

Officers' Code of Conduct

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INTRODUCTION

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and condition of service and provides further guidance to assist Mid Devon District Council and their employees in their day-to-day work.

Status of the Code

The Code sets out the minimum standards that should apply. The aim of the Code is to lay down guidelines for employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code is closely based on a model that has been approved by the local authority associations in England and Wales and the Local Government Management Board (LGMB).

The Code applies to all Mid Devon District Council employees.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees employed by Mid Devon District Council..

1 Standards

1.1 Local government 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 line manager any impropriety or breach of procedure. The line manager must then report to the Head of Service and the Monitoring Officer.

2 Disclosure of Information

2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. Employees must be aware of which information within their authority is open and which is not, and act accordingly.

2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should 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 should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

In certain circumstances, employees may have a legal or professional duty to disclose information to a third party (for example, in the course of legal proceedings).

3 Political Neutrality

- 3.1 Employees serve the authority 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.
- 3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

The Local Government Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No2) regulations 1990 covers the posts which are politically restricted. These are:

- (a) *specified posts, such as the Head of Paid Service and the Monitoring Officer, chief officers and their deputies are restricted without exemption or appeal;*
- (b) *all posts which reach or exceed a prescribed remuneration ceiling - automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals are granted;*
- (c) *all posts which meet the duties-related criteria for determining a `sensitive' post irrespective of remuneration level unless the post holder appeals successfully against determination; these posts are defined as those which (i) give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented (but excluding purely factual information) or (ii) speak on behalf of the authority on a regular basis to journalists and broadcasters.*

The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post. Those employees who are occupying a politically restricted post have received a letter varying their contract of employment accordingly.

4 Relationships

4.1 Councillors

Employees are responsible to the authority 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 authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

4.2 The Local Community and Service Users

Employees should 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 authority.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the your line manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 4.4 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 contractors, should declare that relationship to their line manager. The line manager will then report to the Head of Service and then the Monitoring Officer.

The Local Government and Housing Act 1989 s31 has given statutory status to the National Code of Local Government Conduct (for the guidance of Councillors of local authorities). The Code included within paragraph 23-25 the following statements as to the role of Councillors in relation to officers:

- 23 *"Both Councillors and officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to Councillors and their council, and to carry out the council's work under the direction and control of the full Council, the Cabinet, Scrutiny and PDG's.*
- 24 *Mutual respect between Councillors and officers is essential to good local government. Close personal familiarity between individual Councillors and officers can damage the relationship and prove embarrassing to other Councillors and officers.*
- 25 *The law and standing orders lay down rules for appointment, discipline and dismissal of staff. You must ensure that you observe these scrupulously at all times. In all circumstances, if you are called upon to take part in appointing an officer the only question you should consider is which candidate would best serve the whole council. You should not let your political or personal preferences influence your judgement. You should not canvass the support of colleagues for any candidate and you should resist any attempt by others to canvass yours."*

It is suggested that close personal familiarity must be interpreted reasonably. You are not, necessarily for example, prohibited from having a meal with a Member.

5 Appointment and Other Employment Matters

- 5.1 Employees involved in appointments should 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 should 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.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

Purple Book, Section 1, Paragraph 6(a) says:

"Every candidate for any appointment under the employing authority shall, when making an application, disclose in writing to the Chief Executive of the authority whether to his knowledge he is related to any member of the authority or to a holder of any senior office under the authority.

Deliberate omission to make such a disclosure will disqualify the candidate, and if the omission is discovered after appointment he shall be liable to dismissal. Every member and senior officer of the authority shall similarly disclose to the authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to the authority to report to the authority or appropriate committee any such disclosure made to him".

The Local Authorities (Standing Orders) Regulations 1993 also prescribe the procedure to be followed in respect of the appointment of chief officers and their dismissal in the event of misconduct.

6 Outside Commitments

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

It is recommended that employees should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his position (for example, an architect, planner or any employee who draws up plans within the authority for an application for planning consent or building regulation approval). It is irrelevant whether or not the work is paid.

Purple Book, Section 7, Paragraph 70(b) says:

"An officer's off-duty hours are his personal concern but he should not subordinate his duty to his private interest to put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business."

The national conditions of service for chief officers and those for Chief Executives also mirror the above points.

Purple Book, Section 7, Paragraph 71 says:

"Officers above Scale 6 shall devote their whole-time service to the work of their council and shall not engage in any other business or take up any other additional appointment without the express consent of the council."

Where employees are not covered by the provisions of the national conditions they should adhere to the principles outlined above. Employees are also instructed that correspondence and incoming telephone calls related to outside work are not allowed.

The procedures for seeking permission in such circumstances should be made clear.

- 6.2 Employees should be aware of the possibility of abusing the authority's intellectual property rights or copyright entitlements. If in doubt an employee should seek any clarification with their line manager or HR.

