

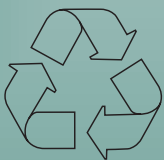
Local Government Act 2001

Code of Conduct for Employees



AN ROINN COMHSHAOIL, O DHREACHTA AGUS RIALTA SÁTÚL

DEPARTMENT OF THE ENVIRONMENT, HERITAGE
AND LOCAL GOVERNMENT



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OBJECT OF CODE

The purpose of this Code is to set out principles and standards of conduct and integrity for local authority employees, to inform the public of the conduct it is entitled to expect and to uphold public confidence in local government.

1. Introduction

- 1.1** The public is entitled to expect conduct of the highest standards from all those involved in the local government service be they county/city managers, other local authority employees or councillors. The Local Government Act 2001 ("the Act") sets out a new ethical framework for that service and imposes a statutory duty on all in the service to maintain proper standards of integrity, conduct and concern for the public interest. The Act also provides for the issue of a code of conduct for local authority employees dealing with conduct and standards of integrity and to uphold public confidence in local government. An employee must have regard to and be guided by the Code in performing his or her duties; the Act provides that a person's terms and conditions of employment are deemed to include an undertaking to this effect.
- 1.2** Local government has a long tradition of honest and impartial service to its communities. The core values underlying this tradition are honesty, impartiality, integrity and serving the common good. This Code has been designed to promote these core values; to provide a framework so that all employees can be seen to act solely in the public interest and within the law; and thus help uphold public confidence in local government. The Code is accordingly to be read in this spirit at all times and not in any selective or restrictive manner contrary to its intent. It is hoped that this Code will facilitate the exercise of good judgement and principled decisions by all employees but inevitably many of the issues covered by the Code will affect senior employees more than they will others.
- 1.3** This Code is complemented by a separate code which applies to councillors. Together these codes represent a standard against which the conduct of all those involved in local government can be judged in the performance of their duties. They are intended to inform the public of the standards of behaviour that they have a right to expect and so help to maintain and enhance public trust and confidence. They add to and supplement the specific requirements under the Act and form an integral part of the new ethics framework.

2. General conduct and behaviour

2.1 The general conduct and behaviour of local government employees in carrying out their work is an important yardstick by which the honesty, integrity, impartiality and performance of the local government service is judged and public trust maintained. It is important therefore that these core values underpin the many day to day transactions of local authority business.

2.2 Local authority employees should abide by this Code and must -

maintain the highest standards of integrity by:-

- avoiding conflicts of interest and never seeking to use improper influence;
- acting in a way which enhances public trust and confidence;
- not using their official position or resources of the local authority for personal gain;
- ensuring that their conduct does not bring the integrity of their position or of local government into disrepute.

maintain public confidence in performing their work by:-

- serving their local authority conscientiously, honestly and impartially;
- performing their duties with diligence, efficiency and courtesy;
- making impartial decisions based on examination of the facts, merits and law relating to each case and not taking account of their personal considerations.

observe appropriate behaviour at work by:-

- treating their colleagues and councillors with courtesy and respect;
- dealing with the public courteously, fairly and promptly;
- promoting equality and avoiding bias in their dealings with the public.

3. Conflict of personal and public interest

- 3.1** The Act provides that it is the duty of every employee (and councillor) to maintain proper standards of integrity, conduct and concern for the public interest.
- 3.2** Employees must never seek to use their official position so as to benefit improperly themselves or others with whom they have personal, family or other ties. Likewise they must never seek to use or pass on confidential knowledge acquired in the performance or as a result of their employment, or official information which is not in the public domain, so as to benefit themselves, or others with whom they have personal, family or other ties. In short, private or personal interests must not be allowed to conflict with public duty.
- 3.3** Employees must avoid where possible, and if not, resolve any conflict or incompatibility between their private or personal interests and the impartial performance of their duties. It is important to ensure that as well as the avoidance of actual impropriety, occasions for suspicion and appearance of improper conduct are also avoided. The public perception of the way the person deals with any such conflict is important. Employees should always apply the test of whether members of the public knowing the facts of the situation would reasonably think that the personal or private interest concerned might influence them in considering or deciding on matters. This test applies equally in relation to gifts/ hospitality, outside employment and other matters covered by this Code. In case of doubt the employee's supervisor should be consulted.
- 3.4** The Act has specific disclosure requirements for certain categories of employees¹ which must be observed (see paragraph 3.5 below). However, without prejudice to these disclosure requirements, what follows are some instances where personal/ private interests should be regarded as

