

# Code of Practice in Relation to Employee Conflicts of Interest and Registration of Interests

## 1 Conflicts of interest

- 1.1 *A conflict of interest is a set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.*

*(National Audit Office report on Conflicts of Interest 27 January 2015)*

**It is important for the Council to have procedures for recognising the risk of conflicts of interest** and their impact on how its decisions and operations are perceived. A failure to recognise a conflict of interest can give the impression that the Council or one of its employees or officers is not acting in the public interest and could potentially lead to a decision being challenged. It can also damage the Council's reputation and undermine confidence in it.

- 1.2 Conflicts of interest might occur if employees (as defined below) have, for example:

- i. A direct or indirect financial interest;
- ii. Non-financial or personal interests;
- iii. Conflicts of loyalty where decision-makers have competing loyalties between an organisation they owe a primary duty to and some other person or entity.

- 1.3 Conflicts of interest can take many forms, for example:

- i. Accepting hospitality or gifts from private sector companies during a procurement exercise;
- ii. Providing policy advice to the Council whilst also working or consulting with, an external supplier of services in the same policy area;
- iii. Appointing family or a friend to a position with the Council either permanent or temporary
- iv. Awarding contracts to suppliers in which the decision-maker or a relative or friend has a personal or financial interest.

- 1.4 Employees are entitled to undertake voluntary community activity. Such activities are to be encouraged and benefit the District. Whilst a conflict of interest may not arise in such cases, employees need to be alive to circumstances where one does and a disclosure should be made. If employees wish to make a disclosure in case any conflict arises in the future they may do so. Voluntary activities disclosed may be reported to the Council's Management Team on an anonymised basis in order to promote the work that Council staff engage in. Reference should also be made to paragraphs 4.2 and 4.3 below.

## 2 Register of Employee Financial Interests: Obligation to disclose

- 2.1 Under the **Bribery Act 2010** it is an offence to offer a bribe to a Council employee or officer in order to:

- i. Influence how they undertake their duties or
- ii. Reward them for the improper performance of such duties.

It is also an offence on the part of the employee or officer to agree to receive or to accept a bribe.

These **offences are particularly likely to occur when an employee of the Council has private financial or other interests**. In order to prevent such offences from occurring and to protect employees from unjustified suspicion, the Council requires its employees to disclose their private and other interests in accordance with this policy so they can be recorded in its register of financial interests.

2.2 On becoming aware that she/he has or may in the foreseeable future have a financial interest in a contract or proposed contract to be entered into by the Council, **an employee must within 14 days give written notice of that interest** to the City Solicitor in sufficient detail to enable her/him to gauge both the nature of the interest and the extent to which it may conflict with the interests of the Council in relation to that contract. These interests will then be recorded (either as declared by the officer or in summary form) in a register kept by the City Solicitor for that purpose and made available for public inspection either on-line or in person during normal office hours).

2.3 A financial interest may arise by virtue of the employee being:

- i. A member, employee, director or shareholder of a company
- ii. A role in an association, club or society, a sole trader, or a partner in a firm, with which the Council has or will have a contractual relationship.

It will also arise in relation to a relative or a friend holding one of the above roles.

### **3 Standing Order Obligations**

An employee having a personal interest (as defined in paragraph 5 below) in any matter to be considered at a meeting of the Council, the Executive or any committee or sub-committee must disclose the interest before the commencement of that consideration or as soon thereafter as that interest becomes apparent.

If the interest is a prejudicial interest (as defined in paragraph 5 below) the employee must withdraw from the room where the meeting is being held unless required to attend by the Chair of the meeting or the City Solicitor for the purpose of answering questions.

