
9. The Department concerned may fix the date on which a bye-law is to be revoked, and if no date is so fixed the bye-law shall be revoked at the expiration of one month from the date of its revocation by resolution of the council.

**PROCEDURES FOR THE AMENDMENT OF BYE-LAWS**

1. Bye-laws may be amended in accordance with this guidance by resolution of the council which has the power to make the bye-laws and the amendment shall not have effect until such amendment is approved by the Department or Departments that confirmed the bye-laws.
2. At least one month before application for the amendment of bye-laws is made (the consultation period), notice of the intention to amend the bye-laws shall be:-
  - (a) placed in at least two newspapers circulating in the locality in which the area to which the bye-laws currently apply is situated; and
  - (b) placed on the council's website.
3. For at least one month before application for amendment is made, a copy of the amended bye-laws shall be deposited at the offices of the council, and shall at all reasonable hours be open to public inspection without payment.
4. The council which proposes the amendment of bye-laws shall, on application, furnish to any person a copy of the bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.

5. The council shall consider any objections received during the consultation period and publish a report of its considerations of the objections (if any) received and its decision on whether it shall amend the bye-laws, in the locality to which the bye-laws apply.
6. Where the council decides to amend the bye-laws it may do so by resolution of the council subject to the approval of the Department or Departments that confirmed the bye-laws.
7. The Department or Departments concerned may approve the amendment of any bye-laws submitted under this section, subject to the consents (if any) required by section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 [1932 c.11], or may refuse to the amendment any such bye-law.
8. Where a bye-law has effect in the district of a council other than the council which proposes the amendment of bye-laws, the Department concerned shall consult that other council before confirming the amending bye-law.
9. The Department concerned may fix the date on which the amending bye-law is operational, and if no date is so fixed the bye-law shall come into operation at the expiration of one month from the date of its confirmation.
10. A copy of the amended bye-laws, when confirmed, shall be printed and deposited at the offices of the council by which the amended bye-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be



furnished to any person on payment of such reasonable sum as the council determines.

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**PROCEDURE FOR THE REVOCATION AND REPLACEMENT OF  
EXISTING BYE-LAWS WITH NEW BYE-LAWS**

1. Bye-laws may be revoked and replaced in accordance with this guidance by resolution of the council which has the power to revoke and replace the bye-laws. The revocation and replacement shall not have effect until the replacement bye-laws are approved by the Department or Departments that confirmed the bye-laws.
2. At least one month before application for revocation and replacement of the bye-laws is made (the consultation period), notice of the intention to revoke and replace the bye-laws shall be placed:-
  - (a) in at least two newspapers circulating in the locality in which the area to which the bye-laws currently apply is situated; and
  - (b) on the council's website.
3. For at least one month before application for revocation and replacement is made, a copy of the bye-laws shall be deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment.
4. The council by which the bye-laws are to be revoked and replaced shall, on application, furnish to any person a copy of the bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.

5. The council shall consider any objections received during the consultation period and publish a report of its considerations of the objections (if any) received and its decision on whether it will revoke and replace the bye-laws, in the locality to which the bye-laws apply.
6. Where the council decides to revoke and replace the bye-law it may do so by resolution of the council subject to the approval of the Department or Departments that confirmed the bye-laws.
7. The Department or Departments concerned may approve the revocation and replacement of any bye-law submitted under this section for revocation and replacement, subject to the consents (if any) required by section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 [1932 c.11], or may refuse to revoke and replace any such bye-law.
8. Where a bye-law has effect in the district of a council other than the council by which it is revoked, the Department concerned shall consult that other council before approving the revocation of the bye-law.
9. The Department concerned may fix the date on which a bye-law is to be revoked and replaced, and if no date is so fixed the bye-law shall be revoked and replaced at the expiration of one month from the date of its revocation and replacement by resolution of the council.

**PROCEDURE FOR APPLYING FOR NEW BYE-LAWS**

1. New bye-laws may be made in accordance with this guidance by resolution of the council which has the power to make the bye-laws. The new bye-laws shall not have effect until approved by the Department or Departments that confirmed the new bye-laws.
2. At least one month before an application for new bye-laws is made (the consultation period), notice of the intention to amend the bye-laws shall be placed:-
  - (a) in at least two newspapers circulating in the locality in which the area to which the bye-laws currently apply is situated; and
  - (b) on the council's website.
3. For at least one month before application for new bye-laws is made, a copy of the new bye-laws shall be deposited at the offices of the council, and shall at all reasonable hours be open to public inspection without payment.
4. The council which proposes the new bye-laws shall, on application, furnish to any person a copy of the new bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.
5. The council shall consider any objections received during the consultation period and publish a report of its considerations of the objections (if any) received and its decision on whether it shall proceed with the new bye-laws, in the locality to which the bye-laws apply.

6. Where the council decides to proceed with the new bye-laws it may do so by resolution of the council subject to the approval of the Department or Departments that confirmed the new bye-laws.
7. The Department or Departments concerned may approve the new bye-laws submitted under this section, subject to the consents (if any) required by section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 [1932 c.11], or may refuse to approve any such bye-laws.
8. Where the new bye-laws have effect in the district of a council other than the council which proposes the new bye-laws, the Department concerned shall consult that other council before confirming the new bye-laws.
9. The Department concerned may fix the date on which the new bye-laws are operational, and if no date is so fixed the new bye-laws shall come into operation at the expiration of one month from the date of confirmation.
10. A copy of the new bye-laws, when confirmed, shall be printed and deposited at the offices of the council by which the new bye-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the council determines.

**G**

<b>Subject</b>	Retention & Disposal Scheme Requirements
<b>Reporting Officer</b>	Change Manager

<b>1</b>	<b>Purpose of Report</b>
1.1	To update members on requirements set by the Public Records Office for NI (PRONI) to prepare a Retention and Disposal Schedule for Mid Ulster Council. The Information Commissioner's Office (ICO) is also involved in the process.

<b>2</b>	<b>Background</b>
2.1	The Public Records Office for NI (PRONI) has communicated with Council requesting that a Retention and Disposal Schedule be compiled and provided under the Disposal of Documents Order 1925, stemming from the Public Records (NI) Act 1923. This needs to be submitted for approval to the DCAL Minister as Keeper of the Records and laid before the NI Assembly.
2.2	A draft schedule must be provided to PRONI by September 2015 for quality assurance purposes and final versions submitted by December 2015.
2.3	All existing councils, including Cookstown, Dungannon & South Tyrone and Magherafelt Councils, submitted Retention and Disposal Schemes with PRONI in 2012. This was undertaken using a local government sectoral template with adjustments made to reflect local structures and actual information held.
2.4	A Retention & Disposal Schedule allows the Council to apply standardised controls over how records are created, stored and disposed of by the organisation. Its aim is to ensure standardised access to records therefore avoiding unnecessary time spent by employees on the retrieval of both physical and electronic records.

