

CODE OF CONDUCT

Introduction

Nolan Committee Principles

The public is entitled to expect the highest standards of conduct from all employees who work for the Council.

Employees of the Council have a responsibility to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council and must not place themselves in a position that would create the least suspicion of being influenced by improper motives.

Employees of the Council must not take any decision in pursuit of a private interest that might influence a public decision.

Scope

This Code of Conduct (the Code) outlines existing laws, regulations and conditions of service and provides further guidance to assist employees in their day to day work, particularly in light of the challenges faced in the new and more commercially orientated environment of local government.

The Code sets out the minimum standards of conduct expected and lays down guidelines to help maintain and improve standards, which will protect all employees from misunderstanding or criticism.

The Code is based upon a model code approved by the Local Authority Associations in 1995, agreed by the Personnel Committee in January 1996 with subsequent revisions agreed by the Personnel Board on 30th September, 1999, following consultation with the Staff Consultative Group and Trade Union.

The Code applies to all employees of the Council regardless of status.

Existing and new employees will be required to sign the document Key Principles of the Code confirming that they have read and will observe the Code at all times. The Code will apply as part of the normal terms and conditions for all employees.

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1. Standards

- 1.1. As an employee, you are expected to give the highest possible standard of service to the public, and where it is part of your duties, to provide appropriate advice to Members and other employees with impartiality. You will be expected, without fear of recrimination, to bring to the attention of your Senior Officer any deficiency in the provision of services be it significant or otherwise.
- 1.2. You must also report immediately to your Senior Officer and/or the Head of Finance and Resources & HR any impropriety, fraud or breach of procedure. Occasionally it will not be appropriate for an employee to report directly to his/her Senior Officer if he/she may be involved in any breach. In these circumstances, the Managing Director may be advised, in addition to the Head of Finance & Resources. The Council has adopted a Code of Practice for Employees on Whistleblowing. This enables you to report confidentially on any improper behaviour or action taken by a member of staff, their manager, or any Member of the Council or any other person/company acting on their behalf.
- 1.3. Under the Public Interest Disclosure Act 1998 you will be protected from harassment (See Harassment Policy), victimisation, disciplinary action or dismissal, or any other disadvantage at work (even if your disclosure of malpractice is not substantiated after investigation). This is provided you; raise/disclose the issues in good faith; have reasonable belief that the information disclosed and any allegation contained in it is substantially true; do not report/disclose the matter for purposes of personal gain; and that in the normal circumstances of the case, it is reasonable for you to make the disclosure. For further guidance, refer to the Whistleblowing Procedure.

2. Disclosure of Information

- 2.1. It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, Trades Unions, service users and the public. You must check with your Senior Officer what information you can give openly and ensure you know what information you cannot disclose without specific authority. Without prejudice to your right to make a protected disclosure under the Public Interest Disclosure Act 1998, in general, you must not disclose confidential information concerning an individual employee or service user and commercially sensitive information about contracts or tenders. The Council itself may decide to be open about other types of information. You should, therefore, be aware of the information, which the Council is and is not open about, and act accordingly.
- 2.2. The Member and Officer Protocol sets out the Council's policy statement on the broad roles of Officers and Members. This policy provides guidance on

when it is appropriate to disclose information. You should familiarise yourself with this document if you have contact with Members. Standing Order 28 which also contains guidance on disclosure of information to Members.

- 2.3. You must not use any information not in the public domain obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

3. Political Neutrality

- 3.1. You must serve the Council as a whole. It follows therefore that you must serve all Members and not just those of the controlling group. You must also ensure that the individual rights of all Members are respected.
- 3.2. Subject to the Council's conventions, you may also be required to advise political groups. You must do so in ways that do not compromise your political neutrality. Information communicated to you by a party group in confidence should not be communicated to other party groups.
- 3.3. You must follow all policies, procedures and rules of the Council and you must not allow your own personal or political opinions to interfere with your work.
- 3.4. If you are in any doubt about the points above, you should refer to the Protocol for further guidance.