An employee having a personal interest in a matter must not participate in, or make any decision on behalf of the Council in that matter within their delegated powers or work responsibilities, without the written permission of their respective Head of Service, Director, Strategic Director, and Chief Executive as appropriate

**An employee having a personal interest which is a prejudicial interest must have no involvement in the decision nor seek to influence the decision, nor be involved in any matter in a way which affects or may affect the Council's handling of and/or decisions on the matter.**

#### **4 Employees and Senior Managers: duty to avoid conflicts of interest**

4.1 **Employees** of the Council are entitled to have personal interests outside the Council, but should not allow them to:

- i. Breach their fiduciary duties towards the Council under their contract of employment, or
- ii. Disproportionately conflict with the Council's interests

4.2 **Employees** may become members of and participate in other organisations and groups and undertake activities relating to them. Their right to do this may reasonably be restricted by the Council (at its discretion) to the extent that they represent a current or future risk of conflict with its interests. Any instruction given to an employee in relation to a potential conflict of interest under this paragraph will include details of such restrictions.

4.3 **Conflicts of interest between employees and the Council** include any circumstances where an organisation or group:

- i. undertakes any activity or service for or on behalf of the Council (whether or not under contract), or
- ii. profits or benefits from the Council's activities or services in some other way (for example, by receiving commissions or fees in relation to them), or
- iii. undertakes activities or services in relation to which the Council exercises control or discharges a legal function, and, in each case:
- iv. the employee, or
- v. the employee's relative, partner, or friend;
- vi. receives any payment, benefit or other form of reward from it or
- vii. the employee, his relative, partner, or friend had, has or will have an involvement with the organisation or group by reason of residence at or use of a location, facility, service or other valuable asset owned or controlled by it.

4.4 **Any senior manager of the Council** who considers that any situation or arrangement in which they are involved or contemplating becoming involved may become a conflict of interest as defined above should make full and prompt disclosure of it to the City Solicitor in accordance with paragraph 8 of this policy. In this subparagraph, "senior manager" means:

Assistant Director  
Director  
Strategic Director  
City Solicitor  
Chief Executive

Under no circumstances should any senior manager proceed with such a situation or arrangement without first having made such disclosure. Any such disclosure made by the City Solicitor shall be made by her/him to the Chief Executive.

- 4.5 **Any other Council employee** who is not a Senior Manager should declare any conflict of interest to the next Senior Manager in his management chain as soon as she/he becomes aware of it in accordance with paragraph 9. In the event that such an employee has a conflict of interest she/he shall take no part in any decision of the Council that both directly or indirectly relates to it and should at the first opportunity seek the advice of the Senior Manager as to how to deal with the situation.
- 4.6 Any breach of an employee's fiduciary duties towards the Council under a contract of employment will not be dealt with under this policy and should be referred to Human Resources.

## 5 **Personal interest and prejudicial interest**

- 5.1 For the purpose of this document reference to an employee shall include the relative, partner or friend of the employee.

An employee has a **personal interest** in a matter if the matter relates to:

- Any contract or proposed contract with the Council
- Any other employment or business carried on by the employee
- A corporate body which has a place of business or land in the District which the employee has 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
- Any Council land tenanted by a firm in which the employee is a partner or a company in which the employee is a director
- Any land in the District in which the employee has a beneficial interest
- Any land in the District which the employee has a licence to occupy for 28 days or longer.
- Any organisation of which the employee is a member or in which the employee holds a position of general control or management:
- An organisation to which the employee has been appointed or nominated by the Council as its representative.
- A public authority or body exercising functions of a public nature of which she/he is a member.
- A company, business partnership, industrial and provident society, charity, or body directed to charitable purposes of which she/he is a member.
- A body whose principal purposes include the influence of public opinion or policy of which she/he is a member.

- A private club or organisation of which she/he is a member.
- A voluntary or community organisation management committee of which she/he is a member.

5.2 A **prejudicial interest** is a personal interest in a matter that a member of the public, with knowledge of the relevant facts, would reasonably regard as being so significant that it could prejudice the employee's judgement of the public interest or handling of the matter. Interests in contracts or proposed contracts will always be prejudicial as will employment or business carried on or land interests as defined above.

