

Code of Conduct for Employees

03 December 2010

1.

Introduction

The public expects a high standard of conduct from all local government employees in Scotland. There is a Code of Conduct for Councillors and it is right that there should be a Code of Conduct for Employees of the Highland Council, which is based on a National Code of Conduct. This Code sets out the minimum standards of conduct that are expected of you as a Council employee. Not only must you comply with the Code when acting as an employee or representative of the Council, you must give it due regard if activities outside work may conflict with the interests of the Council.

The Code does not affect your rights and your responsibilities under the law; its purpose is to provide clear and helpful advice to you and to provide you with guidance about your rights and duties at work. Because of the nature of your work, some parts of the Code may apply more to some of your colleagues than to you, but all employees must comply with the Code. A breach of the Code may lead to disciplinary action.

The Code is consistent with the Council's aims and values. It is an important document. If you need clarification, then you should contact your line manager in the first instance.

The Code incorporates "The Seven Principles of Public Life" identified by the Nolan Committee on Standards in Public Life, altered slightly for local government.

2.

The Seven Principles Of Public Life

Selflessness

You should not take decisions which will result in any financial or other benefit to yourself, your family, your friends, for Council elected members or other employees. Decisions should be based solely on the Highland Council's best interests.

Integrity

You should not knowingly place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Highland Council.

Objectivity

Any decisions which you make in the course of your work with the Council, including making appointments, awarding contracts, or recommending individuals for rewards or benefits, must be based solely on merit.

Accountability

You are accountable to the Highland Council as your employer. The Council, in turn, is accountable to the public.

Openness

You should be as open as possible in all the decisions and actions that you take. You should give reasons for your decisions and should not restrict information unless this is clearly required by Council policy or by the law.

Honesty

You have a duty to declare any private interests which might affect your work with the Council.

Leadership

If you are a manager, you should promote and support these principles by your leadership and example.

The Local Government Ombudsman will use this Code as a benchmark of good practice where a complaint of maladministration has been made.

3.

The Code

3.1

RELATIONSHIPS

The Public

You may have contact with members of the public as users of services, clients or citizens. You should always be courteous and helpful. You should deal fairly, equitably and consistently with each member of the public, and you must follow the Highland Council's Equal Opportunities policy.

Councillors

[The Code Of Conduct For Councillors](#), made under section 1 of The Ethical Standards in Public Life etc. (Scotland) Act 2000, gives the following guidance on the relationship between councillors and employees: -

"Councillors must respect all Council employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.

Whilst both Councillors and Council employees are servants of the public, they have separate responsibilities: Councillors are responsible to the electorate but the employee is responsible to the Council as his or her employer. Councillors must also respect the different roles that they and an employee play. A Councillor's role is to determine policy and to participate in decisions on matters placed before them, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented.

Councillors must also follow [the Protocol for Relations between Councillors and Employees](#) attached at Annex C of The Code Of Conduct For Councillors. A breach of the Protocol will be considered as a breach of The Code Of Conduct For Councillors."

The Protocol for Relations between Councillors and Employees is attached as per Appendix 1. These principles apply equally in this code.

Contractors

You must be fair and impartial in your dealings with contractors, sub-contractors and suppliers.

If you are involved in the tendering process you must follow the Council's procedures and rules about tenders and contracts.

If you have both a "client" and "contractor" responsibility in the tendering process, you must observe the requirements for accountability and even-handedness in undertaking these two roles.

If you have access to confidential information on tenders or costs for either internal or external contractors you must not disclose that information at any time to any unauthorised individual or organisation.

3.2

Conflicts of interest

As a Council employee you must not allow any private interest to influence your decisions.

You must not use your position to further your own private interests or the interests of others who do not have a right to benefit under the Council's policies.

You may have a private interest which relates to the work of the Council. That interest may be financial or one which a member of the public might reasonably think could influence your judgement. In addition, close family members or people living in your household may have financial interests in the work of the Council. All such interests must be declared to your Director, by the completion and return of the form [Declaration of Conflict of Interest, and Receipt/Offer of Gifts or Hospitality](#) from your Service Manager or by email. The disclosure by officers of interests in contracts is specifically covered by Section 68 of the Local Government (Scotland) Act 1973.

If you are a member or office holder of an organisation or a club e.g. School Board, Community Council, PTA, Director of a company subject to companies acts', and membership might result in a conflict of interest in relation to any aspect of your work with the Council, you must declare this membership or office to your Director. This applies to the membership of organisations or clubs which are not generally open to the public.