<b>3</b>	<b>Key Issues</b>
3.1	This is not a day 1 critical issue requiring completion by 1 April 2015 but activity will be scheduled to commence to ensure this deadline is met given the significant work involved before a final schedule can be developed.
3.2	A completed schedule will aid Council's statutory requirements on data protection (Data Protection Act 1998), freedom of information (Freedom of Information Act 2000) and environmental information (Environmental Information Regulations 2004).
3.3	A schedule, once complete, will bring together all information held by the council into a single document. It will be broken down by (i) the department and service areas of the council; (ii) titles of records; (iii) statutory provisions requiring retention; (iv) the retention period; and (v) action at the end of the administrative

	life of records. An extract of a Retention and Disposal Scheme from a predecessor council is included at Appendix 1.
3.4	<p>Before a Schedule is completed the following must be undertaken:</p> <ul style="list-style-type: none"> <li>• Identification of where information is currently held by predecessor councils</li> <li>• Application of requirements of predecessor council's schedules</li> <li>• Agreement on future filing, referencing and cataloguing arrangements</li> <li>• Development of a Mid Ulster Retention and Disposal Policy</li> </ul> <p>A robust and purposeful Mid Ulster Retention and Disposal Schedule cannot be completed until the above mentioned have been undertaken.</p>

<b>4</b>	<b>Resources</b>
4.1	<b><u>Financial</u></b>
4.1.1	None identified at this time to compile the Schedule.
4.2	<b><u>Human</u></b>
4.2.1	Works to be undertaken within resource by a yet to be identified team of officers.
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> - N/A
4.4	<b><u>Other</u></b> – N/A

<b>5</b>	<b>Other Considerations</b>
5.1	The final Retention and Disposal Schedule is required to be reflective of the records of all functions transferring to Council, Planning being the one new function with significant records being transferred.

<b>6</b>	<b>Recommendations</b>
6.1	That members of committee note the requirement set by PRONI, DCAL.

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: Retention & Disposal Schedule extract from a predecessor Council



## XXXXXXX Council: Retention & Disposal Schedule

This Schedule details the arrangements for the retention and disposal of all records held by Council as required by the Public Records (NI) Act 1923 and the Disposal of Records Order 1925. It also complements Council's Freedom of Information Publication Scheme. For ease of reference the Schedule has been developed by Department and respective Service Areas.

### 1.0 Contents

<b>Development</b>	Local Economic Development	Page
	Town Centre Forum	Page
	Community Services	Page
	Tourism	Page
	SWARD	Page
	Sports Services	Page
	Arts, Culture & Irish Language	Page
<b>Building Control</b>	Building Control	Page
<b>Operational Services</b>	Technical Services	Page
	Waste Management	Page
	Leisure Services	Page
<b>Environmental Health</b>	Environmental Health	Page
<b>Corporate Services</b>	Finance	Page
	ICT	Page
	District Policing Partnership and Policing & Community Safety Partnership	Page
	Health & Safety	Page
	Corporate Governance (Risk, Insurance, Performance, & Corporate Documents)	Page
	Human Resources	Page
	Registration	Page
	Internal Audit	Page
	Equality	Page
<b>Chief Executive's Section</b>	Chief Executive's Section	Page

## 2.0 The Schedule by Department

DEVELOPMENT				
Service Area	Title of Records	Statutory Provision for Requirement to Retain	Retention Period	Action at end of Administrative life of Record (and Retention Period)
<b>Local Economic Development (LED)</b>	LED EU Programme Files (stored in secure unit)	Clause re retention of documents in Letter of Offer from funding body	To at least December 2022	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and also the funders*.
	LED EU Tenders re: EU funded Programmes (stored in secure unit with programme files)	Clause re retention of documents in Letter of Offer from funding body	To at least December 2022	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and also the funders*.
	LED EU funded Capital Projects (stored in secure unit)	Number of funders who have stipulated retention clauses in Letters of Offer / Contracts	To at least December 2016	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and also the funders*.
	LED Non EU Funded Programme Files	LED requirement of 7 years from date of last document	7 years from date of last document	Determined on Review by Council- Prior to any action being taken Council to check with LED Section.
	LED Annual Contributions Payment files	LED requirement of 7 years from date of last payment	7 years from date of last payment	Determined on Review by Council- Prior to any action being taken Council to check with LED Section.
	LED Administration files	LED requirement of 7 years from date of last document	7 years from date of more last document	Determined on Review by Council- Prior to any action being taken Council to check with LED Section.

## Appendix 1

<b>Town Centre Regeneration</b>	TC Project/Programme files (some EU funded; stored in secure unit)	Number of funders who have stipulated retention clauses in Letters of Offer/ Contracts	To at least Dec 2016	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and relevant funders*
	TC Tenders (stored in secure unit with relevant programme files)	Number of funders who have stipulated retention clauses in Letters of Offer	To at least Dec 2016	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and relevant funders*
<b>New Deal Programme</b>	New Deal files (stored in LED secure unit)	Requirement stipulated by Department of Employment and Learning NI Guidelines	At least 31 Dec 2019	Determined on Review by Council- Prior to any action being taken Council to check with LED Section and the relevant government dept.
<b>Community Services</b>	Voluntary Body (DSD)	DSD, Voluntary and Community Unit Memorandum of Understanding.	5 years documentation 7 years finance	Destroy
	Good Relations	Community Relations Council (OFMDFM) Good Relations Plan Letter of Offer	7 years	Destroy
	Community Festivals (DCAL)	DCAL Letter of Offer	7 years	Destroy
	Peace III (SEUPB)	SEUPB Documentation	31st Dec 2020	Destroy.
	Community Safety Partnership	Department of Justice Letter of Offer.	7 years. March 2019.	Destroy.
<b>Tourism</b>	Tourism Programme / Annual Reports	None	Permanent	Permanent preservation by Council

## Appendix 1

	Tourism Sub-Group	None	5 years	Destroy
	Tourism Forum	None	5 years	Destroy
	Budget Information	None	5 years	Destroy
	Invoices	None	5 years	Destroy
	Daily/Weekly Reports	None	5 years	Destroy
	TIC / Box Office General	None	5 years	Destroy
	TIC Policy & Procedures	None	Permanent	Permanent preservation by Council
	Burnavon General	None	5 years	Destroy
	CDC General	None	5 years	Destroy
	Marketing Activity	None	5 years	Destroy
	Tourism Publications	None	Permanent	Retention of reference copy
	Press Release Cuttings	None	Permanent	Permanent preservation by Council
	Visitor Statistics	None	Permanent	Permanent preservation by Council
	Visitor Monitoring	None	Permanent	Permanent preservation by Council
	Accommodation Booking	None	5 years	Destroy
	Fishing Licences	Department for Culture Arts & Leisure	Permanent	Permanent preservation by Council

