

## **Part 4**

### **Codes and Protocols**

- 4.1 Northern Ireland Local Government Code of Conduct for Councillors
  
- 4.2 Code of Conduct for Officers including Local Government Employee and Councillor Working Relationship Protocol

## **Code of Conduct for Councillors**

# The Northern Ireland Local Government Code of Conduct for Councillors



Department of the  
**Environment**

[www.doeni.gov.uk](http://www.doeni.gov.uk)

Approved by the Northern Ireland  
Assembly on 27 May 2014

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## 1. **INTRODUCTION**

### **Effective Date of the Northern Ireland Local Government Code of Conduct for Councillors (the Code)**

- 1.1 Parts 1 to 8 came into force on 28 May 2014 and Part 9 (Planning) shall come into force on 1 April 2015. The Code has been laid in draft and approved by a resolution of the Assembly. The Code may be amended or revised at any time but such amendment or revision is subject to the same Assembly procedure.

### **Background**

#### The Local Government Act (Northern Ireland) 2014 (the 2014 Act)

- 1.2 As a consequence of decisions taken by the Northern Ireland Executive on the future shape of local government, the 2014 Act contains a number of provisions for the reform of local government. These include a new ethical framework for local government in Northern Ireland, a key element of which is the introduction of a mandatory code of conduct for councillors. Previously, councillors were guided by the non-mandatory Northern Ireland Code of Local Government Conduct which issued in April 2003.
- 1.3 The 2014 Act:-
- provides for the introduction of a mandatory Northern Ireland Local Government Code of Conduct for Councillors;
  - imposes a requirement for councillors to observe the Code; and
  - establishes mechanisms for the investigation and adjudication of written complaints that a councillor has failed, or may have failed, to comply with the Code.
- 1.4 The 2014 Act requires the Department to consult councils and such associations and bodies representative of councils and council officers and such other persons as appear to it to be appropriate, before issuing or revising the Code.

## **Public expectations**

- 1.5 The Northern Ireland public has the right to expect high standards of behaviour from councillors and the manner in which they should conduct themselves in undertaking their official duties and in maintaining working relationships with fellow councillors and council employees. As a councillor, you must meet those expectations by ensuring that your conduct complies with the Code. The Code details the principles and rules of conduct which you are required to observe when acting as a councillor and in conducting council business. Therefore your behaviour will be judged against these standards of conduct.

## **Guidance**

- 1.6 To assist you in understanding your obligations under the Code, you should read the guidance available from:
- the Northern Ireland Commissioner for Complaints, on the application of the Code and the complaints procedure,
  - the Department, on planning matters, and
  - the Equality Commission for Northern Ireland on section 75 obligations.
- Information on where you can find this guidance and additional contact details are provided at Annex A.

## **2. REQUIREMENT TO COMPLY WITH THE CODE**

### **Who does the Code apply to?**

- 2.1 The Code applies to councillors of councils established in accordance with section 1 of the Local Government Act (Northern Ireland) 1972 Act (the 1972 Act) as amended by the Local Government (Boundaries) Act (Northern Ireland) 2008.
- 2.2 The Code will also apply to councillors of existing councils<sup>1</sup> and shall continue to apply until those councils are dissolved in April 2015.

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<sup>1</sup> "existing councils" refers to those councils currently in place prior to the local government elections on 22 May 2014

- 2.3 The 1972 Act requires a councillor to serve on the Chief Executive of their council, a declaration of acceptance of office before they can act in the capacity of councillor. This declaration includes an undertaking that the councillor has read and will observe the Code (as revised from time to time).
- 2.4 The 2014 Act requires that a person who is not an elected person, but who becomes a member of any committee of a council, may not act as such unless they have given a written undertaking to the Chief Executive of the council and, in the case of a joint committee, to each of the Chief Executives of the councils constituting the committee. This includes an undertaking that they have read and will observe the Code (as revised from time to time).
- 2.5 In summary, the Code applies to the following persons-
- (a) any person who is elected to office within a council,
  - (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
  - (c) any person treated as a non-voting member by section 17 of the 2014 Act, and
  - (d) any person who is not an elected representative as mentioned in section 28(4) of the 2014 Act.

Throughout the Code, where the term "councillor" is used, it shall refer to those persons mentioned in sub-paragraphs (a) to (d) above.

- 2.6 As a councillor, it is your responsibility to make sure that you are familiar with the provisions of the Code and that you comply with those provisions.