3.3

Openness and Disclosure of Information

The Council's decision making process must be transparent and open. The Council must provide the public with clear and accessible information about how it operates.

There are exceptions to the principle of openness where confidentiality is involved, and information may be withheld if, for example, it would compromise a right of personal or commercial confidentiality or Council Policy. This does not apply where there is a legal duty to provide information.

The Council has a complaints procedure for the public to use when things go wrong.

Should you be in doubt about openness or the disclosure of information you should consult your line manager.

3.4

Employment Outside the Council

Except where it is already precluded by your contract of employment, you may undertake paid or unpaid employment outside the Council, unless there is a clear conflict of interest with, or it is likely to have an adverse effect on, the work of the Council, or is likely to breach current legislation particularly, that under the Health and Safety at Work Act 1974 and the Working Time Regulations. You should ask yourself the following question:

"Will this employment bring me directly or indirectly into conflict with the work or interests of the Council, or affect the proper performance of my duties as a Council employee?"

If you answer "yes", then you should not undertake the employment.

You are not allowed to use the equipment and resources of the Council in any outside employment or outside activity without the approval of the Council.

You will not be permitted to receive or retain any fee or other payment from any outside individual or body, received as a consequence of your position within the Council, without the approval of the Chief Executive or your Director. Any such approval should be recorded.

You must follow the Council's guidance relating to fees and the use of resources.

3.5

Voluntary Activities

Should you undertake voluntary activities (whether or not involving employment) outside the Council, you must ensure that there is no conflict of interest, and that there will be no adverse effect on the work of the Council. If you answer "yes" to the following question then you should not carry out the activity.

- "Will this activity bring me directly or indirectly into conflict with the work or interests of the Council, or affect the proper performance of my duties as a Council employee?"

The Highland Council recognises the vital contribution which the voluntary sector organisations make to sustaining and improving the quality of life, and accordingly the Council has a Voluntary Sector policy with the key objective of maximising volunteering and voluntary activity. The Council encourages employees to become involved in such activities.

The policy details the Council's support to the voluntary sector, information pathways for the voluntary sector in to the Council; and recognises the particular problems affecting the voluntary sector due to the geographic size and dispersed population of the Highland Council area. The policy particularly recognises that the voluntary sector cannot thrive without an adequate infrastructure which addresses the need for information, advice, training and development and that streamlined Council procedures can help reduce the burden on volunteers and voluntary organisations.

Any relationship with a voluntary body or organisation should follow the principles set out in the policy statement which can be obtained through your Director.

3.6

Hospitality and Gifts

a)

As public service employees, Council staff must act, and be seen to act, with the highest standards of integrity. In the course of your work or as a consequence of your employment with the Council, you may encounter situations, which, if not handled properly, could call your integrity into question. Examples of such situations include being offered tokens of appreciation or opportunities to meet socially with contractors or suppliers to the Council.

Employees should be aware that it is an offence, under the Prevention of Corruption Act 1906, for those employed by contracting authorities to corruptly accept any gift or consideration as an inducement or reward for doing, or refraining from doing, anything or showing favour or disfavour to any person. This includes any money, gift or hospitality received from a person or organisation holding or seeking to obtain a contract from the Council.

The over-riding principle is that you, your family, your friends or any organisation of which you are a member or with which you are closely associated should not accept any gift, consideration or hospitality that would call into question:

- your honesty;
- your ability to deal impartially with all service users, potential or actual contractors or suppliers;
- your commitment and ability to pursue the best interests of the Council.

If you would feel uncomfortable giving an account of your actions to your Service Director – don't take the action.

To protect you and the Council there is a Register of Disclosures and Interests and a Register of Offers of Gifts and Hospitality held by the Assistant Chief Executive.

Any gifts or hospitality must only be accepted with the approval of your Director and registered.

If you need any guidance or advice on matters raised in this document, speak to your Director.

In the case of Directors and Corporate Managers then gifts or hospitality must only be accepted with the approval of the Chief Executive and registered. In the case of the Chief Executive then approval should be sought from Depute and Assistant Chief Executives.

b)

Gifts

You must not solicit gifts, additional payments or any other personal advantage (such as discounts or free services) from any service user, potential or actual contractor or supplier.