## Appendix 1

	TIC Retail	None	5 years	Destroy
	Comments / Complaints	None	5 years	Destroy
	Staff Training	None	5 years	Destroy
	Work Experience Placements	None	5 years	Destroy
	Directional Signage Scheme	DRD Roads Service	Permanent	Permanent preservation by Council
	NITB General	None	5 years	Destroy
	Destination Management	None	5 years	Destroy
	Sperrins Tourism Ltd	None	5 years	Destroy
	Lough Neagh Partnership	None	5 years	Destroy
	Annual Tourism Events	None	Until completion plus 3 years	Destroy
	Davagh Forest Trails Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Lough Fea Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Podcast Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Tullaghoge Fort Project	None	Permanent	Permanent preservation by Council
	TIC Refurbishment Project	Northern Ireland Tourist Board / Department for	Permanent	Permanent preservation by Council

## Appendix 1

		Enterprise Trade and Investment		
	Visitor Signage Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Moneymore Heritage Trail Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Manor Park Project	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Scenic Driving Routes	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
	Strolls in the Sperrins	Department of Agriculture & Rural Development	Permanent	Permanent preservation by Council
<b>South West Action for Rural Development (SWARD)</b>	Projects	Article 9 of the Council of Europe Regulations (EC No. 1083/2006)	2021	Destruction of records on approval from Paying Authority/Government Department (Department of Agriculture & Rural Development)
	Application forms, Letters of Offer, Correspondence, Claims & Procurement, Monitoring Information			
	Programme Administration	Article 9 of the Council of Europe Regulations (EC No. 1083/2006)	2021	Destruction of records on approval from Paying Authority/Government Department (Department of Agriculture & Rural Development)
	Administration, Contracts, budgets, Legal Documentation, audit, Procurement, publicity, programme claims			
	Governance	Article 9 of the Council of Europe Regulations (EC No. 1083/2006)	2021	Destruction of records on approval from Paying Authority/Government Department (Department of Agriculture & Rural Development)
	Meetings minutes, agendas, reports, Member records			

## Appendix 1

<b>Sports Services</b>	Sport and Leisure Reports		7 years	Destroy
	Meetings Agendas/Minutes		7 years	Destroy
	Grant/Funding Applications Letters of Offer		7 years	Destroy
	Bookings		3 years	Destroy
	Financial details		7 years	Destroy
	Health & Safety Check List Files		7 years	Destroy
<b>Arts &amp; Culture (Burnavon)</b>	Facility specific Policies and procedures	None	Permanent	Permanent Preservation by Council
	Staff Handbooks	None	Permanent	Permanent Preservation by Council
	Annual Reports	None	Permanent	Permanent Preservation by Council
	Business Continuity Plan	Northern Ireland Civil Contingencies Framework	Permanent	Permanent Preservation by Council
	Emergency Plan	The Local Government (NI) Order 2005	Permanent (current version only)	Permanent preservation by Council
	Manual Booking Diaries	None	Current year plus 3 years	Destroy

## Appendix 1

	Purchase Order Books	None	Once complete plus 5 years	Destroy
	Arts & Cultural Programme financial information	None	5 years	Destroy
	Arts & Culture Workshop/ Class Programme	None	5 years	Destroy
	Arts & Cultural Programme small Grants Applications	None	5 years	Destroy
	Arts & cultural Sub-Committee minutes	None	5 years	Destroy
	Burnavon Payment records and invoices	None	5 years	Destroy
	Health & Safety (Venue specific risk register, Risk Assessments, Pest Control, Legionella Control weekly and monthly checks, Child protection, First Aid list)	None	Permanent	Permanent preservation by Council
	Evacuation Procedures and Training Records	None	permanent	Permanent preservation by Council
	Incident Reports	None	10 years	Destroy
	Personnel records Staff Training Records Sickness, Absence Records	None	Duration of employment plus 7 years	Destroy
	Staff weekly rotas and timesheets	None	1 year	Destroy



## Appendix 1

	Customer Feedback	None	5 years	Destroy
	Stakeholder information and correspondence	None	5 years	Destroy
	Work experience requests and approvals	None	5 years	Destroy
	Procurement/ tenders/ Quotations	None	Period of contract plus 5 years	Destroy
	Facility Suppliers	None	5 years	Destroy
	Maintenance Contracts (fixed)	None	Period of contract plus 3 years	Destroy
	Equipment maintenance contracts	None	Period of contract plus 3 years	Destroy
	Building Safety & Security (CCTV, Fire Alarm, Lift, Emergency Lighting, Intruder Alarm)	None	Period of Contract plus 3 years	Destroy
	Marketing Activity	None	3 years	Destroy
	Press Releases	None	3 years	Destroy
	Press Cuttings	None	Permanent	Permanent preservation by Council
	Publications & Programmes	None	Permanent	Permanent preservation by Council
	Customer Database, Relationship Management Records, transaction history	None	permanent	Permanent preservation by Council

## Appendix 1

	Arts Database	None	Determined on Review by Council	Determined on Review by Council
	Funding & Grant Aid	None	Completion of project plus 5 years	Destroy
	Building Plans & Drawings	None	Permanent	Permanent preservation by Council
	Cancellations & Refunds Processed	None	3 years	Destroy
	In year hire forms	None	3 years	Destroy
	Arts & Culture Projects & Development Files	None	Project completion plus 5 years	Destroy
	Events	None	Event completion plus 3 years	Destroy
	Heritage Podcasts	None	Permanent	Permanent Preservation by Council
	<b>Town Twinning</b>	None	7 years	Permanent Preservation by Council
	Agendas/Minutes of meetings			
	Formal Twinning Agreements	None	Permanent	Permanent Preservation by Council
	Twinning Visit Reports	None	6 years	Destroy
	Correspondence	None	6 years	Destroy
	Budgetary & Financial Records	None	7 years	Destroy

## Appendix 1

	Town Twinning Constitution	None	6 years	Permanent Preservation by Council
	Membership List & Contacts	None	Permanent	Permanent Preservation by Council
	<b>Irish Language Dev.</b>	None	3 years	Destroy
	Irish Language in year Budget Invoices			
	Irish Language Programme financial Information	None	7 years	Destroy
	Irish Language database	None	Permanent	Permanent preservation by Council
	<b>Civic Awards</b>	None	Completion of event plus 5 years	Destroy
	Recipient information, Event budget and expenditure			

BUILDING CONTROL				
Service Area	Title of Records	Statutory Provision for Requirement to Retain	Retention Period	Action at end of Administrative life of Record (and Retention Period)
Building Control	<b>Entertainment Licences</b>		10 years after registration or entitlement lapses	Destroy
	Applications received and all administration relating to the grant / refusal / renewal of Entertainment Licences			
	<b>Cinema Licences</b>		10 years after registration or entitlement lapses	Destroy
	Applications received and all administration relating to the grant / refusal / renewal of Cinema Licences			
	<b>Petroleum Licences</b>		10 years after registration or entitlement lapses	Destroy
	Applications received and all administration relating to the grant / refusal / renewal of Petroleum Licences			
	<b>Building Regulation Applications</b>		Permanent	Permanent Preservation by the Council
	Approved building control applications			
	Dangerous Structures		20 years after structure made safe	Destroy

## Appendix 1

	Prosecutions: Non-compliance of legal responsibilities		20 years after compliance	Destroy
	Statistical Information		6 years	Destroy
	Street Naming & Numbering		Permanent	Permanent Preservation by the Council
	<b>Property Certificates</b>		12 years	Destroy
	Applications			
	<b>Tenders for Capital Projects</b>		10 years after the contract is completed.	Destroy
	Correspondence and related papers, including specifications, expressions of interest, tenders/quotations issued/received, evaluation records, documentation pertaining to negotiations after supplier is selected, and contract management.			