### **When does the Code apply?**

- 2.7 You must observe the Code:
- (a) whenever you conduct the business, or are present at a meeting, of your council;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of a councillor; and
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your council.



- 2.8 You must also observe the Code if you are appointed or nominated to represent your council on another body **unless**:
- (a) that body has its own code of conduct relating to its members, in which case you must observe that code of conduct; or
  - (b) compliance with the Code conflicts with any other lawful obligations to which that body may be subject. (You must draw such conflict to the attention of your council and to the other body as soon as it becomes apparent to you.)
- 2.9 In addition to the circumstances stipulated in paragraphs 2.7 and 2.8, you must observe the Code at all times in relation to:
- (a) conduct which could reasonably be regarded as bringing your position as councillor or your council into disrepute (including such conduct that relates to your appointment to another body, even if that appointment did not arise from your position as a councillor);
  - (b) conduct relating to the procuring, advocating or encouraging of any action contrary to the Code;
  - (c) conduct relating to the improper use, or attempted use, of your position to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage; and
  - (d) conduct relating to the use, or the authorisation of the use by others, of the resources of your council.

### **Enforcement of the Code**

- 2.10 The 2014 Act gives the Northern Ireland Ombudsman, in his capacity as the Northern Ireland Commissioner for Complaints (the Commissioner), responsibility for the operation of the enforcing mechanisms of this Code. The 2014 Act extends the functions of the Commissioner's Office to include the investigation of, and adjudication on, alleged failure to comply with the Code.

- 2.11 The Commissioner may investigate written complaints from any person that a councillor (or former councillor) has failed, or may have failed, to comply with the Code. The Commissioner may also investigate cases of alleged failure to comply with the Code which come to his attention as a result of an investigation of a written complaint.
- 2.12 Where the Commissioner, having undertaken an investigation, determines that he should make an adjudication on the matters investigated, he will decide whether or not there has been a failure to comply with the Code. Where the Commissioner decides that there has been such a failure, he will decide whether no action should be taken or whether he should-
- (a) censure the person found to have failed to comply with the Code;
  - (b) suspend, or partially suspend, the person from being a councillor for a period of up to one year; or
  - (c) disqualify the person for being, or becoming, a councillor for a period of up to five years.

### 3. **PRINCIPLES OF CONDUCT**

- 3.1 The Code is based on 12 principles of conduct (the Principles), which are intended to promote the highest possible standards of behaviour for councillors. The Principles draw on the seven principles of conduct that the Committee on Standards in Public Life believed ought to underpin public life<sup>2</sup>, and the five further principles of conduct that have been adopted by the Northern Ireland Assembly. As a councillor, you must observe these Principles.
- 3.2 The rules of conduct set out in the Code (the Rules) are the specific application of the Principles. Your compliance with the Rules, which is required under the Code, will help you meet the high standards of conduct promoted by the Principles.

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<sup>2</sup> Committee on Standards in Public Life, Members of Parliament, ministers, civil servants and quangos (First Report) May 1995

### 3.3 The 12 principles of conduct are:

#### **Public Duty**

You have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in you.

You have a general duty to act in the interests of the community as a whole.

You have a special duty to your constituents and are responsible to the electorate who are the final arbiter of your conduct as a public representative.

#### **Selflessness**

You should act in the public interest at all times and you should take decisions solely in terms of the public interest. You should not act in order to gain financial or other material benefits for yourself, your family, friends or associates.

#### **Integrity**

You should not place yourself under any financial or other obligation to outside individuals or organisations, which might reasonably be thought by others to influence you in the performance of your duties as a councillor.

#### **Objectivity**

In carrying out council business, including considering public appointments, awarding contracts or recommending individuals for rewards and benefits, you should make choices on merit.

#### **Accountability**

You are accountable to the public for your decisions and actions and for the way that you carry out your responsibilities as a councillor and must submit yourself to whatever scrutiny is appropriate to your responsibilities.

## **Openness**

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions when required and restrict information only when the wider public interest clearly demands it.

## **Honesty**

You should act honestly. You have a duty to declare any private interests relating to your public duties. You should take steps to resolve any conflicts between your private interests and public duties at once and in a way that protects the public interest.

## **Leadership**

You should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of your constituents, and to ensure the integrity of your council and its councillors in conducting business.

## **Equality**

You 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**

You 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, equity and trust and embrace diversity in all its forms.

## **Respect**

It is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. You should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, councillors and councils. You should therefore show respect and consideration for others at all times

## **Good Working Relationships**

***Between councillors*** – you should work responsibly with other councillors for the benefit of the whole community. You must treat other councillors with courtesy and respect. You must abide by your council's standing orders and should promote an effective working environment within your council.