You must not accept payments or any other form of personal advantage from any service user, potential or actual contractor or supplier. The only exception to this is that some service users like to "tip" employees such as Housing Wardens, particularly at Christmas. Small tokens of appreciation may be accepted in such circumstances but a record must be kept of tips received. The record should be given to the most senior employee at the work place who will then pass it to their 'off-site' manager.

You may accept gifts of token value such as pens, calendars and diaries, from potential or actual contractors or suppliers. Such gifts may be kept for your personal or business use. You should, however, be aware of the adverse impression that may be created for competitors seeking to do business with the Council.

You may accept gifts with nominal value from visitors to the Council when the gifts are proffered as tokens of friendship between the Council and the visitors' home town or country.

If you receive a gift of more than token or nominal value and it would cause offence or be impracticable to return it, you should register the gift and inform your manager. Such gifts will normally either be donated to a charity or may, if suitable, be kept for use on Council premises.

If you are offered a gift and you believe or suspect that the offer is made with the intention of influencing you to give favourable treatment to a service user, potential or actual contractor or supplier you must not accept the gift and you

must inform your Director and the Assistant Chief Executive.

c)

Hospitality

You must not solicit hospitality (for example meals, tickets to sporting or cultural events) from any service user, potential or actual contractor or supplier.

You must not accept offers of hospitality unless you have the permission of your Director and the Assistant Chief Executive. All offers of hospitality must be registered in the Register of Offers of Gifts and Hospitality. Permission will not normally be granted for hospitality that requires overnight accommodation at the host's expense.

You should not allow a potential or actual contractor or supplier to pay for you to visit their sites or premises to inspect their goods or services. If such visits are necessary, the Council will meet the costs involved.

When visiting potential or actual contractors or suppliers you may accept refreshments appropriate to a work situation.

You do not need prior permission to accept a meal which is offered in work-related circumstances and which would enable your work to be expedited, provided that the costs do not exceed £10.

You do not need prior permission to accept modest hospitality offered at conferences and courses provided that the hospitality is offered to numbers of people in similar roles (i.e. is corporate) rather than personal.

If you are offered hospitality and you believe or suspect that the offer is made with the intention of influencing you to give favourable treatment to a service user, potential or actual contractor or supplier, you must not accept the offer of hospitality and you must inform your Director and the Assistant Chief Executive.

d)

Register of Disclosures and Interest and Offer of Gifts and Hospitality

The Council's Register of Disclosures and Interests and Register of Offer of Gifts and Hospitality are held by the Assistant Chief Executive.

Electronic copies of forms for registering interests, gifts and hospitality can be obtained from [Declaration of Conflict of Interest, and Receipt/Offer of Gifts or Hospitality](#). Completed forms should be e-mailed or sent by hard copy to your Director and the Assistant Chief Executive.

3.7**Corruption**

It is important that you are aware that it is a serious criminal offence for you corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything, or for showing favour or disfavour to any person, in the course of your work with the Council.

3.8**Use of Resources**

You serve the public, and you must remember this principle when you use the Council equipment, materials, financial and other resources, in order to ensure value for money.

You must not breach the guidance of the Council relating to the use of the Council resources.

3.9**Appointments**

In recruitment, you must follow the Council's Recruitment Policy based on the principles contained in the COSLA Code of Recruitment and Selection. All appointments must be made on the basis of merit.

If you are involved in the recruitment and selection process, and have any kind of relationship which might affect your ability to be impartial, that relationship must be declared to your Director or the Chief Executive. Your Director or the Chief Executive will decide whether you can participate in the recruitment and selection process. The same procedure must be followed in other personnel procedures such as grievance or disciplinary procedures or job evaluation.

You must not lobby Councillors or colleagues either directly or indirectly to secure your own appointment or promotion, or the appointment/non appointment or promotion of another person. If you have been lobbied by an applicant, another colleague, a Councillor or any other person, you must report the matter without delay to your Director or the Chief Executive.

3.10**Contacts with the Media**

In your work with the Council, contact with the media should only take place where you have been given appropriate authority to do so by the Chief Executive or your Director.

The Council has a Public Relations Office which has the primary responsibility to exercise its expertise in the management of media relations, including the provision of advice to the Chief Executive, Directors and other Senior Managers, the preparation of news releases, and the organisation of briefings for the media.

It is neither sensible nor possible for the Public Relations Office to handle all media inquiries. Some Services are expected to maintain regular contact with local media to promote their Service's image. However, clearly it is in the interests of the Council that media relations are addressed with proper sensitivity and regard for impact.