### 3.0 Action at end of Administrative life of Record

The following defines the action to be taken at end of administrative life of the Records listed in column 2 of the Schedule. They are within five categories.

#### 3.1 Determined on Review by Council

These are records which require on-going appraisal as to continued business need to identify if they should be permanently preserved by the Council, transferred to PRONI, transferred to the Lead Government Body or Destroyed.

Where records have been identified as Determined on Review, this will be systematically carried out, to eliminate redundant information and reduce the bulk of records held, whilst ensuring no papers likely to be required for continuing business need and/ or permanent preservation are destroyed. When Determined on Review records will be looked at On Closure, on a First Review and on a Second Review.

On Closure	Records will be reviewed immediately on being closed and the responsible Service Manager will indicate their decision on the Retention & Disposal Schedule when it is being closed (if not already specified in the Schedule)
First Review	This will be 5 years after records are closed. Service Managers will ensure that these records as documented in the Schedule reviewed and then further amend the Schedule accordingly following this review.
Second Review	There may be occasions when it proves impossible to reach a decision on records at the first review (5 years). Such records will be put away for a review 10 years from when the records were first opened. Service Managers will undertake this review and decide to either permanently preserve or destroy. This is then recorded in the Schedule.

#### 3.2 Destroy

These are records which Council considers to be of no continuing business need to the organisation and are of no historical value to the Council, Public Records Office or Lead Government Body, where applicable. They will be destroyed in accordance with Council's disposal and destruction procedures.

#### 3.3 Permanent Preservation by Council

These are records which the Council deems as being required to be permanently retained for business purposes and/ or a statutory requirement.

### **3.4 Transfer to Public Records Office of Northern Ireland**

These are records which PRONI has decided are of long-term historical research value. These records will be transferred to PRONI when they are no longer required for business purposes by the Council

### **3.5 Transfer to Lead Government Body**

These are records which detail and cover information relating to initiatives and programmes in which central government agencies and departments have funded or have been involved. These will be transferred to the Lead Government Body, where required by the same Body.

**H**



<b>Subject</b>	<b>Web Site Update</b>
<b>Reporting Officers</b>	<b>Ursula Mezza, Marketing Communications Manager</b>

<b>1</b>	<b>Purpose of Report</b>
1.1	To provide an update on the development of the new Mid Ulster District Council web site.

<b>2</b>	<b>Background</b>
2.1	A priority for 1 April 2015 is the development of a new web site which will be the Council's main digital platform and central communications' tool, reflecting the full range of services for which the Council will assume responsibility, as well as new functions and transferring functions.

<b>3</b>	<b>Key Issues</b>
3.1	In developing the site, the key aims are to create a responsive site, i.e. one which functions across all devices (from PCs and laptops to tablets and mobile phones); a site which meets accessibility standards; and one which is intuitive, i.e. has the users' needs at its core, where content structure is designed around customers' requirements, rather than any internal organisation of the Council's services.
3.2	Development work began in October and the first research and evidence gathering phase was completed in November, allowing a 'wireframe' to be created.
3.3	A wireframe is a two-dimensional illustration of a page which focuses on how space is to be allocated and how content is to be prioritised, along with page functionality. Wireframes do not, therefore, include any design, styling, colour or graphics. These elements are considered later.
3.4	The wireframe for the web site home page is attached by way of illustration and shows the key navigation tabs along the top, from which drop down menus will give access to categories of content (some of which will cross-over from one top level navigation category to another to reflect how different users associate and access content differently).
3.5	Working from left to right on the top part of the page, the wireframe shows a series of 4 feature panels which will facilitate a rolling promotion of key events, services and projects, while an additional 3 smaller panels allow the opportunity to prioritise certain services or initiatives, for example, responsibility for Planning would feature heavily on the home page as part of the communication plan to raise awareness of the function's transfer to local councils. The final section on the right hand side is for key services (the equivalent of quick links or top tasks)

	which will link through to popular pages and key services.
3.6	Again, working from left to right on the lower area of the page, latest news stories will feature, with a feed showing latest tweets. The 'fat footer' reflects the main navigation, and its drop down menus (Please note that the drop-down menu headings are still illustrative at this point and work is on-going to categorise and complete the secondary navigation of content in these sections).
3.7	Of most importance is the structure's flexibility, ensuring that content can remain fresh and dynamic at all times, changing to reflect seasonality, popularity, and emerging priorities, from both an internal and external perspective.

<b>4</b>	<b>Resources</b>
4.1	<b><u>Financial</u></b>  The project is within budget.
4.2	<b><u>Human</u></b>  N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b>  N/A
4.4	<b><u>Other</u></b>  N/A

<b>5</b>	<b>Other Considerations</b>
	None

<b>6</b>	<b>Recommendations</b>
6.1	That Members note the progress in the web site's development.

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: Home Page Wireframe

Logo

A A A

New phone number  
03000 132 132

Contact us

Your Council ▾ Services ▾ Things To Do ▾ Business ▾ Community ▾ On-Line Services ▾

A - Z

Featured news item or event

Holiday Bin Collections

Holiday Bin Collections

New look for town centre

Christmas Lights Extravaganza

Planning

Tenders

Jobs

Key Services

Bin Collections

Recycling

Leisure Centres

Grants & Funding

Building Control

Business Directory

A - Z of Services

5th December

Final Three Villages Invited To 'Be Part Of... ▸

2nd December

Work Begins On New Economic... ▸

1st December

Council Calls On Minister To Reconsider... ▸

29th November

Dapibus Etiam Egestas Nullam ▸

28th November

Condimentum Vehicula ▸

22nd November

Fusce Ligula Pharetra Tellus ▸

Michelle McLarnon

Huge thank you to everyone who came out & supported Small Business Saturday... Cookstown was buzzing. #SmallBusinessSaturday. #shoplocal

FSB NI Region

We had a special Christmas tree in Cookstown today thanks to @visit\_cookstown

Cookstown Council

#ShopLocal in Cookstown today and support your local high street - £50 shopping vouchers to be won! #SmallBizSatUK