5.3 **An employee that has a personal interest that is also a prejudicial interest shall take no part in any decision of the Council that both directly or indirectly relates to it nor seek to influence the decision, nor be involved in any matter in a way which affects or may affect the Council's handling of and/or decisions on the matter. The employee should at the first opportunity seek and promptly and fully act upon the advice of the City Solicitor as to how to deal with the situation.**

## 6 Meaning of 'relative', 'partner' and 'friend'

For the purposes of this policy:

- 6.1 A 'relative' means spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse, civil partner or partner of any of the preceding persons.
- 6.2 A 'partner', for the purpose of the paragraph immediately above, means a member of a couple who, regardless of their gender or sexual identity, live together in a property as a single household and not only as common owners or occupiers under a lease or licence.
- 6.3 A 'friend' means a person with whom the employee has such a close personal or business relationship that a hypothetical objective observer who had knowledge of the relevant facts would reasonably regard it as likely to influence the employee's judgement in Council business in relation to matters affecting that person.

## 7 The Register of Employee Interests

- 7.1 The City Solicitor, or such persons as may be authorised for her/him for that purpose shall maintain a register of the disclosed interests of the following employees, which shall be referred to as the Register of Employee Interests.
- 7.2 **Part 1 of the register** shall contain details of the Personal and Prejudicial interests of the **Senior Managers** of the Council.
- 7.3 **Part 2 of the register** shall contain details of officer interests in any contract or proposed contract with the Council.

Parts 1 and 2 of the register shall be open for public inspection.

7.4 The Chief Executive and Strategic Directors shall maintain a register containing details of the potential conflicts of interest of **all other employees** of the Council.

The City Solicitor shall be notified of all potential conflicts of interest by officers and shall maintain a central register of other employee interests.

7.5 **The Registers of Other Employee Interests shall be confidential**, but may be inspected by Members of the Council and independent members of the Standards Committee, the Chief Executive, Strategic Directors, City Solicitor, the Director of Finance and the Council's Internal and External Auditors, who may only take copies of the register or record details contained within it when this is necessary for the purposes of undertaking their duties.

7.6 Any employee who has made a disclosure that is recorded in an entry in any part of the Registers of Interests or another person who is mentioned by name within any entry in any part of the Register shall be entitled to inspect that entry (or that part of the entry that relates to them) during ordinary working hours on a weekday on giving reasonable notice to the officer maintaining the Register, and shall be entitled to take copies of their entry in the register, or any part of the entry that relates to them or record details contained within it.

7.7 No person save for the City Solicitor or a person authorised by her/him for that purpose shall be allowed to inspect another employee's entry in the Register of Other Employee Interests except under sub-paragraphs 7.5 and 7.6.

7.8 Any changes to any disclosed interests recorded in any part of the Registers must be notified in writing by the employee to whom the entry relates by sending a completed Form N1 to the officer maintaining the register within 14 days of that employee becoming aware of the change.

7.9 The City Solicitor shall be responsible for determining any issue relating to inspection of the register under sub-paragraphs 7.5, 7.6 and 7.7.

## **8 Part 1: Senior Managers Interests**

8.1 **Senior Managers must declare their financial and other interests by making a written disclosure to the City Solicitor on Form N1** of all their interests that fall within the description of personal interests and prejudicial interests listed in paragraph 5 of this policy within 14 days of publication of this Code on the intranet, any new interest arising or on appointment/ promotion to or within the Council..

8.2 On receipt of Form N1 the City Solicitor shall summarise the relevant information in an entry relating only to that senior manager and shall insert the entry in Parts 1 or 2 of the Register of Employee Interests.

8.3 The City Solicitor shall notify her/his own financial and other interests and changes thereto to the Chief Executive for insertion in Part 1 or 2 of the Register and shall be deemed to authorise the Chief Executive for the purposes of Paragraph 7.1 of this policy.