***Between councillors and council employees*** - The relationship between councillors and employees must at all times be professional, courteous and based on mutual respect. You should show respect and consideration for council employees at all times and ensure that your actions do not compromise their impartiality.

## **4. RULES OF GENERAL CONDUCT**

### **Your obligations as a councillor**

- 4.1 Councillors hold public office under the law and must act:
- (a) lawfully;
  - (b) in accordance with the Code; and
  - (c) in accordance with the standing orders of your council.
- 4.2 You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.

- 4.3 You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and to take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.
- 4.4 You must report, either through your council's own reporting procedure or directly to the proper authority, any conduct by any other person which you believe involves, or is likely to involve, criminal behaviour.
- 4.5 You must not, at any time, whether in the course of your duties as a councillor or in private, procure, advocate or encourage any action contrary to the Code.
- 4.6 You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.
- 4.7 You must not make vexatious, malicious or frivolous complaints against other councillors or anyone who works for, or on behalf of, your council.
- 4.8 You must maintain and strengthen the public trust and confidence in the integrity of your council. You must promote and support the Code at all times and encourage other councillors to follow your example.
- 4.9 You must co-operate with your council with regard to providing the necessary information to be included in the annual accounts of the council.
- 4.10 You must assist your council to act, as far as possible, in the interests of the whole community. Although individuals are entitled to pursue their own personal concerns about local issues, you must not represent their views over the wider public interests.

4.11 You must ensure that you are aware of your council's responsibilities under equality legislation, and that you are familiar with the relevant legislative statutes and provisions, in particular, with the obligations set out in your council's equality scheme.

This will enable you to have due regard to the need to promote equality of opportunity on grounds of age, marital status, disability, political opinion, race, religious belief, sex, sexual orientation, and whether or not people have dependants; and to have regard to the desirability of promoting good relations between people of different racial groups, religious belief or political opinion.

4.12 You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

#### **Behaviour towards other people**

4.13 You must:

- (a) show respect and consideration for others;
- (b) not use bullying behaviour or harass any person; and
- (c) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your council.

4.14 You must work responsibly and with respect, with others and with employees of councils. The "Protocol for Relations between Councillors and Employees in Northern Ireland District Councils<sup>3</sup>", which is included as Appendix 3 in the Code of Conduct for Local Government Employees, is available on the Local Government Staff Commission's website

[http://www.lgsc.org.uk/fs/doc/publications/EMPLOYEE\\_CODE\\_FEBRUARY\\_2004.doc](http://www.lgsc.org.uk/fs/doc/publications/EMPLOYEE_CODE_FEBRUARY_2004.doc)

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<sup>3</sup> The Department notes this Protocol is being reviewed and will update this reference to any revised version.

## **Disclosure of information**

- 4.15 You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required to do so by law.

## **Use of your position**

- 4.16 You must not:
- (a) use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person;
  - (b) use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or
  - (c) use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person.

These provisions apply both to your actions in your official capacity, including as a member of a body to which you are appointed by the council, and to any dealings you may have with the council on a personal level (for example, as a council ratepayer, tenant, or recipient of a council service or as an applicant for a licence or consent granted by the council).

- 4.17 You must avoid any action which could lead members of the public to believe that preferential treatment is being sought.



### **Use of council resources**

- 4.18 You must not use, or authorise others to use, the resources of your council:
- (a) imprudently;
  - (b) in breach of your council's requirements;
  - (c) unlawfully;
  - (d) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of your council or of the office to which you have been elected or appointed;
  - (e) improperly for political purposes; or
  - (f) improperly for private purposes.

### **Expenses and allowances**

- 4.19 You must observe the law and your council's rules governing the claiming of expenses and allowances in connection with your duties as a councillor

### **Acceptance and registration of gifts and hospitality**

- 4.20 You must:
- (a) in accordance with any standing orders of your council and within 28 days of receipt of any gift, hospitality, material benefit or service, which is above a value specified in a resolution of your council, provide written notification to your chief executive of the existence and nature of that gift, hospitality, material benefit or service;
  - (b) not accept from anyone gifts, hospitality, material benefits or services for yourself or any other person, which might place you, or reasonably appear to place you, under an improper obligation; and
  - (c) discourage gifts and offers of hospitality to any family members which might place you, or reasonably appear to place you, under an improper obligation.

