

Standards Committee – 13th October, 2011

Report of the Monitoring Officer

Code of Conduct for Employees

Purpose of Report

1. To consider the current position concerning the Code of Conduct for Employees.

Background

2. On 13th October, 2010, this Committee noted the current position concerning the Code of Conduct for Employees.
3. Following an internal review, a number of suggested amendments are included in the attached Appendix 1 (in bold italics) to address the following points:-
 - To update any outdated terminology where necessary.
 - To clarify that certain matters must be reported to or approved by the relevant Director or Assistant Director (see paragraphs 1, 27, 31 and 33).
 - To identify that personal interests could include the role of company director, company secretary, and trustees of voluntary organisations (see paragraph 16).
 - To include reference to other existing Codes which might be relevant (see paragraphs 7 and 15).
 - To enhance the guidance on gifts and hospitality (see paragraph 29).
4. All previously agreed amendments to the Code have been implemented and incorporated in the Constitution.
5. The Standards Board for England was previously informed that further consultation on the introduction of a code for Officers was likely to take place in 2010. This has not materialised although the Localism Bill and potential abolition of the Members' Standards Regime continues to move through the legislative process. Subject to the recommended amendments, the existing Code for Employees will therefore remain operational until such time as any national code or other amendments are introduced.

Finance

6. There are no financial implications arising from this report.

Law

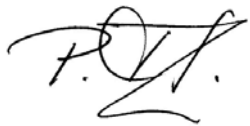
7. Section 111 of the Local Government Act 1972 enables the Council to do anything that is calculated to facilitate or is conducive or incidental to the discharge of its various statutory functions.

Equality Impact

8. Paragraph 17 of the Code refers to equality and diversity and there are no particular issues arising from this report with regard to children and young persons.

Recommendation

9. That the Committee consider the amendments to the Code of Conduct for Employees and recommend the Council to adopt the revised Code as set out in Appendix 1.



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Monitoring Officer

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List of Background Papers

The Council's Constitution

CODE OF CONDUCT FOR EMPLOYEES

Introduction

The public is entitled to expect the highest standards of conduct from all employees of Dudley Council. This Code of Conduct is based on the Council's Standing Orders and Financial Regulations, the provisions of the general law as well as your conditions of service. It has been approved by the Council in consultation with the Trade Unions who represent the workforce.

As the Code applies to all employees, please take time to read it fully and ensure that your conduct is at all times consistent with its requirements. Democratic local government can no longer be taken for granted – all of us involved in the service have to make a special effort to retain public confidence. Compliance with the Code will help maintain the reputation of local government in Dudley.

I am sure I can rely on you all to play your part in up-holding the highest standards in public life.

John Polychronakis
Chief Executive

Standards

- 1 Dudley Council's employees are expected to give the highest possible standard of service to the public and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to ***their Director or Assistant Director*** any impropriety or breach of procedure.

Disclosure of Information

- 2 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, service users and the public. The Council itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.
- 3 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor may they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority must not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
- 4 Employees have legal obligations towards privacy and security whilst processing personal information relating to any living individual. Such information must be processed in accordance with the Council's Data Protection Code of Practice.

Political Neutrality

- 5 Employees serve the Council as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 6 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their personal or political opinions to interfere with their work.

For advice on politically restricted posts contact ***Human Resources***.

Relationships

7 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government.

Employees dealing with Councillors should be aware of the “Protocol for Relationships between Members and Officers of Dudley MBC” as set out in the Constitution.