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Your Council

Your Councillors

The Council

Meetings & Minutes

Your Rates

Policies

Publications

Services

Bins, Recycling & Litter

Births, Deaths & Marriages

Environmental Health

Building Control

Leisure & Sports

Licensing

Dogs & Animal Welfare

Planning

Council Facilities

Things To Do

What's On

Events & Visitor Guides

Culture & Arts

History & Heritage

Leisure & Sport

Outdoor Activities

Places To Visit

Places To Stay

Parks & Play

Business

Funding For Businesses

Business Development Programmes

Mid Ulster Business Directory

Tenders

Town Centre

Regeneration

Planning

Start A Business, Business & Enterprise Centres

Community

Grants & Funding

Rural Development

Community Development

Community Centres

Policing & Community Safety Partnership

Consumer & Advice Services

Good Relations

Regeneration

On-Line Services

Caravan Licences

Dog Licences

Entertainment Licences

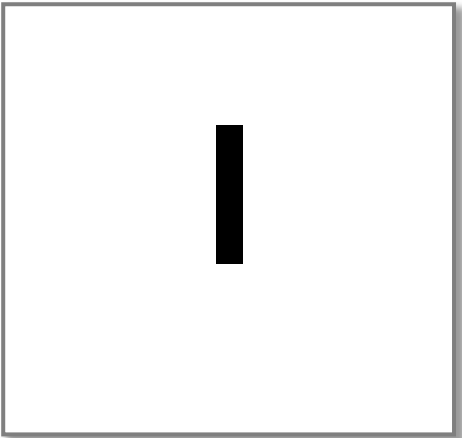
Food Premises Registration

Hairdressers Registration

Petroleum Licences

Register Premises for Weddings & Civil Ceremonies

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<b>Subject</b>	<b>Code of Conduct for Local Government Employees</b>
<b>Reporting Officer</b>	<b>Lead HR Officer</b>

<b>1</b>	<b>Purpose of Report</b>
1.1	To inform members that a Code of Conduct for Local Government Employees (the Code) has been agreed by the Local Government Reform Joint Forum (LGRJF).

<b>2</b>	<b>Background</b>
2.1	This Code is issued as a statutory recommendation by the Local Government Staff Commission under Article 35(1)(b) of the Local Government (Miscellaneous Provisions) (NI) Order 1992 and represents the minimum standards of behaviour expected from district council employees.

<b>3</b>	<b>Key Issues</b>
3.1	This document is issued by the Local Government Staff Commission as a statutory recommendation for adoption by all councils and the Staff Commission from 1 April 2015.
3.2	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. It also provides guidance to assist councils and their employees in their day-to-day work and sets out the minimum standards of behaviour expected.

<b>4</b>	<b>Resource Implications</b>
4.1	<b><u>Financial</u> – N/A</b>
4.2	<b><u>Human resources</u> – N/A</b>
4.3	<b><u>Assets and other implications</u> – N/A/</b>

<b>5</b>	<b>Other Considerations</b>
5.1	N/A

<b>6</b>	<b>Recommendations</b>
6.1	N/A

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: Cover Letter and Code of Conduct for Local Government Employees Circular LGRJF/09 – November 2014

# LGRJF

facilitating local government reorganisation

## COVER LETTER TO: CIRCULAR LGRJF/09 – NOVEMBER 2014

**To:** Chief Executives of District Councils and ARC21

**Cc:** DoE Local Government Division, Public Service Commission

Dear Colleague

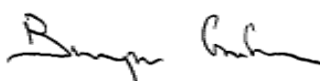
1. The attached circular, a copy of the Code of Conduct for Local Government Employees (the Code), has been agreed by the Local Government Reform Joint Forum (LGRJF).
2. This Code is issued as a statutory recommendation by the Local Government Staff Commission under Article 35(1)(b) of the Local Government (Miscellaneous Provisions) (NI) Order 1992 and represents the minimum standards of behaviour expected from district council employees.
3. In accordance with the Northern Ireland Executive's Guiding Principles all employing authorities should immediately engage with their local recognised Trade Unions to consider application and implementation arrangements.
4. DoE have asked the Local Government Training Group to design a course for staff in councils to explain the Codes of Conduct for Councillors, the Local Government Employee and Councillor Working Relationship Protocol and the Code of Conduct for Local Government Employees and their relationship to each other. This should be available to councils as part of the Spring Open Course Programme.



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**A KERR**

**LGSC**



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**B GRAHAM**

**LGRJF TUS Lead**



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**19 NOVEMBER 2014**



facilitating local government reorganisation

**CIRCULAR LGRJF/09 – NOVEMBER 2014**

**CODE OF CONDUCT  
FOR LOCAL GOVERNMENT EMPLOYEES**



# **CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES**

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# **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.

## **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 18 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 Principles of Conduct**

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) and the five further principles of conduct that have been adopted by the Northern Ireland Assembly, both emphasise that those in public life should practice:

- **Public Duty** - uphold the law and to act on all occasions in accordance with the public trust placed in them and act in the interests of the community as a whole.
- **Selflessness** - act in the public interest at all times and 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 it.
- **Honestly** - act honestly. 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 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 18 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, page 14 - *Whistleblowing* which provides more detail about an employee's responsibilities in this regard).

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 15 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 must follow all lawful policies of the Council and must not let their own personal or political opinions 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. This does not compromise an officer's rights in relation to collective trade union representation engagement in lawful trade union activity.

Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

#### **4.4 Potential Conflict of Interest Situations**

As specified in paragraph 4.1, page 4 - *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 4 - *Standards of Behaviour, Impartiality and Conflicts of Interest*, 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.

This does not compromise an employee's rights as a ratepayer to access and/or question the provision of Council services to them through open and transparent Council procedures.

Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

Further advice and guidance is given in the Local Government Employee and Councillor Working Relationship Protocol attached at Appendix 2, page 19.

## Contact with the 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 the provisions of the Disability Discrimination Act 1995.

No part of the community or service users should be discriminated against.

## 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 procurement 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, page 15 for a definition of 'family relationship').

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 as soon as they are aware.

Employees must not accept money or any other reward from any organisation, body or individual 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.

## 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 15 for a definition of 'family relationship'). For further examples of Potential Categories of Interests see Appendix 1, page 16 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](http://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.

Employers and 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 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 4, page 18);
- 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 Procurement**

Employees involved in the procurement process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. All 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, page 15 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 below for guidance on *Hospitality and Gifts*).

#### **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, page 15 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 5)

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 Conflict of Interest Situations (paragraph 4.4, page 6)

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
- dependant

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).

### **3. Appointments and Other Employment Matters (paragraph 4.5, page 9)**

#### 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.

#### **4. Equality Issues (paragraph 4.8, page 11)**

##### 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

#### **5. Fraud and Corruption (paragraph 4.10, page 12)**

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 workers and volunteers while they are engaged in carrying out duties for the council.



**Local Government Policy Division 1**

To:  
Current Chief Executives  
Chief Executives of New Councils  
HR Managers  
Change Managers

Circular LG 43/2014

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Date: October 2014

Dear Sir / Madam

**Local Government Employee and Councillor Working Relationship Protocol**

The Northern Ireland Local Government Code of Conduct for Councillors is now in place, in line with the statutory requirements in the Local Government Act (Northern Ireland) 2014.