## 9 Part 2: Employee Interests

- 9.1 On becoming aware of a potential conflict of interest relating to their own work or to the activities of the Council as defined in paragraph 4.3 of this policy, **employees must give written notification on Form N1** of that interest to their next Senior Manager as defined in paragraph 4.4. (Interests in contracts or proposed contracts are dealt with in paragraph 2.2).
- 9.2 Senior Managers in all Departments of the Council must make appropriate arrangements to keep all employee notifications on Form N1 confidential and forward them without delay to the Chief Executive/ Strategic Director and City Solicitor for registration within their Register of Other Employee Interests.
- 9.3 If an employee's work brings them into regular contact (more than once a month in any consecutive period of three months) with a spouse, partner, relative or friend, she/he must complete Form N1 detailing the relationship and personal interest and send it to her/his Senior Manager who shall note its contents and then forward it to the Chief Executive/Strategic Director and City Solicitor for insertion within the register.
- 9.4 **If an employee develops a personal relationship with a member of the public who is also a service user with whom the employee has contact through their work**, then the employee must complete a Form N1 detailing the relationship and personal interest and send it to his Senior Manager who shall note its contents and then forward it to the Chief Executive/Strategic Director and City Solicitor for insertion within the register.

## 10 Employees Transferring to Contractors

- 10.1 A potential conflict of interest can also arise in relation to proposals to outsource a Council function to an external contractor to which former Council employees may be transferred, seconded or be re-employed, whether under TUPE or other means.
- 10.2 When an employee knows or believes she or he is likely to be transferred seconded or re-employed, she/he must not participate in any "client" role decisions (other than providing information) in relation to that outsourcing proposal without the written permission of his/her Strategic Director (or Chief Executive) as appropriate. Employees in such circumstances will continue to be bound by the confidentiality and fiduciary provisions in their employment contracts until after the transfer has occurred and in some cases after their employment by the Council has ended.
- 10.3 In such circumstances transferring employees may also possess confidential and commercially sensitive information about the Council and its service users. There shall be no disclosure of such information by transferring employees to the new contractor prior to the transfer without the written permission of his/her Strategic Director (or Chief Executive as appropriate). Disclosure after the transfer will be dealt with by the Council's procurement arrangements and under the law relating to data protection and confidentiality.

- 10.4 When commercially sensitive information obtained from former Council employees is used by an external supplier to gain an advantage in any procurement activity involving the Council, this may result in the supplier being excluded from the procurement activity.
- 10.5 The Council will always take action to protect the privacy and confidentiality of its service users and prevent the unauthorised disclosure of commercially sensitive information. Such action may include seeking court orders to restrain such activity and referring employees to their professional regulators for investigation for professional misconduct.

## **11 Employees Contemplating Management Buyouts**

- 11.1 **Employees** who may become involved in **proposing a ‘management buyout’** (whether in response to an invitation to do so or not), **must inform the Chief Executive and the relevant Strategic Director in writing as soon as they form the intent to do so.** They must not be involved in any tendering process relating to their area of service without specific written approval from the relevant Strategic Director.

## **12 Other Employment**

Other employment that is not within one or more of the situations dealt with in Paragraphs 4 or 5 of this policy can result in a conflict of interest with the duties employees undertake in their employment for the Council. Employees should seek to minimise potential conflict by following the principles below:

### **12.1 Employees graded at scale point 28 and below**

Employees whose posts are graded scale point 28 and below are entitled to undertake other employment as long as they inform their manager in writing. The other employment must only be undertaken outside the employee’s working hours and in a manner not likely to conflict with or affect the performance of the employee’s duties with the Council.

### **12.2 Employees graded above scale point 28**

Employees, whose posts are graded above scale point 28, may only undertake other employment with the prior written permission of the appropriate Senior Manager.

### **12.3 Work involving payment of fees**

Employees may be asked to give lectures, present courses or undertake other activity in relation to their work for the Council. Such requests will normally be agreed to if there is no risk of any breach of confidentiality or disclosure of commercially sensitive information. Where the request occurs because of the work undertaken by the employee for the Council, the employee must inform his line manager of the request and arrange for any fee payable in relation to it to be made directly to the Council. Any expenses incurred by the employee will be reimbursed through the normal Council claims procedure and time taken will be treated as working time.



