

# APPENDIX 19

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### Code of Conduct for Employees

#### **1. Ethical Standards**

- 1.1 Local government employees are expected to abide by the highest ethical principals, giving the highest possible standard of service to the public, and where it is part of their duties, providing appropriate advice to Councillors and fellow employees with impartiality. Employees are expected, 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 the appropriate manager any impropriety or breach of procedure.

#### **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.
- 2.2 Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Democratic Services Manager or the Committee Section. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence.
- 2.3 The public are specifically excluded from certain proceedings of Committees or other meetings associated with the business of the Council. No employee shall communicate to the public the content of such proceedings or any document relating to the Authority, unless required by law or expressly authorised by the Chief Executive to do so. Employees making unauthorised communications may become subject to disciplinary action.
- 2.4 Employees should exercise caution and care not to disclose commercially sensitive information. Guidance should be sought from the appropriate Executive Director or the Head of Central Services.
- 2.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit either for themselves or others, nor should they pass it on to others who might use it in such a way.
- 2.6 Personal information received by an employee from a Councillor 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.
- 2.7 Employees have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment to any third party for any unauthorised reason. In particular, employees must not disclose personal information about any individual without

the appropriate authority to do so. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

### **3. Political Neutrality**

- 3.1 Employees serve the authority as a whole. 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 Employees whose duties require them to advise political groups must do so in ways which do not compromise their political neutrality.
- 3.3 All employees must follow the policies and decisions of the authority and must not allow their own personal or political opinions interfere with their work.
- 3.4 Where an employee holds a politically restricted post, the restrictions imposed by the Local Government and Housing Act are deemed to be incorporated in their contract of employment.

### **4. Relationships**

#### **4.1 Councillors**

- 4.1.1 Employees are responsible to the authority through its management structure. Some employees have a specific role to give advice to councillors and senior officers. All employees are responsible for carrying out the authority's work and are expected to follow the advice of those officers who have a specific advisory role, eg Section 151 Officer or Monitoring Officer. Mutual respect between employees and councillors is essential.

#### **4.2 The Local Community and Service Users**

- 4.2.1 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 the community.

#### **4.3 Contracts, Grants or Property Matters**

- 4.3.1 Orders and contracts must be awarded on merit, by fair competition against other tenders, and special favour must not be shown to businesses operated or controlled by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.
- 4.3.2 Employees involved in awarding contracts or 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 who is engaged or who is proposed to be engaged by the Authority, must declare that relationship to the appropriate manager and record the relationship in the Register of Disclosures of Pecuniary Interests

(held by the Head of Central Services in the Chief Executive's Directorate) as soon as practicable.

4.3.3 Employees must also disclose and record in the Register any interest of themselves or their spouse/partner (if living together) in the following:

- Any grant made by the Council;
- Any tenancy of or contract for the purchase of any property in the ownership of the Council;
- The receipt as landlord of Housing Benefit in respect of a property in the Borough.

#### 4.4 **The Press and the Media**

4.4.1 Employees must not deal direct with the press or the media unless they are required to do so in the course of their work or they have been expressly authorised by an appropriate manager.

4.4.2 All enquiries for information or comment on issues affecting the work of the Council must be referred to the Communications Manager.

4.4.3 Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.

### 5. **Appointments and Other Employment Matters**

#### 5.1 **Appointments**

5.1.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the Council's procedures are detailed in the Council's Recruitment, Selection and Induction Code of Practice which supplements the Corporate Training which is available to all employees involved in the Recruitment and Selection process.

5.1.2 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. [Candidates for any appointment with the Council when making an application, must disclose on the job application form whether they are related to any member of the Council or to any Council employee.] Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, they will be liable to dismissal.

5.1.3 Elected Members and Executive Directors must disclose to the Authority any relationship known to exist between themselves and a candidate for an appointment of which they are aware.

#### 5.1.4 **Canvassing of and Recommendations by Members**

- (1) Canvassing of Members of the Council or any committee of the Council directly

or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment. This requirement shall be included in any form of application for an appointment or otherwise be drawn to the attention of applicants.

(2) A Member of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a Member from giving a written testimonial for submission to the Council with an application for a job.

(3) A Member of the Council shall not permit his name to be used as a reference by any person applying for a lease or tenancy of any house or other property belonging to the Council.

#### 5.1.4 Relatives of Members or Officers

(1) A candidate for any appointment under the Council who knows that their spouse/partner or any relation is currently employed by the Council or is a Member of the Council shall when making an application for employment, disclose that relationship. A candidate who fails to disclose such a relationship shall be disqualified from the appointment and if appointed shall be dismissed without notice. Every Member or officer of the Council participating in an interview panel shall disclose to the panel any relationship known to them to exist between themselves and any person whom they know is a candidate for the appointment being considered.

(2) The substance of this Standing Order shall be included in any form of application for employment or otherwise be drawn to the attention of applicants.