4. Politically Restricted Posts

- 4.1 The Local Government and Housing Act 1989 introduced the principle of 'politically restricted posts'. Regulations made under the Act provide that officers who hold politically restricted posts are barred from:

Standing in any election other than for a parish council acting as an election agent

- acting as an election agent
- holding office in a political party or canvassing at elections
- having the right to speak or write in public on matters of party political controversy (other than in an official capacity on behalf of the Council).

- 4.2 Employees will not be prevented from actually belonging to a political party.

- 4.3 The definition of "politically restricted posts" is divided into 3 categories:

- i.

- The "Head of the Paid Service", at Dartford this is the Managing Director
 - The "Statutory Chief Officer".
 - "Deputy Chief Officers" - a person who reports directly or is directly accountable to one or more of the Statutory or Non-statutory Chief Officers
 - "Non-statutory Chief Officers" - these are the defined people for whom the Head of the Paid Service is directly responsible and people who report directly to or who are directly accountable to the Head of the Paid Service in respect of all or most of their duties (This does not include people whose duties are solely secretarial or clerical)
 - The "Monitoring Officer" at Dartford is the Executive Director.
 - Assistants for Political Groups
 - Posts where the postholder has delegated authority to act on behalf of the Authority for a period of more than six months
- ii. Employees earning SP44 per annum at present or more per annum (or pro rata for part timers)
- iii. Employees earning less than SP44 per annum at present or more per annum (or pro rata for part timers) but who give advice on a regular basis or speak on behalf of the Authority on a regular basis to the media ("the sensitive duties criteria")

Further information about politically restricted posts can be obtained from Human Resources.

5. Relationships

5.1. Employees:

You are responsible to the Council through your Senior Officer. Mutual respect between employees and Members is essential to good local government. Close personal familiarity between yourself and individual Members or between yourself and another employee can damage the relationship and prove embarrassing to other employees and Members. Close personal relationships of this kind may cause a perception of bias or favouritism. You must avoid putting private considerations above the interests of the Council. To avoid this problem, you must declare to your Senior Officer using a Declaration of Officer Interest form available from Human Resources, the following:

- Any close personal relationship with another employee in the same Section, area of work or any other part of the Council, where you might appear at risk of bias or favouritism. If in doubt seek advice from Human Resources.
- Any close personal relationship with a Member; and
- Any close relationships with any organisations, contractors, consultants or voluntary organisations who have business with the Council.

The Declaration of Officers Interests form will be kept centrally in Human Resources and on your personal file. Human Resources will write to all staff annually, to ensure information is up to date, but all staff are responsible for advising the Council of changes as and when they happen.

It is not possible to define exactly the range of relationships that would be considered as close or personal. You must at all times avoid the appearance of bias or favouritism and avoid putting private considerations above the interests of the Council. Conflicts of interest and impropriety must be avoided at all times.

5.2 The Local Community and Service Users

You must always remember that you have responsibilities to the community you serve and ensure courteous, efficient and impartial services are provided to all groups and individuals within that community.

5.3 Contractors

A definition is - any contractor including their agents and/or sub-contractor, supplier or consultant and the self-employed that work under a contract to perform personally any work or service for the Council.

All relationships, with contractors as defined above, of a business or private nature, must be made known to your Senior Officer, as soon as you are aware of the relationship. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown in the tendering process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against. For further guidance refer to the Council's Standing Orders, Financial Regulations and Human Resources.

If you are responsible for engaging or supervising contractors, or have any other official relationship with contractors, and have previously had or currently have a relationship in a private or domestic capacity with contractors, you must declare that relationship at the earliest opportunity. This is to your Senior Officer and in the Declaration of Officers Interests Register maintained in Human Resources.

5.5 You must also be aware of and act in accordance with the Council's Standing Orders and Financial Regulations, copies of which are held by your Senior Officer.

6. Appointments and Other Employment Matters

6.1. You must not place yourself in a position that would create the least suspicion of being influenced by improper motives or which may compromise the integrity of the Council.

6.2. If you are involved in interviews or appointments you should ensure that these are made on the basis of merit and most importantly, in accordance with the Council's recruitment and selection procedure. It would be unlawful for you to make an appointment, which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, you must not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with that person.