## 5. RULES RELATING TO THE REGISTRATION OF INTERESTS

### The role of the Chief Executive

- 5.1 Section 62 of the 2014 Act requires every Chief Executive to ensure that their council has established and maintains a register of member's interests. The Code recommends that a register for gifts and hospitality should also be established and maintained and that procedures are in place for dealing with relevant declarations of interests.

### Interests

- 5.2 Subject to paragraphs 5.4 and 5.6, you must, within 28 days of your election or appointment to office (if that is later), register your **personal interests (both financial and otherwise)** where they fall within a category mentioned below, in your council's register by providing written notification to your Chief Executive.

### Categories of interests

- 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 subparagraph (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) trade union or 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.

**Registration of financial and other interests and memberships and management positions**

- 5.3 You must, within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your Chief Executive.

### **Sensitive information**

- 5.4 Where you consider that the information relating to any of your personal interests is sensitive information, and your Chief Executive agrees, you need not include that sensitive information when registering that interest or, as the case may be, a change to the interest.
- 5.5 In the Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.
- 5.6 You must, within 28 days of becoming aware of any change of circumstances which means that sensitive information previously excluded from your council's register of members interests due to it being sensitive is no longer sensitive, notify your Chief Executive asking that the information be included in the register.

## **6. RULES RELATING TO THE DISCLOSURE AND DECLARATION OF INTERESTS**

### **Pecuniary interest**

- 6.1 Section 28 of the 1972 Act requires you to declare any pecuniary interest, direct or indirect, that you may have in any matter coming before any meeting of your council. Such interests will be recorded in the register kept by your council for this purpose.
- 6.2 You must not speak or vote on a matter in which you have a pecuniary interest. If such a matter is to be discussed by your council, you must withdraw from the meeting whilst that matter is being discussed.

### **Private or personal non-pecuniary interest**

- 6.3 You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage

yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.

- 6.4 You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.

### **Dispensations**

- 6.5 In exceptional circumstances, you may be able to get a dispensation to speak and vote at a council meeting in spite of a pecuniary interest. The Department may grant such a dispensation under section 29 of the 1972 Act.
- 6.6 On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. Your council may have specific guidance on such matters. Subject to this, you may speak and vote on such a matter if **(but only if)**:
- at least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or
  - your withdrawal, together with that of other councillors of the council or committee who are required to withdraw due to their personal interests in the matter, would leave the council or committee without a quorum.
- 6.7 In those circumstances outlined in the preceding paragraph, you should take advice on the matter from a relevant senior council employee. If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.

6.8 In the case of a sub-committee which is very small and where a large proportion of councillors declare a personal interest in the matter, it will usually be more appropriate for the matter to be referred to the parent committee.

6.9 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:

- a member of a public body; or
- a member or supporter of a charity, voluntary body or other organisation formed for a public purpose (i.e. not for the personal benefit of members).

However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the organisation if you are a member of the organisation's management committee or governing body.

6.10 Section 30 of the 1972 Act requires you to disclose to the council, in writing, any relevant family relationship, as set out in paragraph (6) of that section, known to exist between you and any person you know either holds, or is a candidate for appointment to, any office in the council.

6.11 The requirement to make your relevant interests known on matters, in council and committee meetings, also applies in your dealings with council employees and in your unofficial relations with fellow councillors.

## **7. RULES RELATING TO LOBBYING AND ACCESS TO COUNCILLORS**

7.1 In order for a council to fulfil its commitment to being open, accessible, and responsive to the needs of the public, it should encourage appropriate participation by organisations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the council conducts its business.

7.2 As a councillor you will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual councillors or council committees. The rules in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.

7.3 You may be lobbied by a wide range of people including individuals, organisations, companies and developers. As a general rule, it is an essential element of the democratic system that any individual should be able to lobby the council or a councillor.

#### **Rules of Conduct regarding lobbying**

7.4 If you are lobbied on matters such as applications made under regulatory powers or matters of a quasi-judicial nature, such as the determination of certain licence applications, and you will have a role in the council's decision on that matter, you must:

- (a) make it clear that you are not in a position to lend support for or against any such application; and
- (b) direct any such representations, to the appropriate department of the council.

This does not prevent you from seeking factual information about the progress of the case.

7.5 If you are asked to decide on such matters, you must not:

- (a) organise support for a particular recommendation on the matter;
- (b) organise opposition to a particular recommendation on the matter;
- (c) lobby other councillors about the matter;
- (d) comply with political group decisions on the matter where these differ from your own views; or
- (e) act as an advocate to promote a particular recommendation in relation to the matter.