(3) In any case in which a senior officer has power to engage an employee they shall not appoint any relative to such position without first referring the proposed appointment to the Chief Executive or in the case of the Chief Executive, the Executive Director of Resources and Support Services..

(4) For the purpose of this Standing Order "senior officer" means any officer of the Council authorised by their Executive Director to appoint staff.

## 5.2 **Discipline, Promotion and Pay Adjustments**

5.2.1 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or personal friend.

## 5.3 **Giving of References**

5.3.1 If requested to supply a reference, employees should note that they owe a duty of care in negligence to the person receiving it and also to the subject of the reference and must therefore:

- Ensure the reference is factual, fair and balanced
- Wherever possible, confine their comments to facts only
- Avoid making professional judgements unless they feel qualified to do so

- Avoid statements of pure opinion
- Generally avoid 'pro forma' references

**Note:** Sending a reference by fax is generally more secure than by email

### 5.3.2 Employment references

**Only Executive Directors and Senior Managers are authorised to give employment references for employees of the Council.** These should:

- be in writing only (ie no oral references either in person or by telephone)
- be on the Council's official headed paper
- be marked 'PRIVATE AND CONFIDENTIAL – GIVEN IN CONFIDENCE'
- include the following disclaimer:

***“This reference is strictly confidential and is given only for the purposes for which it is requested. It is given on the strict understanding that no liability shall arise on the part of Newcastle-under-Lyme Borough Council and its employees, out of or in connection with any reliance placed upon it by you or by any third party”.***

### 5.3.3 References other than employment references, ie personal/character references

Employees who wish to provide a personal/character reference for a person who is a Council employee must:

- ensure it is clearly marked 'PERSONAL REFERENCE'
- give their home address, not the Council's address
- ensure it is not written on the Council's official headed paper

## 6. Outside Commitments

### 6.1 Private Work

6.1.1 "Private work" includes all work, voluntary, or paid employment (including the involvement in any business) other than work undertaken for the Council.

6.1.2 It is not intended to prevent employees from engaging in other work but to ensure that no conflict of interest arises. Any Executive Director must have good reason for not approving the work. Employees are permitted to undertake private work provided:

- It does not affect their effectiveness in the performance of, or conflict with, their duties with the Council
- The work is not carried out in Council time, on the Council's premises or using the Council's materials or equipment
- Employees who work in specific categories of activity, such as professional services or property development, must take particular care to avoid any possible conflict of interest and must only conduct private business outside the boundary of the Borough areas in order to demonstrate that no conflict of interest can be alleged or inferred.

6.1.3 All communications from the Council in connection with any private work being undertaken by an employee will be made by letter to the employee's home address. The employee must not contact staff in connection with the matter other than by letter addressed to the appropriate Executive Director. If it is necessary for the employee to speak to staff either directly or by telephone, this must be done outside the employee's paid working hours.

6.1.4 Employees must obtain the approval of the Executive Director for this Service before undertaking any private work and must record each commission, tranche or element of work in the Register of Private Work which is kept for this purpose in their department. If approval is not given, the work must not be undertaken. Every employee should contact the Executive Director for advice before deciding to engage in or carrying out any work.

6.1.5 Approvals must be requested and approved on a job specific basis and reviewed/reconfirmed by the relevant Executive Director annually.

6.1.6 Instances of employees undertaking private work which requires the Council's approval and which is not entered in the Register will be treated as "gross misconduct" under the terms of the Council's disciplinary procedure.

## 6.2 **Intellectual Property**

6.2.1 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

6.2.2 Intellectual property is a generic term that includes inventions and patents, 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 Council.

6.2.3 Advice on intellectual property procedures is available from the Legal Services Manager.

## 6.3 **Information Technology and Data Security**

6.3.1 Employees must ensure that they follow the Council's procedures and adhere to the Information Security Management policy in relation to the use and storage of computers and the proper management of computer held information in relation to the Data Protection Act.

## 7. **Personal interests**

7.1 Employees must declare to their line manager (in writing) any non-financial interests that they consider could bring about conflict with the authority's interests.

7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.

7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules and/or membership and/or conduct (eg, a Masonic lodge).

- 7.4 On no account must employees be directly involved in the processing of any matter or application in which they or their spouse or partner or any close relative have a personal interest.
- 7.5 Employees must declare to their line manager (in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 7.6 As part of their official duties, an employee may be required to serve on an outside body. In such cases employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate and as far as this is consistent with their duties as a member of the outside body.

## **8. Equality issues**

- 8.1 All 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 fairly and not to be discriminated against.
- 8.2 Employees should note that cases of racial or sexual harassment are deemed to be gross misconduct under the Council's Disciplinary Procedure.