The Local Community and Service Users

- 8 Employees must always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

Contractors

- 9 Employees are reminded of the requirements of paragraph 5.1 of Contract Standing Orders which states that:-

“No..... **member of the Council or** officer nor any company, partnership or firm in which any **member of the Council or** officer has an interest nor any employer, nominee, spouse or other close relative of a **member of the Council or** officer, shall undertake the execution of works on behalf of the Council or shall accept an order for the supply or disposal of goods or materials from the Council or shall provide services for the Council unless such works or order for goods or materials or services have been offered or secured or provided by competitive Tender or Quotation“

- 10 “Other close relative” includes a person cohabiting on a similar basis to a spouse, a civil partner, a parent, grandparent, uncle, aunt, son, daughter, grandson, grand-daughter, brother, sister, niece or nephew of the officer or their spouse or cohabitee.
- 11 All such relationships of a business or private nature with external contractors, or potential contractors, must be declared to **Law and Governance** (using a pro forma provided for this purpose) who will notify the relevant Assistant Director (or in the case of a school, the Headteacher) and any other appropriate employee of this declaration. The requirement to make a declaration under this paragraph also applies to employees who engage or supervise 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 a contractor.

- 12 Orders and contracts must be awarded on merit by fair competition and no special favour may be shown to any business run by, for example, friends, partners or relatives, in the tendering process. No part of the local community may be discriminated against.

Appointment and Other Employment Matters

- 13 Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee 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, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 14 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

Outside Commitments and Conduct Outside Working Time

- 15 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about contractual obligations and must not take outside employment which conflicts with the Council's interests.

Generally, what you do outside work is your own concern, but you must avoid doing anything that might adversely affect the reputation of the Council or bring the Council into disrepute. If in doubt, you should seek the advice of the Council's Monitoring Officer.

Employees should be aware of the "Guide for Councillors and Officers on Organisations Outside the Council".

Personal Interests

- 16 Employees must declare to **Law and Governance** (using a pro forma provided for this purpose) any financial or non-financial interests which could conflict with the interests of the Council. ***This would include any cases where the employee is a company director, company secretary or voluntary organisation trustee.*** **Law and Governance** will notify the relevant Assistant Director (or in the case of a school, the Headteacher) and any other appropriate employee of this declaration.

Equality and Diversity Issues

- 17 All Dudley Council's employees must ensure that our policies and practices relating to equality and diversity issues are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have the right to be treated with fairness and equity.

Separation of Roles During Tendering

- 18 Employees involved in the tendering process and dealing with contractors need to be clear of the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 19 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 20 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 21 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 22 Employees 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.

Corruption

- 23 Employees must be aware that it is a serious criminal offence for them to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Whistleblowing

- 24 Since 1999 the Council has had a policy on confidential reporting, i.e., whistleblowing. Under this policy employees who have serious concerns about any aspect of the Council's work are encouraged to come forward and voice those concerns. A copy of the policy can be obtained from your directorate or the Director of Corporate Resources.
- 25 The policy explains the procedure for raising concerns internally or, if you prefer, you may seek free independent and confidential help from the charity, Public Concern at Work.

Use of Financial Resources

- 26 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They must strive to ensure value for money to the local community and to avoid legal challenge to the Council.

Gifts & Hospitality

- 27 Employees must only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions must be accepted only when these are part of the life of the community or where the Council must be seen to be represented. They must be properly authorised **by a Director or Assistant Director** and recorded in the Gifts and Hospitality Register maintained for this purpose by each Directorate.
- 28 When the hospitality has to be declined those making the offer need to be courteously but firmly informed of the procedures and standards operating within the Council.
- 29 Employees must not accept significant personal gifts from contractors and outside suppliers, although they may keep insignificant items of token value such as pens, diaries, etc. for use in the office. ***Gifts such as alcohol, flowers or chocolates from members of the public should not be encouraged and if accepted must be donated to charity. Any offers of significant personal gifts should be notified to your Director or Assistant Director.***
- 30 When receiving authorised hospitality employees need to be particularly sensitive as to its timings in relation to decisions which the Council may be taking affecting those providing the hospitality.

- 31 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the **Director or Assistant Director** gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees must ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. ***All such matters should be recorded in the Gifts & Hospitality Register.***

Sponsorship – Giving and Receiving

- 32 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government 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.
- 33 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to **your Director or Assistant Director** of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

Interpretation

- 34 Employees of the Council who disagree with the interpretation of this document (as it may affect them) have the right to raise the matter through the Council's Official Grievance Procedure.