7.6 Paragraphs 7.4 and 7.5 also apply in relation to individual staffing matters such as the appointment or discipline of employees.

## **8. RULES RELATING TO DECISION-MAKING**

8.1 When participating in meetings or reaching decisions regarding the business of your council, you must:

- (a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;.
- (c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;.
- (e) act in accordance with any relevant statutory criteria;
- (f) act fairly and be seen to act fairly;
- (g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;
- (i) not organise support for, or opposition against, a particular recommendation on the matter being considered;
- (j) not lobby other councillors on the matter being considered;
- (k) not comply with political group decisions on the matter being considered, where these differ from your own views; and
- (l) not act as an advocate to promote a particular recommendation in relation to the matter being considered.



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## **PLANNING MATTERS**

- 9.1 The following section relates to the application of the Code of Conduct in relation to planning matters. This section should be applied in conjunction with the Principles and Rules of the Code.
- 9.2 Care must be taken when dealing with planning matters. All councillors will have contact with planning issues, either as advocates for or against planning applications, as members of the planning committee, or as members of the full council. Your specific role will vary depending on whether you are on a planning committee or not.
- 9.3 Your role as a councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.

### **Development management**

- 9.4 As a councillor your involvement in the development management process is crucial. Whether you sit on a planning committee or not, you can encourage developers and others to engage with the council and residents in the planning process. It is important that you represent the needs of your community in discussions with developers. Lobbying is therefore a normal and perfectly proper part of the political process.

- 9.5 However, particular considerations apply if you are a member of the decision-making planning committee, as lobbying can lead to the impartiality and integrity of a councillor being called into question. Given that a decision on a planning application cannot be made before the planning committee meeting has been held, when all relevant information relating to the application is available and has been considered, you must not make public statements about a pending decision or state your intention to vote in a particular way before the committee meeting has taken place. However, other councillors who are not part of the decision-making process can make representations and address the relevant committee
- 9.6 It is entirely appropriate for councillors, including those who will have a decision-making responsibility, to make known to planning officers what representations from constituents and prospective developers they have received on a planning application, to attend public meetings/events and to assist constituents in making their views known to the relevant planning officer. While planning committee members are free to attend public meetings/events they must not express a 'for' or 'against' view by advocating a position in advance of the decision-making meeting.
- 9.7 If you are a member of the planning committee and an approach is made to you by an applicant, agent or other interested party in relation to an existing or proposed planning application, you should restrict yourself to either giving procedural advice (e.g. advising those who are lobbying that they should contact the relevant planning officer so their opinions can be included in the officer's report to the committee) or advise them to write or speak to a member who is not on the planning committee. This does not mean that members who are on planning committees should not listen to the views the lobbyist wishes to express.
- 9.8 If, however, as a planning committee member, you decide you cannot remain impartial and wish to make representations on behalf of constituents or other parties, you may attend a committee meeting and make representations, after which you must leave the room while the members consider it and not take part in the voting.

### **Decisions contrary to officer recommendation**

- 9.9 You must not seek to apply undue pressure towards planning officers to provide a particular recommendation on any planning decision. If you propose, second or support a decision contrary to an officer's recommendation, you must only do so on the basis of sound planning considerations which must fairly and reasonably relate to the application concerned. These considerations include planning policy, landscaping, impact on the neighbourhood, planning history, etc.

### **Decisions contrary to the local development plan**

- 9.10 If you propose, second or support a decision contrary to the development plan, you must only do so on the basis of sound planning considerations, which must fairly and reasonably relate to the application concerned, and you must clearly demonstrate how these considerations justify overruling the development plan.

### **Policy and strategic issues**

- 9.11 Councillors have a vital role in facilitating engagement with their communities in the production of planning policy by encouraging them to express their views on the plan-making process. In your key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the council.
- 9.12 Planning legislation requires councillors of a council to determine all planning applications in accordance with the development plan, unless material considerations indicate otherwise. You must undertake this responsibility without undue influence or personal interest.

### **Other interests**

- 9.13 If you have substantial land, property or other interests which would prevent you from voting on a regular basis, you must not sit on a decision-making committee that deals with planning applications.

- 9.14 You must not act on behalf of, or as an agent for, an applicant for planning permission with the council other than in the course of your professional role which you have registered.
- 9.15 You must not take any further part in the development management process following submission of an application for yourself or for a family member, friend or close personal associate. You have the same rights to explain your proposal to an officer but you must not seek to improperly influence the decision.
- 9.16 If you work as a lobbyist for a developer, you must declare this as an interest and you should not then be involved in any decision-making process relating to or potentially affecting that developer.