6.3. If you are involved in an appointment, the only question you should consider, is this - which candidate would best serve the whole Council. You must not let your political or personal preferences influence your judgement. You must not canvass the support of colleagues or Members for any candidate. You must resist any attempt by others to canvass you; if this should happen you must report the situation to your Senior Officer/Director.

6.4. Without prejudice to the right to represent a colleague at a hearing, you should not be involved in decisions relating to discipline, promotion or pay adjustments for any employee with whom you have a close personal relationship for example relative, partner etc.

7. Outside Commitments/Private Work/Activities

7.1. You are expected to devote the whole of your contracted working hours to the duties of your post.

You must not undertake, either during or outside your contracted hours, and without the prior written permission of your Senior Officer / Director, the following:-

- work for any other employer
- work on a self-employed basis

- work as a holder of a paid office (for example, a paid clerk to a governing body of a school. If in doubt seek advice from Human Resources)

- 7.2. Your activities (paid or unpaid) during your off duty hours are of personal concern to you only, but no conflict of interest must arise between your duties as an employee and your private interests and activities, which may be detrimental to the Council's reputation.
- 7.3. The Council does encourage voluntary work, public duties and activities in support of local community groups and any involvement you may have in these areas is welcomed, subject to you ensuring there is no conflict with your work responsibilities.
- 7.4. If you are in any doubt as to whether outside activities, paid or unpaid, may give rise to a conflict of interest, you should speak to your Senior Officer.
- 7.5. Permission to undertake paid or unpaid work will normally be withheld if, in the view of your Senior Officer, any such work might bring conflict to or be detrimental to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.
- 7.6. Council facilities such as transport, stationery, equipment or secretarial services are provided for your duties at work and must not be used for private use. For employees undertaking Trade Union duties, facilities are provided.
- 7.7. If you wish to apply for permission to undertake private work/activities, please complete the Declaration of Officers Interest Form and hand it to your Senior Officer. He/she may then wish to discuss the matter with you, prior to submitting a recommendation to your Director.

8. Intellectual Property

- 8.1 Intellectual property is a generic term that includes inventions, creative writings, drawings and data base information. If you produce these types of work during the course of your employment then as a general rule they belong to the Council. However, various Acts of Parliament cover different types of intellectual property and, if in doubt, you should check with the Head of Legal Services.

You must follow the Council's rules on the ownership of intellectual property or copyright created during your employment.

- 8.2 Inventions made before 1st June 1978 are the property of the Council, if made in the course of your employment. However, the Patents Act 1977 states that after the 1st June 1978, inventions are only the property of the Council if:

- they have been made in the course of your normal duties, or

- they have been made in the course of duties specifically assigned to you and where invention might be reasonably expected, or
- it was made in the course of your duties and at the time you had (because of the nature of your duties and particular responsibilities arising from them) a special obligation to further the interests of the Council.

8.3 You must seek the approval of your Senior Officer before publishing or making private gain from any work, which may be associated with your official capacity.

9 Personal Interests

9.1 You must declare to your Senior Officer by completing a declaration of interests form, any financial or non-financial interests/activities that you have which could bring about conflict with the Council's interests. You are responsible for informing your Senior Officer of the interest. The Declaration of Interest Form may be obtained from Human Resources.

9.2 Examples include; acting as a school governor within the Borough, involvement with an organisation receiving grant aid from the Council, membership of a National Health Service Trust Board and/or involvement with an organisation (voluntary or otherwise) or pressure group which may seek to influence the Council's policies. You do not need to register membership of an organisation, if you have been appointed to it by the Council. However, you should be aware of appointments that may give rise to a declarable interest.

9.3 The Nolan Committee stressed the importance of employees not only behaving with propriety but also being seen to do so on all occasions. Therefore all relevant interest, personal and pecuniary must be declared and registered.

9.4 Section 117 of the Local Government Act 1972 requires employees to disclose to the Council, in writing, any financial interest, (which also extends to situations where any material benefit might be obtained) they have in a contract, grant, proposed contract or other matter, between the Council and a third party e.g. a company in which an employee owns shares. In this Council, these provisions are supplemented by Standing Order 21, which requires the Managing Director to record employees' interests in the Declaration of Officer Interests Register held in Member Services. It is a criminal offence not to make a disclosure where one is required.