As a separate exercise, The Local Government Reform Joint Forum (LGRJF) has reviewed the Local Government Officer Code of Conduct.

A protocol on working relationships between Councillors and Local Government Officers was previously annexed to the Local Government Officer Code of Conduct, and the Department has revised this in consultation with key stakeholders to create a stand-alone protocol as an annex to both codes. The agreed working relationship protocol is attached for your organisation to implement.

Yours faithfully

**Peter Gregg**  
**HR and Capacity Building**  
**Local Government Policy Division 1**  
Enc.

cc: Dr Adrian Kerr LGSC  
Dermot O'Hara LGRJF Secretariat



# **Local Government Employee & Councillor Working Relationship Protocol**

**Issued: October 2014**

# **Local Government Employee and Councillor Working Relationship Protocol**

## **1.0 Introduction**

- 1.1 The Local Government Act (Northern Ireland) 2014 (the 2014 Act) creates a new environment for Local Government in Northern Ireland. The 2014 Act includes a new ethical framework for local government, a key element of which is the introduction of a mandatory Code of Conduct for Councillors.
- 1.2 The 2014 Act imposes a mandatory requirement for Councillors to observe the Northern Ireland Local Government Code of Conduct for Councillors (the Councillor Code), which establishes mechanisms for the investigation and adjudication of complaints and for appeals. With the exception of Part 9 (Planning), the Code came into force on 28 May 2014 the Part of the Code which deals with planning will come into effect from 1 April 2015.
- 1.3 The Local Government Staff Commission for Northern Ireland is responsible for issuing the Code of Conduct for Local Government Employees (2004) (the Employee Code). In conjunction with the Local Government Reform Joint Forum, the Commission has prepared a revised Code of Conduct for Local Government Employees due to come into effect from 1 April 2015.
- 1.4 Local Government has already established policies and procedures to resolve issues that Employees (for the purpose of this protocol the term 'Employees' or members of staff should be taken to mean any individual employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Protocol also applies to seasonal and casual staff, agency workers and volunteers while they are engaged in carrying out duties for the council), may encounter in the workplace. This protocol does not override any existing Employee policies or legal obligations but seeks to clarify the expected working relationship between Councillors and Employees.

## **2.0 Purpose**

- 2.1 The 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. The protocol also advises of the steps to be taken to deal with concerns at an early stage to reduce negative impacts upon Councillors or Employees and ensure the prompt resolution of any difficulties which may arise. All issues raised under the remit of this protocol must be dealt with in the strictest confidence.
- 2.2 The protocol should also assist in furthering and developing a harmonious working environment with positive, constructive and professional relationships between Employees and Councillors.

2.3 The protocol reflects the content of both Employee and Councillor Codes of Conduct that demand the highest standards of personal conduct at all times. It upholds the seven Nolan Principles and the additional principles of public life:-

- **Public Duty** - have 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.
- **Selflessness** - should act in the public interest at all times and should take decisions solely in terms of the public interest. They should not act in order to gain financial or other material benefits for themselves, their family, friends or associates.
- **Integrity** - should not place themselves under any financial or other obligation to outside individuals or organisations, which might reasonably be thought by others to influence them in the performance of their duties.
- **Objectivity** - in carrying out public business, including considering public appointments, awarding contracts, or recommending individuals for rewards and benefits, they should make choices on merit.
- **Accountability** - are accountable to the public for their decisions and actions and for the way that they carry out their responsibilities and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** - should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions when required and restrict information only when the wider public interest clearly demands it.
- **Honesty** - should act honestly. They have a duty to declare any private interests relating to their public duties and should take steps to resolve any conflicts between their private interests and public duties at once and in a way that protects the public interest.
- **Leadership** - should 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** - should 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** - should 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, Employees, Councillors and councils, they should therefore show respect and consideration 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. Employees are ultimately responsible to the Chief Executive<sup>1</sup>; Councillors are responsible to the electorate. 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 Conduct of Local Government Employees towards Councillors**

- 3.1 Employees must treat all political groups and individual Councillors equally, fairly and remain politically neutral at all times. Employees will provide professional, impartial and effective support, to enable Councillors to fulfil their role, in and on behalf of, the council. Employees will not seek to influence or lobby a Councillor with regards to personal issues.
- 3.2 It is important that there should be good working relationships between senior council employees and Chairs of Committees / Mayors. However such relationships should not be allowed to become so close as to cast doubt either on an officer's ability to deal impartially with other councillors, or the Chair/Mayor's ability to deal impartially with other employees.

### **4.0 Procedure**

- 4.1 In the event that a Councillor wishes to raise either an informal or formal complaint regarding the conduct or behaviour of an Employee, the following process should be followed:

#### **Informal Approach**

- 4.2 A Councillor should seek to raise the matter in the first instance with the relevant Head of Service or Director who should seek to resolve the matter with the Employee concerned. The Councillor must not engage directly with the Employee, nor make any attempt to reprimand or discipline the Employee.
- 4.3 If the matter is about the conduct of an Employee at Head of Service or Director level, the Councillor should address their concern to the Chief Executive.
- 4.4 The Head of Service/Director/Chief Executive will undertake to resolve the matter through discussions with the Employee concerned and report on the outcome to the Councillor.

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[<sup>1</sup> A Chief Executive is also an employee and is ultimately responsible to the Council]

## **Formal Approach**

- 4.5 If the Councillor is unhappy with the outcome of the informal approach or considers the initial complaint to be of a serious nature, they should raise the matter with the relevant Head of Service or Director and make their Party Group Leader, if relevant, aware of the complaint.
- 4.6 The relevant Head of Service/Director (or Chief Executive if applicable), will ensure the matter is investigated according to the relevant council procedures consulting with appropriate human resource sections.
- 4.7 The outcome of the investigation may result in:-
- no further action being required,
  - a verbal or written apology to the Councillor with an acknowledgement by the Employee that their conduct failed to meet the agreed standard and an undertaking that there will be no recurrence or
  - referral for consideration under the council's disciplinary procedure.
- 4.8 The Head of Service/Director (or Chief Executive if applicable), will write to the Councillor and Group Party Leader, if relevant, advising of the outcome.
- 4.9 The Employee will be informed in accordance with the relevant council procedures.
- 4.10 If the complaint is in relation to the Chief Executive the procedures specified in the Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities or the appropriate mechanism at that time will be followed.

## **5.0 Conduct of Councillors towards Employees**

- 5.1 Councillors' engagement with Employees must be equitable, reasonable, courteous and respectful and ensure that the impartiality of Employees is not compromised. Councillors must abide by their Code and their council's standing orders.