If you have not been given appropriate authority you must refrain from media contacts and refer media enquiries to authorized colleagues.

The code does not prohibit lay officials of recognised trade unions from making statements to the media, provided the statements are attributed to the trade union, and in the capacity of lay official.

The code does not preclude employees from providing views to the media on professional issues provided that such views are not open to interpretation as critical of the Council or contrary to its policies.

3.11

Political Neutrality and Services to Councillors

The public expects you to carry out your duties in a politically neutral way, and this must be respected by Councillors. The political activities of a small number of employees are restricted by law, as they hold "politically restricted posts" and they have been individually informed of what this means. Other than these employees, staff are able to participate in the activities of political parties and to hold office in those political parties.

You must serve the Council and all Councillors, regardless of their political outlook. The Chief Executive and Senior officers have ultimate responsibility to ensure that the policies of the Council are implemented. You must implement the policies of the Council irrespective of your personal views.

If you are asked by a Councillor to provide assistance with a matter which is clearly party political or which does not have a clear link with the work of the Council, you should politely inform the Councillor that you are referring the matter to your Director or Chief Executive for clarification.

Some employees may have a working relationship with Councillors of a political group (or groups). Political groups may

sometimes seek advice from Council employees.

The following procedure will assist employees who may be requested to give advice to political groups:

- The political group's office bearer must first approach the Chief Executive
- They must tell the Chief Executive what type of advice they are seeking
- The Chief Executive will decide whether the advice can be given, when and by which employee

If it involves attending a meeting, once the employee has given the advice to the group, the employee must leave the meeting before any decision is made.

Strict confidentiality must be observed by the employee. The discussion in one political group should not be disclosed to another political group or to any member of such a group.

4.

Your Rights As An Employee

4.1

Public Statements

As a citizen, you are entitled to express your views about the Council, provided you do not make use of any private information gained through your work with the Council. But you should not, in your work capacity, or as a result of your employment relationship, criticise the Council either through the media or at a public meeting, or in any written communication with members of the public.

To safeguard you the Council has a "whistle blowing" procedure which is available from the Chief Executive or your Director, and is contained in the Council's Personnel Policies and Procedures.

4.2

Access to your Councillor

As a citizen, you are entitled to raise with your Councillor any complaint which you have about the Services of the Council. If your complaint concerns any aspect of your employment with the Council, you should, however, raise this with your line manager or where appropriate use the Council's Grievance Procedure or Harassment Policy.

4.3

Fair and Reasonable Treatment at Work

You are entitled to expect fair and reasonable treatment from your colleagues, managers and from Councillors. If you feel that you have been unfairly treated or have been discriminated against, appropriate Council procedures, such as the Grievance Procedure or Harassment Policy, are available.

There may be rare occasions when you feel that you have been required by a colleague, a Councillor or a member of the public, or by an organisation, to act in a way which might be illegal, improper or unethical, or which is otherwise in conflict with the principles of this Code or the procedures of the Council. You must follow the Council's "Whistle blowing" procedure for dealing with such concerns, which includes the following steps: -

- You must report the matter to your Director
- If you feel that you cannot discuss the matter with your Director then you must report the matter to the Chief Executive or another officer appointed by the Council outwith your line management.
- The Chief Executive or your Director or the other person appointed by the Council will then decide - in consultation, where necessary, with the Council's Monitoring Officer - what action is to be taken.
- The confidentiality of your concern will be maintained wherever possible.

4.4 Substance Misuse

- a) Employees should refrain from consuming any alcohol immediately before or during their working day. Alcohol is not permitted on Council premises, unless specifically approved by your Director.
- b) The Council prohibits the use, possession, distribution or sale of illicit or illegal drugs at work, or when doing Council business and will report any such activity to the Police.
- c) Reference should be made to the Substance Misuse Policy. It should be noted that it may be necessary to use the disciplinary procedures to deal with any unsatisfactory performance, attendance or behaviour caused by excess alcohol consumption or by drugs.

5. Agreement And Review

The Trade Unions have been consulted on this code, and recognise that it will be subject to periodic review and amendment.

Appendix 1

PROTOCOL FOR RELATIONS BETWEEN COUNCILLORS AND EMPLOYEES IN SCOTTISH COUNCILS

Principles

1. This protocol sets out the way in which Councils and employees of Councils should behave towards one another. It does not cover all the variety of circumstances which can arise, but the approach which it adopts will serve as a guide to dealing with other issues as they come up.
2. Councillors and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

Scope

3. The most common contacts are between councillors and senior employees at Chief Executive, Director or Head of Service level, and this protocol is largely about those contacts. There are also many contacts between councillors and other employees in their daily business, and the principles of this protocol also apply to them. The particular position of employees who provide direct support services for councillors is dealt with separately at paragraph 21.