Intellectual Property

Increasingly the local government world is moving towards new forms of employee contracts. Many employees, including professionals, may be working for several employers part-time or are subject to dual employment conditions. Mid Devon District Council will therefore produce guidelines designed to safeguard copyright and intellectual rights created during employment.

Intellectual Property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

7 Personal Interests

- 7.1 Employees must declare to their line manager, who will report to the Head of Service and Monitoring Officer, any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to their line manager by filling in form Personal Interest 1 (PIn1) including any financial interests which could conflict with the authority's interests. The information contained in form PIn1 is not a public document and is, therefore, not open to inspection. The Council believes disclosure of information contained in the form would lead to a breach of the first data protection principle on the grounds that such disclosure would be unfair to individual employees. The information is, therefore, exempt under Section 40.
- 7.3 Employees should declare to their line manager who will report to the Head of Service and Monitoring Officer membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

Register of Interests: Mid Devon expects that all employees disclose any personal interests that they feel conflicts with the authority's interests, (eg acting as a school governor within schools maintained by the authority, involvement with an organisation receiving grant aid from the authority, membership of a National Health Service Trust Board, involvement with an organisation or pressure group which may seek to influence the authority's policies.

The following definition on what constitutes a secret society was used by the working group responsible for drafting the Code, and employees, business managers and chief officers may find it helpful:-

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

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

- (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering, or meeting.

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

8 Equality Issues

- 8.1 All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

Employees should be aware of the provisions of, and their responsibilities under The Equality Act 2010.

9 Separation of Roles During Tendering

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

10 Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them corruptly to 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.

11 Use of Financial Resources

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

12 Hospitality

- 12.1 Employees should only accept offers of hospitality, including meals, if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. It should be properly authorised and recorded.

One example of an acceptable incidence of hospitality would be where the acceptance of hospitality for example lunch, would be likely to be reciprocated by the Authority.

- 12.2 When hospitality has to be declined the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- 12.3 Employees should not accept significant personal gifts from contractors and outside suppliers, the authority allows employees to keep insignificant items of token value such as pens, diaries, etc up to a maximum of £10 per item. However, the authority is unlikely to allow acceptance of personal gifts over the value of £25. Any personal gifts over £10 must be registered on Form HR1. Form HR1 should be completed whether or not the gift or hospitality is accepted.
- 12.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
- 12.5 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 authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 12.6 A register of hospitality and gifts will be held by the monitoring officer and anyone receiving significant hospitality should fill in the appropriate Form HR1 which will be countersigned by the Head of Service and then forwarded to the Monitoring Officer.

It is important to note that the responsibility of the acceptance of the hospitality does not lie with the monitoring officer but with the appropriate line manager and Head of Service.

13 Sponsorship - Giving and Receiving

- 13.1 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. It will be necessary to register the gift or hospitality in accordance with paragraph 12.6. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the authority 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 their business manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

MID DEVON DISTRICT COUNCIL
NOTICE OF OFFER OF HOSPITALITY/GIFT

I,

being employed as in the Unit
give notice, in accordance with the Mid Devon Code of Conduct for Local Government Employees, that I
have been offered/accepted/I intend to accept* hospitality/gift* the details of which are set out below.

- 1 Details of Hospitality Accepted
- 2 Details of Hospitality Not Accepted
- 3 Details of Gift (Items exceeding £10) Accepted
- 4 Details of Gift (Items exceeding £10) Not Accepted
- 5 Estimated Value of Hospitality/Gift
- 6 Details of Person/Organisation offering Hospitality/Gift
- 7 Circumstances in which Hospitality/Gift offered (eg conference/course, etc)
- 8 Justification for accepting Hospitality/Gift (see para 12 of the Code of Conduct and Heads of Units are referred to para 12.3 and their discretion in relation to gifts over the value of £25)

Signed Dated

Signed Dated
(Head of Service)

Received by Monitoring Officer on (date) and entered into Register

Signed
(Monitoring Officer)

* delete as appropriate

NOTICE OF PERSONAL INTEREST

I,

being employed as in the Unit
hereby give notice that I have set out below any interests which I am required to declare.

1 Contracts with the Authority

You should describe all contracts of which you are aware which are not fully discharged, and which are:
(a) *contracts for the supply of goods, services or works to the authority or on the authority's behalf;*
and
(b) *between the authority of which you are an employee, and either yourself or a company in which you have a beneficial interest or of which you are a director.*
You need not say what the financial arrangements are, but should say for how long the contract is.

2 Personal Interest in Organisation, Society, Trust, etc

You are only required to register any personal interest that you feel conflicts with the authority's interests. You are only likely to conflict if you are dealing in a professional capacity with the organisation or you are on the managing committee of that organisation eg acting as a school governor.

Signed

Dated

Signed
(Head of Service)

Dated

Received by Monitoring Officer on (date) and entered into Register

Signed
(Monitoring Officer)