## **Procedure**

- 5.2 In the event that an Employee wishes to raise either an informal or formal complaint regarding the conduct or behaviour of a Councillor, the appropriate support must be provided by their respective line manager and the following procedure should be followed:

### **Informal Approach**

- 5.3 An Employee should seek to raise the matter in the first instance with their relevant Head of Service or Director, providing details of the incident that has occurred. The Employee must not engage directly with the Councillor. If necessary, the Head of Service or Director may involve the Group Party Leader, if relevant.
- 5.4 The Head of Service or Director will undertake to resolve the matter through discussions with the Councillor concerned and report on the outcome to the Employee and the Chief Executive.

### **Formal Approach**

- 5.5 If the Employee is unhappy with the outcome of the informal approach or considers their complaint to be of a serious nature, they may wish to consult with their recognised Trade Union representative, if applicable prior to raising the matter formally (verbally or in writing) with the relevant Head of Service or Director. The Employee and their representative may also raise the complaint directly with the senior Human Resource Employee in the Council.
- 5.6 The relevant Head of Service/ Director, (or senior HR Employee if applicable), will ensure the matter is investigated according to the appropriate council investigatory process.
- 5.7 The Councillor and Party Group Leader, if relevant, will be advised of the complaint and should agree to co-operate with the investigation to establish the facts.
- 5.8 The outcome of the investigation may result in:-
- no further action being required, or
  - a verbal or written apology to the Employee with an acknowledgement by the Councillor that their conduct failed to meet the agreed standards and an undertaking that there will be no recurrence.

- 5.9 If the Head of Service/Director (or senior HR Employee), considers that the circumstances of the complaint is sufficiently serious or a pattern of behaviour emerges, they may recommend to the Chief Executive that the matter is raised at a formal meeting with the Party Group Leader, if relevant. The minutes of this meeting should be presented to the appropriate governance committee for consideration.
- 5.10 The Head of Service/ Director (or senior HR Employee), will write to the Employee (and where appropriate their recognised Trade Union representative) advising of the outcome. If the Employee is unhappy with the outcome, they may request that their complaint be reviewed by the Chief Executive. The Chief Executive will review the complaint and advise the Employee (and their Trade Union representative) of their decision.
- 5.11 The Councillor and the Group Party Leader, if relevant, will be informed in writing of the outcome of the investigation and consideration of further action.

(To note: This protocol does not preclude an employee, at anytime, if they think it necessary, to write to the Commissioner for Complaints setting out how, in their opinion, a Councillor has breached the Code).

**This protocol is the interface between current Councillor and Employee Codes of Conduct, which require the highest standards of personal conduct, including activities on social media, to be maintained at all times.**

**J**

<b>Subject</b>	Mid Ulster Corporate Risk Register
<b>Reporting Officer</b>	Chief Executive

<b>1</b>	<b>Purpose of Report</b>
1.1	To receive and consider the Mid Ulster District Council Corporate Risk Register for the transitional period to 31 March 2015.

<b>2</b>	<b>Background</b>
2.1	Members will be aware that the Council, during the transitional period, is required to take all steps necessary to make arrangements to allow it to assume responsibility for the delivery of local government services from 1 April 2015 when Cooskstown, Dungannon & South Tyrone and Magherafelt Councils cease to exist.
2.2	<p>The Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (NI) 2014 confirms what the Council is mandated to do throughout 2014-15. The focus is on:</p> <ul style="list-style-type: none"> <li>• Preparing for the discharge of its functions after 31 March 2015</li> <li>• Establishing such committees and sub committees as required</li> <li>• Appointing staffing</li> <li>• Preparing budgets and plans</li> <li>• Liaising with existing councils to ensure continuity in functions on and after 1 April 2015</li> </ul>
2.3	In summary, the Council has been empowered to undertake such activities as required to make arrangements for the full establishment of the new Council on 1 April 2015. It will not have responsibility for delivery of local government services in Mid Ulster during transition.
2.4	The corporate risk register, at appendix 1, has been developed as a business tool to guide Council on the delivery of the transition programme. It should be used as an aid to manage identified risks, significant or otherwise, to this programme.

<b>3</b>	<b>Key Issues</b>
3.1	The Register identifies the initial risks aligned to a number of key service areas as part of the transition programme throughout the transitional period.

3.2	Risks have been identified within the service areas of HR, Finance, Systems and Governance, Communications and ICT. Risks are not confined to these business areas but are considered critical in moving from three councils to one.
3.3	<p>The register is presented with:</p> <ul style="list-style-type: none"> <li>• Risks</li> <li>• Control Measures in place to minimise identified risk</li> <li>• Risk Ratings</li> <li>• Actions being taken</li> <li>• Progress from one reporting period to the next</li> </ul>
3.4	Members should note that this register is a business tool and as such is a fluid document which will be updated as the transition programme develops, under the direction of the Chief Executive.

<b>4</b>	<b>Resource Implications</b>
4.1	<b><u>Financial</u></b>
4.1.1	No direct financial costs are being incurred to administer.
4.2	<b><u>Human resources</u></b> - N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> – N/A
4.4	<b><u>Other</u></b> - N/A

<b>5</b>	<b>Other Considerations</b>
5.1	Individual Service Risk Registers are also being maintained.

<b>6</b>	<b>Recommendations</b>
6.1	To review and note the Corporate Risk Register to December 2014

<b>7</b>	<b>List of Documents Attached</b>
7.1	Appendix 1: Mid Ulster DC Corporate Risk Register to December 2014