9.5 You should declare to the Managing Director, membership of any organisation, not open to the public, without formal membership and commitment of allegiance, and which has secrecy about rules or membership or conduct. All relevant personal or pecuniary interests must be declared and registered. The

defining purpose is to avoid others believing that such a private and exclusive relationship might influence you in the course of your duties. Any such declarations will be kept strictly confidential and will only be made to those who need to know and with your prior permission. The Council and other investigatory bodies may however use their legal powers to investigate matters without your prior permission.

9.6 The Ombudsman defines what constitutes a secret society as follows:

“Any lodge, chapter, society, trust or regular gathering or meeting, which:

- is not open to members of the public who are not members of that lodge, chapter, society or trust;
- includes, in the grant of membership, an obligation on the part of the member, and a requirement to make a commitment (whether by oath or otherwise of allegiance to the lodge, chapter, society, gathering or meeting; and
- includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

A lodge, chapter, society, trust, gathering, or meeting as defined above, should not be regarded as a secret society if it forms part of the activity of a generally recognised religion.

9.7 Members of the Council, Management Team Members, and Senior Officers are required to disclose Related Party Transactions. Each year the Managing Director will ask Members, the Management Team and Senior Officers, to sign a form of declaration. Further information may be obtained from the Managing Director or the Head of Finance & Resources.

10. Equality Issues

10.1 You must ensure that the Council’s Policies on Equal Opportunities and Harassment are complied with, in addition to the requirements of the law, e.g. the Sex Discrimination Act 1975 and the Race Relations Act 1976 and the Disability Discrimination Act 1995.

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

11. Separation of Roles during Tendering

11.1 If you are involved in the tendering process and deal with contractors (See Section 5), you should be clear on the separation of client and contractor roles within the Council. If you have both a client and contractor responsibility, you must be aware of the need for accountability and openness.

- 11.2 If you are working in contractor or client units, you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 11.3 If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.
- 11.4 If, in the unlikely event that you are contemplating a management buyout, as soon as you have formed a definite intent, you must inform your Senior Officer and withdraw from the contract awarding processes.
- 11.5 You must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

If it comes to your knowledge that a contract in which you have any pecuniary interest, whether direct or indirect (not being a contract to which you are yourself a party), has been, or is proposed to be, entered into by the Council, you must, as soon as practicable, give notice in writing to the Managing Director of the fact that you are interested in it, and make a declaration in the Register, in HR.

12. Use of Financial Resources

- 12.1 You must ensure that you use public funds entrusted to you in a responsible and lawful manner. You should always strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 12.2 The Council's Financial Regulations safeguard its assets and use of resources. Compliance is essential if you are involved in the use or collection of public funds.

13. Corruption

- 13.1 Corruption is defined as "the offering, giving, soliciting or acceptance of any inducement or reward, which may influence the actions taken by the Council, its Members or its Officers." Personal inducements by contractors must be discouraged at all times.
- 13.2 It is a serious criminal offence for you to corruptly receive or give a gift, loan, fee, reward or showing favour, or disfavour, to any person in your official capacity. If an allegation is made that an officer or Member has received a reward in connection with their duties and they have in fact received money, gift or other consideration, they must then be able to prove that they did not accept it as a corrupt inducement or reward. You must not show favouritism

or give preferential treatment to friends, partners or relations in the allocation of Council services or benefits.

14. Hospitality, Gifts, Services and Entertainments

Hospitality

- 14.1 You must only accept offers of hospitality if there is a genuine need to do so, to impart information or represent the Council in the community. You must only accept offers to attend functions where there is no implication that by attending you may be influenced in any decisions you make. Such activities must be properly authorised in advance by your Senior Officer and recorded in the Hospitality Book. Any hospitality accepted by the Management Team is to be recorded, separately, within the Managing Director's Secretariat. If you have to decline hospitality, you should do so courteously.
- 14.2 If you receive authorised hospitality you should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality. You must decline hospitality, which may compromise your impartiality or have the perception of doing so, or where it would discredit the Council.
- 14.3 You may accept hospitality through attendance at relevant conferences and courses and events where you believe your attendance will not influence any decisions you have to make and where your Senior Officer gives consent in advance and where he/she is satisfied that any purchasing decisions are not compromised. All such visits must be recorded in the Hospitality Book in Member Services. Where authorised visits to inspect equipment, etc are required, you should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 14.4 You may also wish to register hospitality, including gifts of services or entertainment offered but that you have rejected.