¹ SI 582 of 2002 defines relevant employees in this connection. The declaration/disclosure/public register provisions of the Act came into operation on 1/1/2003 replacing those previously in the 1976 Planning Act.

material to the work being carried out or decided by such or any other employees. In these instances, as a minimum the question of disclosure will arise (except in the case of a remote or insignificant interest) and usually the non-involvement by the employee in the case concerned:-

- where an employee is involved in considering or deciding on matters in which s/he has a pecuniary or other beneficial interest, s/he must disclose this fact to the supervisor or manager;
- where an employee is involved in considering or deciding on matters in which s/he knows that a person closely related to them has a pecuniary or other beneficial interest in the matter, s/he should disclose this fact to the supervisor or manager;
- where an employee is involved in considering or deciding on matters, which s/he knows affects a close neighbour/friend, s/he should disclose this fact to the supervisor;
- likewise where an employee is involved in considering or deciding on matters in a case involving a club, society or other organisation of which s/he is a member, s/he should disclose the fact to the supervisor;
- written or oral representations on behalf of an outside organisation, club, association or other body should not be made by an employee to the authority, (except with the consent of the manager) where such representations relate to work with which the employee himself or herself is concerned;
- in order to avoid any possible accusation of bias, an employee should not consciously be involved in the selection for appointment of any employee or prospective employee, to whom s/he is related.

While there may be no direct pecuniary or beneficial interest involved for the employee in some of the cases mentioned above, the circumstances concerned might reasonably be seen to influence the impartial discharge of functions. In these and all other cases the employee must take into account the requirements of paragraphs 3.1 to 3.3.

- 3.5** In the case of certain categories of employees the Act requires them to furnish an annual declaration of certain "declarable interests": forms are supplied by the ethics registrar. The Act also provides that such employees must formally disclose to the manager any pecuniary or beneficial interest, (of which they have actual knowledge²⁾ they or a connected person³ have in, or material to, any matter relating to the local authority's functions with which they are concerned in the course of their duties. They must then comply with any directions given by the manager. Specific statutory requirements also apply in relation to disclosure by managers. The Act prohibits all such employees from seeking to influence the local authority improperly as regards any matter. These legal requirements must be observed at all times and failure to do so is an offence under the Act. Similar type requirements also apply under the Act to councillors; and to consultants providing a service to local authorities. The Act provides that in any proceedings under Part 15 a court may have regard to the relevant code as may the Standards in Public Office Commission in carrying out its functions.

4. Planning

- 4.1** The planning system is a very open one allowing for input by all parties. It is all the more important therefore that consideration by employees of planning applications, development plans, enforcement action etc is carried out in a transparent fashion; follows due process, is based on what is relevant while ignoring that which is irrelevant within the requirements of the statutory planning framework.
- 4.2** Extra care must therefore be observed in dealing with planning matters and in this context the provisions of this Code - particularly as regards conflict of personal and public interest (see Section 3) and outside employment (see Section 10) are very relevant.

^{2 + 3} The terms "actual knowledge" and "connected person" are set out in section 166 of the Act.