# Mid Ulster District Council Risk Register: Transitional Period 2014-15

Corp Ref	Service Area	Description of Risk	Existing Control Measures	Consequence	Likelihood	Risk Rating	Assessor	Date	Previous Risk Rating	Risk Owner	Actions	Target Date	Progress
MUDC1	Systems & Governance	<b>Failure to establish a robust governance framework</b> : Scope of risk includes: failure to have effective policies and procedures in place to meet legislative requirements; adequate control and management arrangements not established resulting in unclear direction: Risk systems have not yet been embedded. During transitional period D&STBC policies are being followed	Committee structures have been established for transitional period; capacity building programme being implemented; policies and codes being developed; insurance cover in place to transfer risk.	5	2	10	TMT	03-Nov-14	15	Chief Executive	Organisational Design aspects need to be established: Need to identify core essential policies/ procedures and develop, to include emergency planning arrangements effective from 1 April 2015. Need to establish agreed risk framework. Training on Governance, Risk Management, directors responsibilities to be delivered but being organised for January 2015	31-Mar-15	(i) Organisational Design for new council has been completed; (ii) core policies have been agreed by council; (iii) capacity building and training programme is being implemented; (iv) draft policies are being brought before
MUDC2	Human Resources	<b>Ineffective Workforce Planning:</b> Staff not in place to deliver effective services on 1 April 2015: Effective planning requires more than getting staff numbers right: MUC will require people with sufficient skills and these staff being deployed to right areas to achieve demands of new Council: Council could lose key staff with extensive knowledge/skill:	Transfer scheme agreed; Some guidance from DoE re categorisation has been released; Capacity Building Programme finalised.	3	3	9	TMT	03-Nov-14	9	Lead HR Officer	Plan to be developed to have staff in key positions to deliver services on 1 April 2015; deliver capacity building programme;	31-Mar-15	Directors interviews scheduled for 17 December; directors to take up appointment in January 2015; filling of posts for Heads of Service has commenced; recruitment scheduled for Feb 15
MUDC3	Finance	<b>Inadequate financial resources being provisioned:</b> Scope of risk extends to meeting capital demands: contracts and staffing costs:	Budget set, agreed by Council and continuous reviews.	3	3	9	TMT	03-Nov-14	9	Lead Finance Officer	To be kept under review	31-Mar-15	
MUC4	systems & Governance	<b>Failure to have corporate plan for new Council post 1 April 2015</b>	Workshop scheduled to discuss vision and values with Members, MUDC Officers and cluster council staff.	4	2	8	TMT	03-Nov-14	8	Change Manager	Timetable scheduling the development of the MUDC Corporate Plan developed; timelines for completion with Member engagement by end of Feb 2015	31-Mar-15	Professional support engaged to provide a high level overview organisationally; professional support to provide facilitative/ engagement support with members
MUDC5	Communications	<b>Ineffective Communication systems</b> Scope of risk extends to key messages not being delivered across organisation, failure to establish vision, values and brand of new Council;	Advertising Marketing & Comms lead. Comms group in place. Appointed design/branding company. Workshops scheduled to discuss vision/values with members/officers	4	2	8	TMT	03-Nov-14	12	Comms Marketing Manager	Communications Updates to Policy & Resources Committee: LGR publication continue to be dispersed.	31-Mar-15	Marketing Communications Officer appointed. Internal and external communications' activity begun, with a draft interim communications strategy and action plan to be completed by the end September 2014. First phase of branding project (stakeholder engagement) to be completed by end September 2014. Interim communications strategy agreed by Council (Oct 2014) and implementation is on-going. Second phase branding completed (end Nov 2014) and under consideration by the Council. Intranet and web development on track for go live in February (intranet) and 1 April (web site).



# Mid Ulster District Council Risk Register: Transitional Period 2014-15

Corp Ref	Service Area	Description of Risk	Existing Control Measures	Consequence	Likelihood	Risk Rating	Assessor	Date	Previous Risk Rating	Risk Owner	Actions	Target Date	Progress
MUDC6	ICT	<b>ICT systems inadequate for needs:</b> Scope of risk extends to confidentiality, availability, systems convergence and integrity of systems	ICT Working Group established; proper plans and assessment of existing systems is ongoing; ICT lead advertised and appointment imminent:	4	2	8	TMT	03-Nov-14	12	Lead ICT Officer	Assessment of transferring in systems and requirements to be ascertained.	31-Mar-15	Kelway report complete, recommendations accepted, procurements underway for key back office systems, temp recruitment underway
MUDC7	Systems & Governance	<b>Not effectively incorporating transferring functions into Council service portfolio;</b> scope of risk extends to DoE Planning, DSD, DCAL, DETI, to include location and ICT	Ongoing discussions with Departments; DoE Due Diligence Report:	4	2	8	TMT	03-Nov-14	12	Chief Executive	Location and accommodation for the Planning function for the initial period has been agreed. Decisions required on other Services but subject to Chief Exec and Director input once appointed	31-Mar-15	Location of Planning for the initial period agreed as Magherafelt Office. Plan to manage communication and customer service issues drafted for implementation post January 2015.
MUDC8	All Services	<b>Not effectively managing contracts from councils to MUDC:</b> Scope of risk extends to procurement not meeting council & EU thresholds; procurement is complex with myriad rules and regulations	Contracts identified which span from legacy council to MUC; specialist advice sourced when need is identified;	3	3	9	TMT	03-Nov-14	9	Chief Executive	Review contracts list to ensure three Councils have identified existing contracts; consider need for external support	31-Mar-15	
MUDC9	Systems & Governance	<b>Accommodation requirements inadequate for purpose and service needs:</b> Scope of risk extends to accessibility for staff and service users, adequate space.	Initial Assessment for transition team and members completed;	4	2	8	TMT	03-Nov-14	8	Lead HR Officer	Desk provision made in each Council office. A general audit of all existing office accommodation completed mid July to aid organisational planning and placement of services	31-Mar-15	Office Accommodation audit completed in July 2014 detailing office space currently occupied by existing staff;
MUDC10	All Services	<b>Failure to effectively deliver Community Planning</b>	Key staff engaged through workshop; plan being developed by project team; statutory agencies engaged;	4	2	8	TMT	03-Nov-14	8	Chief Executive	Timetable for Community Plan development being developed and to be completed by Dec 2014	31-Mar-15	Community Planning public engagement sessions delivered across the Mid Ulster District Council area.
MUC11	Finance	<b>Failure to implement a central finance service and system:</b> resulting in poor budgetary control, ineffective reporting, inaccurate allocation of costs over the district etc.	Lead Finance Officer recruited; work commenced on establishment of new system;	3	2	6	TMT	03-Nov-14	9	Lead Finance Officer	Finance Sections of existing councils engaged in design of harmonised finance system for new Council; have been working with Consilium/ TotalMobile to create new Coding System and integration of existing packages	31-Mar-15	Coding structure has been set and work continues on integration of existing packages. Acvtivities are at an advanced stage of completeness.
MUDC12	HR	<b>Losing Staff from MUDC Transition Team</b>	Robust recruitment process to ensure committed staff team appointed.	4	2	8	TMT	03-Nov-14	8	Lead HR Officer	Full team appointed and in place by end July 2014. Accommodation in place across 3 council offices to help build a team dynamic.	31-Mar-15	Transition Management Team meet weekly facilitating a corporate approach. Knowledge being built up by officer across all disciplines with support from the Chief Executive
MUDC13	Systems & Governance	<b>Failing to ensure continuity of services from 31 March to 1 April 2015</b>	Plans to develop a Business Continuity Response Plan in place to be effective from 1 April 2015	4	3	12	TMT	03-Nov-14	12	Change Manager	Consideration of Business Continuity Plans within predecessor councils. A timetable for the completion of a business continuity plan and lead officer to be identified to liaise and work with Change Manager.	31-Mar-15	Have individually spoken with Business Continuity contacts on taking forward. An officer has been engaged to compile a Business Continuity Plan to work with Change Manager and Mid Ulster Council ICT Manager.

Mid Ulster District Council Risk Register: Transitional Period 2014-15

Corp Ref	Service Area	Description of Risk	Existing Control Measures	Consequence	Likelihood	Risk Rating	Assessor	Date	Previous Risk Rating	Risk Owner	Actions	Target Date	Progress
MUDC14	Finance	Failure to Deliver Capital Programmes of Predecessor Councils	Understand cluster capital aspirations and affordability	3	2	6	TMT	03-Nov-14	9	Lead Finance Officer		31-Mar-15	Lead Finance Officer identifying costs and options for resourcing delivery of capital programmes. Members have been engaged in the process through two workshop discussion sessions.