#### **Unauthorised development**

- 9.17 If you are made aware of an unauthorised development and you refer the matter to the council for possible enforcement action, you must advise all subsequent inquirers to deal directly with the relevant department/officer, and you should not lobby for a particular outcome. This does not prevent you from seeking factual information about the progress of the case.
- 9.18 Where you have an interest in the outcome of a planning committee decision on enforcement action, you must disclose that interest and not take part in, or seek to influence, the decision.

## SOURCES OF GUIDANCE RELATING TO THE CODE

<p><b><u>The Northern Ireland Commissioner for Complaints</u></b></p> <p>Telephone : 028 902 33821  <b>OR</b>  Text phone : 028 908 97789  <b>OR</b>  Email : <a href="mailto:ombudsman@ni-ombudsman.org.uk">ombudsman@ni-ombudsman.org.uk</a>  <b>OR</b>  Via Post</p> <p>The Ombudsman  Freepost BEL 1478  Belfast  BT1 6BR</p> <p><b>OR</b></p> <p>The Ombudsman  33 Wellington Place  Belfast  BT1 6HN</p>	<p><b><u>Equality Commission for Northern Ireland</u></b></p> <p>Equality House  7 - 9 Shaftesbury Square  Belfast  BT2 7DP</p> <p>Telephone : 028 90 500 600  Textphone : 028 90 500 589  Fax : 028 90 248 687  Email : <a href="mailto:information@equalityni.org">information@equalityni.org</a></p> <p>Website: <a href="http://www.equalityni.org">www.equalityni.org</a></p>
<p><b><u>The Department of the Environment</u></b></p> <p>Local Government Policy Division 1  Causeway Exchange  1-7 Bedford Street  Town Parks  Belfast, BT2 7EG.</p> <p>Website: <a href="http://www.doeni.gov.uk">www.doeni.gov.uk</a>  E-mail: <a href="mailto:LGPD@doeni.gov.uk">LGPD@doeni.gov.uk</a>  Textphone 028 905 40642</p>	

## GLOSSARY

In this Code:

**“the 1972 Act”** means the Local Government Act (Northern Ireland) 1972;

**“the 2014 Act”** means the Local Government Act (Northern Ireland) 2014;

**“Councillor”** for the purposes of this Code means-

- (a) any person who is elected to office within a council,
- (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
- (c) any person treated as a non-voting member by section 21 of the 2014 Act, and
- (d) any person who is not an elected representative as mentioned in section 32(4) of the 2014 Act;

**“council”** means the council of a local government district established in accordance with the Local Government (Boundaries) Act (Northern Ireland) 2008<sup>4</sup>;

**“Chief Executive”**, means a person appointed as clerk of a council; and

**“meeting”** means any meeting—

- (a) of the relevant council or of a committee or sub-committee of the relevant council,
- (b) of the executive of the relevant council or of a committee or sub-committee of the executive of the relevant council,
- (c) of a joint committee or sub-committee of a joint committee which includes the relevant council, or
- (d) where members or officers of the relevant council are present, including circumstances where a member of an executive or officer of the council, acting alone exercises a function of the council.

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<sup>4</sup> Until 31 March 2015, “council” shall also include those councils in place prior to the Local Government Elections of 22 May 2014 and the Code shall apply to the councillors of those councils.

## **SANCTIONS APPLIED BY THE COMMISSIONER**

Under section 62(3) of the Local Government Act (Northern Ireland) 2014, where the Commissioner decides that a person has failed to comply with the Code, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should-

- a. censure the person in such terms as the Commissioner thinks appropriate;
- b. suspend or partially suspend the person from being a councillor for such a period, and in the way, as the Commissioner thinks appropriate. However, that period shall not exceed one year or, if shorter, the remainder of the person's term of office; or
- c. disqualify the person for being, or becoming (whether by election or otherwise) a councillor, for such a period as the Commissioner thinks appropriate but not exceeding five years.

## **Code of Conduct for Officers**



## 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

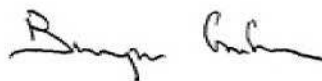
1. The attached circular, a copy of the Code of Conduct for Local Government Employees (the Code), has been agreed by the Local Government Reform Joint Forum (LGRJF).
2. This Code is issued as a statutory recommendation by the Local Government Staff Commission under Article 35(1)(b) of the Local Government (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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**R WILSON**

**LGRJF Employers' Lead**

# LGRJF

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 standalone 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.**