5. Gifts

- 5.1** The Act provides that an employee is prohibited from seeking, exacting or accepting any remuneration, fee, reward or other favour for any act done or not done by virtue of his or her employment. Employees in observing this provision must also have regard to this Code's guidance.
- 5.2** The overriding concern in all cases is that the actions of local government employees should be above suspicion and not give rise to any conflict of interest and that their dealings with business and other interests should bear the closest possible scrutiny and avoid any risk of damage to public confidence in local government – see also paragraph 3.3.
- 5.3** However the normal presentation of 'official gifts' or tokens exchanged or given as part of protocol (where for instance an employee receives a visiting dignitary, or is a speaker at a conference etc.,) would not be precluded. No other gifts other than infrequent items such as diaries, calendars, pens or other infrequent tokens of modest intrinsic value, should be accepted.
- 5.4** The following practice must be followed in relation to gifts: -
- an employee should not solicit gifts directly or indirectly;
 - any gift other than a modest token should be courteously but firmly declined;
 - in all cases the offer or receipt of any gift (other than what is clearly a modest token) should be reported to the employee's supervisor;
 - an employee should not, by virtue of his/her official dealings with a supplier, accept on his/her own or family's behalf, any special facility, or discount on a private purchase or service, from such supplier;

- an employee should not retain any discount or rebate granted in connection with any expenditure of the local authority. Any such financial benefit is the property of the local authority and should be surrendered accordingly.

In all circumstances the advice at paragraph 5.2 must be taken into consideration by the employee.

6. Hospitality

- 6.1** In their official contacts with outside organisations or persons, every care must be taken by employees to ensure that any acceptance of hospitality does not influence them, and could not reasonably be seen to influence them, in discharging their functions. All offers of hospitality from commercial interests, which have had or might have contractual relations with the local authority, must be reported by the employee to his/her supervisor for direction.
- 6.2** It is accepted, however, that local government employees should not be in a position where they cannot accept what are regarded as normal courtesies in business and community relationships. No objection would normally be taken to the acceptance of what is regarded as routine or customary hospitality, the most obvious example being a business lunch; or attendance at a civic, cultural or festive event. (Local authorities may wish to issue guidelines in this regard in light of local circumstances.)
- 6.3** Employees should not accept offers of hospitality which go beyond the routine practices referred to at paragraph 6.2, except where acceptance of such an offer can be clearly shown to be in the interest of the local authority and has been approved by the manager.
- 6.4** Where hospitality has to be declined those making the offer should be courteously and firmly informed of the standards required by this Code.

7. Employees' business dealings with local authority

7.1 In the area of staff business dealings with local authorities the overriding principle is that no special favours should be shown to businesses with financial, family or other connections to employees. This should guide consideration of all such matters.

7.2 The following general rules should (subject to the discretion of the manager to authorise justifiable departures in special circumstances) apply for all employees:-

- employees who enter into or who have any involvement in any undertaking, or otherwise participate in any outside business affecting, or likely to affect, a contract with their local authority (including the purchase or sale of local authority property) should immediately inform the manager of their interest;
- employees should not accept a directorship (except as a nominee of the authority) in any company holding a contract with their local authority;
- employees should not negotiate or arbitrate in any matter affecting a contract with a local authority or the purchase from, or the sale of goods to a local authority where, in their private capacity, they are involved in the company or body concerned;
- employees who are involved in engaging or supervising contractors, consultants, or other service providers with whom they have a relationship in a private or personal capacity, should disclose that relationship to their supervisor.

7.3 The Act has specific requirements regarding declaration/disclosure of contracts with a local authority and of directorship of companies for certain categories of employee, which must always be observed.

8. Personal dealings with local authority

Local authority employees may have dealings with their local authority on a personal level for instance as a tenant or an applicant for grant of planning permission, higher education grant, etc. While employees should, of course, enjoy the same rights in their personal dealings as any other person they should not seek preferential treatment.

9. Regard for council resources

All employees must:-

- show all reasonable care for local authority property, resources and funds and not use them, or permit their use, for unauthorised or non-official purposes;
- incur no liability on the part of their employer without proper authorisation;
- observe in full and at all times the rules governing the making of claims and of payments of any kind to them, whether of salary, overtime, allowances (including travel and subsistence) etc.