Members' and employees' roles

4. Within a Council, councillors have a number of different roles, all of which call for separate consideration. Some councillors are chairs of committees, most belong to political groups, and all have a local constituency to represent.
5. Legally, employees are employed by the Council and are accountable to it. Ultimately they serve the Council as a whole and not any particular political group, combination of groups or any individual member. Nonetheless, political groups exist in most Councils and employees may properly be called upon to assist the deliberations of political groups and also to help individual members in their different roles. Chief Executives and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

Office bearers

6. It is clearly important that there should be a close professional working relationship between the Chair of a committee and the director and other senior employees of any service which reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question employees' ability to deal impartially with other councillors, and the ability of Chairs to deal impartially with other employees.
7. The Chair of a committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of conveners, they must retain final responsibility for the content of reports.
8. Committee Chairs are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to employees they will often wish to consult Chairs of committees about the action which they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Chairs should bear this in mind when discussing proposed action with employees.

9. Committee Chairs will have many dealings with employees. Those employees should always seek to assist a committee Chair but it must be remembered that they are ultimately responsible to the Head of the Service.

Political groups

10. Most Councils operate through a system of groups of councillors, many of them based on political affiliation. All employees must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. Employees must at all times, maintain political neutrality.

11. The support provided by employees can take many forms, ranging from the meeting with the Chair and vice-Chair before a committee meeting to a presentation to a full party group meeting. Whilst in practice such support is likely to be in most demand from whichever party group is for the time being in control of the Council, it should be available to all party groups. The advice given by employees to different party groups should be consistent.

12. Certain matters must, however, be clearly understood by all those participating in this type of process, councillors and employees alike. In particular:

- Council rules about groups' access to employees, e.g. all requests being approved by the Chief Executive, must be followed;
- employee support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. The observance of this distinction will be assisted if employees are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
- party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- where employees provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered;
- political groups need to recognise that information and advice given by employees should be used to enhance discussion and debate at Council and committee meetings. If such information is used for political advantage, for example media briefings beforehand, then the process could become devalued and place employees in a difficult position in giving information and advice; and
- the chair of a political group meeting attended by employees has a responsibility for ensuring that those attending are clear on the status of the meeting and the basis on which employees are attending.

13. Special care needs to be exercised whenever employees are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the Codes of conduct for councillors and employees (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons employees may not be able to provide the same level of information and advice as they would to a members only meeting.

14. Any discussion with a political group or councillor must be treated with strict confidentiality by the employees concerned and should not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.

15. Should any difficulty or uncertainty arise in the area of employee advice to party groups, this shall be raised with the Chief Executive who should discuss the matter with the group leader.

Local representative

16. All councillors represent part of the area of the Council. Within each Council's rules about consultation and councillor involvement, employees must treat all councillors fairly and openly in their role as local representatives. When performing their local representative role, councillors will be seen by the public as representing the Council and should act in accordance with the principles of the Code of Conduct for Councillors and this protocol.

Communications

17. Communications between an individual councillor and an employee should normally not be copied by the officer to any other councillor. Where it is necessary to copy the communications to another member, this should be made clear to the original councillor at the time.

Appointments

18. Where councillors are involved in the appointments of employees they must act fairly and openly and judge candidates solely on merit.

Social relationships

19. The relationship between councillors and employees depends upon trust and this will be enhanced by the development of positive, friendly relationships. Councillors and employees will often be thrown together in social situations within the community and they have a responsibility to project a positive image of the Council. Nonetheless, close personal familiarity between individual employees and councillors can damage the relationship of mutual respect and the belief that employees give objective and professional advice and commitment to the Council. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

Public comment

20. Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to councillors the respect and courtesy due to them in their various roles. There are provisions in the Code of Conduct for Employees about speaking in public and employees should observe them.

Employees supporting councillors

21. Where Councils arrange for employees to support members directly in carrying out their duties, particular considerations apply. Such employees are normally involved in administrative and practical support of councillors. While such staff may operate to the requirements of individual councillors in their daily business, it must be remembered that the employees are accountable to their line managers and any issues about conflicting priorities, conduct or performance must be referred to those managers.