The employee may retain any applicable fee only where:

- i. The request does not arise because of the duties of his post
- ii. The work and any preparation is undertaken outside the normal working hours of the employee (or is undertaken during working hours with permission of the line manager subject to reimbursement of the equivalent working hours by means of annual leave, flexi leave or time off in lieu, or unpaid leave, by agreement with the line manager)
- iii. The employee does not use any equipment, facilities or materials of the Council,
- iv. The employee is not held out as being a representative of the Council when delivering the lecture, course or other activity

### **13 Politically Restricted Posts**

- 13.1 Part 1 of the Local Government and Housing Act 1989 imposes restrictions upon certain Council officers and staff in order to ensure their political impartiality and to protect both the employee and the Council against allegations of lack of integrity or bias. These arrangements create what are termed “politically restricted posts”. **All Council employees who are within specified posts or sensitive posts are politically restricted posts.** This means that employees cannot stand for or hold office as a member of this Council or be a political candidate or prospective candidate to be an MEP or MP. Also these employees cannot hold office, canvass for or speak in public on behalf of a political party. **This is a brief summary of the effect of the legislation and not intended to be an exhaustive description.**
- 13.2 In such cases the restrictions will be notified to employees either at the time of their initial recruitment or subsequently by providing them with an amended contract of employment in which the appropriate restrictions will be set out.
- 13.3 All employees who are **not** within Politically Restricted posts have the right to be active members of any lawful political party including taking part in canvassing, holding office, or speaking in public on behalf of a political party. However, this must not be done within work’s time or using Council resources, nor should any employee in any way imply that they are representing the Council or the Council’s views when undertaking any political activities. Special care must be taken during pre-election periods and when using social media.
- 13.4 All Employees, whether or not they are in Politically Restricted posts, and who regularly deal directly with Council members or members of town or parish councils in the course of their work, are required to familiarise themselves with and follow the rules and guidance in the Protocol on Member-Officer relations.

### **14 Tender Process**

In order to avoid situations where a conflict of interest may occur, employees who are involved in procurement activities must familiarise themselves with and strictly adhere to the terms of each set of tender instructions in which they are involved during any period where bids are to be invited or considered or pre-qualification sought. In particular, employees should ensure that they do not deal with bidders or potential bidders unless they are first authorised to do so in writing by their line manager, and then only in accordance with such authorisation and instruction.

**Form N1: NOTIFICATION OF CONFLICT OF INTEREST FORM**

<b>Date:</b>	
<b>Employee:</b>	
<p><b>Are you a senior manager (see Para 4.4) for insertion in Part 1 of register or any other employee in relation to a contract or proposed contract for insertion in Part 2 (see Para 2.2) or any other employee in relation to any Other Interest (see Para 9)?</b></p>	
<b>Unit / Department:</b>	
<b>Description of Conflict:</b>	
<b>Action Taken:</b>	
<b>Manager:</b>	
<b>Senior Manager:</b>	
<b>Date forwarded to Legal Services:</b>	
<b>Date recorded by Legal Services:</b>	

## Appendix 2

### REGISTER OF CONFLICT OF INTEREST NOTIFICATIONS - EXAMPLE

<b>Date of Notific.</b>	<b>Employee and Unit / Department:</b>	<b>Description of conflict of interest:</b>	<b>Action Taken:</b>	<b>Date Entered</b>
01.01.06	J. Argon Human Resources	Husband owns training organisation	Separated out from tendering process and decisions related to outsourcing.	10.01.06
05.02.06	F. Low Drainage	Owens land where major development sited and scheme submitted for approval	Work reallocated	10.02.06
05.02.06	G.T. Helper Home Care	Sets up home with client's daughter	Work reallocated	12.02.06
31.03.06	B. Racer Fleet Services	Wife owns vehicle parts supply business	Does not deal with purchasing of parts	05.04.06
08.08.06	R. Kidd Early Years	Learned at a scrutiny meeting that own child attends a nursery threatened with possible closure	Explained to Committee that he would need to leave the room for this item. Arranged with manager to have work reallocated and no further involvement in this particular matter.	15.08.06
10.10.06	A. Gardener Parks & Landscapes	Cuts several elderly neighbours lawns at weekend for a fee	Doesn't use Council equipment. Informs clients she is acting in own capacity and doing this work in own time using own equipment.	21.10.06

G:\Legal Services\City Solicitor\Admin\Registers\Interests\Code re Interests 31.10.18v1.doc