10. Attendance and outside employment

10.1 The public expect that local authority employees devote their full attention and energy to official duties during working hours. Employees are obliged to attend at work as required and not to absent themselves from duty without authorisation.

10.2 The Act (section 159) provides that an employee shall not engage in any gainful occupation, other than as an employee of the local authority, to such an extent as to impair the performance of his or her duties or in any occupation which might (a) conflict with the interests of the local authority or (b) be inconsistent with the discharge of his or her duties as a local authority employee. Section 159 also contains specific restrictions on professional staff engaging in private practice in the profession in which he or she is employed by the local

authority or in any cognate profession. Neither should technical staff undertake private technical work. These provisions must be read in conjunction with paragraphs 3.1 to 3.3 of the Code.

10.3 Employees must not undertake a particular outside business, occupation or activity that could reasonably be regarded by a member of the public as weakening public confidence in local government. In cases of doubt the matter should be referred by an employee to his or her supervisor.

10.4 A local authority employee should not allow the prospect of employment outside the local government sector to create for him or her an actual or perceived conflict of interest. He or she should immediately disclose to his or her supervisor any offer of such employment. In the case of a County or City Manager, the Cathaoirleach should be informed.

10.5 An employee intending to accept an appointment that could give rise to a conflict of interest should inform the appropriate authority of such intention as outlined in paragraph 10.6. Also, employees to whom Part 15 of the Local Government Act, 2001 (Ethical Framework for the Local Government Service) applies shall not, within twelve months of resignation or retirement, accept an offer of employment or consultancy engagement where the nature and terms are such that the question of a conflict of interest could arise without obtaining the approval of the appropriate authority. The twelve month period applies to an employee to whom Part 15 applied at any time during the six month period immediately prior to retirement or resignation.

10.6 An employee referred to in paragraph 10.5 must inform the appropriate authority or make an application as follows:

An employee below Director of Services level should inform or apply, as appropriate, to the County or City Manager of the local authority in which he or she is serving.

An employee at or above Director of Services level (including County and City Managers) should apply to the Outside Appointments Board for the Local Government Sector.

- 10.7** Applications will be considered by the appropriate authority on the basis of determining whether or not a clear conflict of interest exists. Having regard to the circumstances of each case, consent to take up an appointment or accept an engagement may be given either unconditionally or with conditions attached.
- 10.8** Where a County or City Manager attaches conditions to taking up an appointment, the employee concerned may refer the decision to the Outside Appointments Board for the Local Government Sector for review.
- 10.9** The provisions of paragraphs 10.4 to 10.8 are not intended to place an unnecessary or unreasonable burden on local authority employees and it is expected that they will not affect the generality of employees wishing to take up employment outside the sector. Early disclosure and consultation in accordance with these paragraphs will help to avoid any perception of conflict of interest and will safeguard the integrity of the local government service and the individuals concerned.

Outside Appointments Board for the Local Government Sector

- 10.10** An Outside Appointments Board for the Local Government Sector established by the Minister for the Environment, Heritage and Local Government, will consist of the Secretary General of the Department of the Environment, Heritage and Local Government, a former County or City Manager and three other members who are not serving or former public servants, one of whom will act as Chairperson.
- 10.11** The Board will determine the procedures for dealing with applications referred to it and related matters.
- 10.12** The Chairperson of the Board shall report periodically to the Minister for the Environment, Heritage and Local Government on the performance of the Board and may from time to time, as he or she thinks fit, submit other reports on the Board's functions.