Gifts, Services and Entertainments

- 14.5 The Council's policy is that its efficiency and service delivery should not be affected adversely, nor its integrity compromised, by the acceptance of gifts, services, or entertainment. You must ensure that any acceptance of gifts, services or entertainment does not influence any decisions you are required to make in the course of your duties.

Whenever possible, suppliers should be asked to give improved terms to the Authority, rather than such personal inducements.

- 14.6 Acceptance by an employee of any money as a personal gift from any person or organisation, with whom or with which the Council has had, currently has or is likely to have in the future, business dealings, is absolutely forbidden. This may constitute corruption and may be a criminal offence.

- 14.7 All gifts or services, in whatever guise, worth more than £25.00 must be reported to your Senior Officer and you are responsible for recording the gift or service in the Hospitality Book. A book is maintained by the Managing Director's secretariat for this purpose and the Senior Officer must sign the book.

You may accept and not register (although you may do so if you wish) items of a value of less than £25.00.

- 14.8 Acceptance of any business or entertainment invitations, partially or fully subsidised by one or more contractor or potential contractor of the Council, in this country or abroad, must have the prior approval of the Managing Director. This rule applies as much to invitations when an employee is on leave, or at the weekend, as during working hours.

It is your responsibility to record the receipt and disposal of any gifts, services or entertainment and to summarise this at the end of each Tax Year for Inland Revenue inspection, if required.

15. Sponsorship – Giving and Receiving

- 15.1 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.
- 15.2 Contract arrangements prohibit the acceptance of gifts and corrupt practices.
- 15.3 Where the Council wishes to sponsor an event or service, neither you nor your partner, spouse or any relatives must benefit from such sponsorship in a direct way without there being full disclosure in writing to your Senior Officer of any such interest/benefit. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and there is no conflict of interest involved.

16. Confidentiality

- 16.1 As an employee, it is your duty not to act against the interests of the Council during your employment with the Council, nor to disclose to a third party or otherwise use of any of the Council's confidential information either during or after the termination of your employment with the Council.
- 16.2 The Communications Manager is the main point of contact between the media and the Council. You must not communicate to the media and/or the public the confidential proceedings of the Council, its Committees, Boards or Panels unless required by law or expressly authorised.

16.3 This requirement of confidentiality does not affect your ability to make a protected disclosure under the Public Interest Disclosure Act 1998 (refer to the Whistleblowing Policy)

17. Probity in Planning

17.1 The successful operation of the planning system relies on mutual trust and an understanding of the roles of both Members and employees. It also relies on each ensuring that they act in a way that is not only fair and impartial but is also clearly seen to be so.

17.2 The Nolan Committee recommended that local planning authorities should adopt practices and procedures designed to avoid grounds for allegations of malpractice in the planning system and further recommended that such practices and procedures be clearly set out in the local authority's own local code of conduct.

17.3 The Code of Practice in Planning Procedures "Probity in Planning" provides specific guidance to all Members and Officers involved in the planning decision making process. A copy may be obtained from the Director of Environment.

18. Manager responsibility where an Employee declares an Interest

18.1 Before taking any action connected to a receipt of a declaration of interest from an employee, your Senior Officer must be sure about the appropriateness of the action concerned. If he/she is in doubt, advice should be sought from an appropriate officer of the Council, as listed below:

- the Managing Director
- the Executive Director
- the Strategic Director
- the Director of Regeneration
- the Head of Finance & Resources
- the Head of Legal Services
- the Audit Manager

19. Failure to Comply with the Code of Conduct

Failure to comply with the standards set out in the Code and to all work instructions, together with breaches of Financial Regulations and Standing Orders may constitute misconduct or even gross-misconduct and may lead to disciplinary action. The Council's Disciplinary Policy and Procedure is outlined in the Personnel Guide.

If you have any questions regarding the Code, please do not hesitate to speak to Human Resources, in the first instance.

This policy was agreed by the Personnel Board on 30 September 1999