11. Satisfactory working relationships

- 11.1** Employees during the course of their day to day business engage with the public, their colleagues and councillors. Underlying these interactions are the principles of respect for others, equality and a duty to uphold and abide by the law and a responsibility to ensure a courteous, efficient and impartial service.
- 11.2** The Act provides that employees shall carry out such duties as are assigned to them from time to time in relation to their employment and such instructions as may be given in relation to the performance of such duties.
- 11.3** In providing service to the public employees should treat individuals equitably and with courtesy and without bias in an impartial fashion. They should deal with queries in an open and helpful way with due regard to the protection of confidential information, where appropriate. Local authorities need to bear in mind "The Ombudsman's Guide to Standards of Best Practice for Public Servants"⁴ which clarifies citizens' rights and the principles of good administration, which include objectivity and impartiality and the need to avoid unfair discrimination. Members of the public enjoy a legal right of access to records under the Freedom of Information Acts and certain employees are given explicit responsibility in this connection.
- 11.4** Both employees and councillors have the common interest of serving the community. But their responsibilities are distinct. Councillors are responsible to the electorate for their elected term of office. Employees are responsible to the manager in carrying out their duties. Mutual respect and courtesy between employees and councillors is essential to good local government and should be maintained at all times. Also it is important that employees at all times act in a politically neutral way in performing their official duties and in their dealings with councillors.
- 11.5** Employees need also to show due respect for their colleagues at work and to engender a positive working atmosphere. There

⁴ Report can be accessed at www.ombudsman.gov.ie/pub.htm

are separate statutes/codes of practice dealing with equality, harassment etc which must be observed.

- 11.6** Certain local government employees are permitted by law to serve as councillors. A special responsibility therefore rests with them as employees to ensure that their roles do not become blurred, that, where appropriate, confidentiality is maintained and to avoid any perception that their elected role might be seen to influence the impartial discharge of their official duties as local authority employees.

12. Criminal convictions

- 12.1** An employee who is charged with or convicted of a criminal offence (or given the benefit of the Probation Act when so convicted) must report that fact to his/her Personnel Officer. In certain circumstances this could have implications for their official position. Such information will be treated in strict confidence and no record of it will be kept unless the information is considered relevant to the official position of the employee.
- 12.2** Employees who have been appointed by virtue of a specific professional qualification or licence (e.g. solicitor, accountant, driver) must immediately inform their Personnel Officer in writing of any change in status, withdrawal of or endorsement on such qualification or licence.

13. General

- 13.1** The code applies to all employees whether full-time or employed on an atypical basis (e.g. temporary, part time or fixed term contract etc.). It also applies where relevant, to employees on the different forms of leave.
- 13.2** Breaches of the Code may constitute a breach of the terms and conditions of employment and may result in disciplinary action.

- 13.3** In case of doubt on any matter it is always preferable for an employee to err on the side of caution by consulting with his/her supervisor. Where this Code requires disclosure by an employee to his/her supervisor, s/he should comply with such instructions as may be given in relation to the matter concerned.
- 13.4** Clearly the Code does not cover all aspects of the duties of employees and of employer/employee relationships. Rather it is intended to cover the central elements which might be expected by the public in a statutorily based code of ethical conduct.
- 13.5** Given the range and complexity of local government activity a code such as this cannot deal with all situations and eventualities which may arise. If other situations of potential conflict arise between personal and public interest or if instances of perceived questionable conduct arise, employees should aim to deal with them in accordance with the principles and intent of the Code. Employees should bear in mind that it is primarily their responsibility to ensure that their actions whether covered, specifically or otherwise, by this Code are governed by the ethical and other considerations implicit in it.
- 13.6** This Code does not prejudice specific statutory requirements, such as those set out in the Local Government Act 2001, applying to all or to specified categories of employees – and is additional to other public sector wide legislation such as the recently strengthened anti-corruption legislation.
- 13.7** Consultants who provide services to local authorities should abide by the principles of this Code in carrying out their role on behalf of the local authority. In particular they should avoid any conflict of interest and are subject to the disclosure requirements of the Act and this Code in relation to an interest which may arise in the course of their service to a local authority.
- 13.8** Employees should also have regard to any relevant advice as may be issued from time to time by the Minister for the Environment, Heritage and Local Government or by the Standards in Public Office Commission.