## **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 appropriate manager 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.
- 10.2 Employees who are in receipt of or affect the receipt of Housing Benefit and/or other related benefits (i.e. Income Support, Unemployment Benefit, Incapacity Benefit, etc.) must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the Council's Disciplinary Procedure.
- 10.3 Employees must provide their employing department with details of their home address or in cases where more than one address is frequented the address that they normally class as their home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name should also be notified to the employing department.
- 10.4 The Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment it encourages employees with serious concerns about any aspect of the Council's work to come forward and voice those concerns. The Council's Anti-Fraud and Corruption Strategy makes it clear that employees do so without fear of reprisals. The Whistle Blowing Policy is intended to encourage employees to raise serious concerns within the Council rather than overlooking a problem or raising them with external bodies first. Polices are available on the Intranet and from Internal Audit.

## **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.
- 11.2 Employees should be aware of and must adhere to the Council's Standing Orders and Financial Regulations.
- 11.3 An employee who becomes aware of any contravention of these rules and regulations must report the matter immediately to their line manager or, if appropriate, they should contact some other responsible officer to ensure that the matter is brought to the Council's attention.
- 11.4 An employee must not use any of the Council's resources whether financial or physical assets for any purpose other than Council business.



## **12. Gifts and Hospitality**

### **12.1 Introduction**

12.1.1 The following procedures must be followed when offers of gifts or hospitality are made to members and employees of the Borough Council.

12.1.2 The public have the right to expect the highest standards of conduct, integrity and probity in the public service. Holders of public office must not place themselves under any financial or other obligations to individuals or organisations that might influence them in the performance of their official duties. In addition, public servants must be open in their dealings. There should be no hidden motive for the decisions or actions they take and information should be restricted only when wider public interest demands.

12.1.3 Local government employees may not accept any fee, reward or gift other than their proper remuneration for doing their job (Local Government Act 1972).

12.1.4 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community.

### **12.2 Legal Position**

12.2.1 It is a criminal offence for a Council employee corruptly to solicit or accept any gift or consideration as an inducement or reward. If the gift or consideration is from someone holding or seeking a contract with the Authority, it is deemed to have been received corruptly unless the employee proves to the contrary. It is also a criminal offence for Council employees to accept any fee or reward other than their proper remuneration. Accepting any gift or consideration in the knowledge or belief that it is intended as an inducement or reward is an offence whether the employee receiving it is actually influenced or not. **Generally, all offers of gifts or hospitality should therefore be refused unless they are of an extremely minor nature.**

### **12.3 General Principles**

12.3.1 It is important that the Council maintains a good relationship with other agencies, local businesses and the community. In attempting to promote this, employees will, from time to time, be faced with decisions as to whether or not to accept gifts and hospitality.

12.3.2 In some circumstances a rigid refusal may cause unnecessary offence. However, it is vital to dispel the impression of improper influence being exerted over the Council. It may be more acceptable to join in hospitality being offered to a group than to an individual employee.

12.3.3 Commonsense is the general principle governing the acceptance of gifts and hospitality. Employees should consider the nature and scale of the gift, the hospitality being offered and the surrounding circumstances including the relationship between the donor and the Council.

12.3.4 The main criterion in accepting hospitality is whether the decision can be fully justified to the Council and to the public.

12.3.5 Although it is impossible to cover every situation, the following guidelines should help employees to reach an objective decision where necessary.

## 12.4 **Gifts**

12.4.1 All offers of gifts from agencies or people who provide, or might provide, goods, works or services to the Council, or who need a decision from the Council (eg, planning applications) must be refused tactfully.

The only exceptions to the rule are:

- Modest promotional gifts such as calendars, diaries or office stationery
- Small gifts of token value on the conclusion of courtesy visits to an organisation's premises

12.4.2 More expensive promotional gifts or, for example, bottles of spirits or wine, must be refused.

12.4.3 Gifts sent by post or left at an employee's place of work must be properly returned with a polite letter. If this is not possible, the gift can be handed to the Mayor's Charity and an explanatory note sent to the donor.

## 12.5 **Hospitality**

12.5.1 Invitations or free tickets to attend social functions or sporting events should **only** be accepted when the occasion is part of community life or the Council should be seen to be represented. **Such offers are acceptable only when they are clearly required as part of the conduct of Council business.**

12.5.2 It is, of course, not always possible or desirable to reject offers of hospitality on a modest scale. A working lunch of modest standard to enable parties to continue to discuss business and the offer of limited hospitality when visiting an organisation on Council business would be acceptable.

12.5.3 When hospitality has to be declined, those making the offer should be courteously, but firmly informed of the procedures and standards operating within the Council.

12.5.4 Employees may accept hospitality through attendance at conferences and courses, with the prior approval of the Executive Director for their Service or the Chief Executive and providing this would not compromise a purchasing decision.

12.5.5 Prior approval of your Executive Director or the Chief Executive should be sought before accepting invitations to attend receptions, luncheons and promotional events.

12.5.6 To avoid jeopardising the integrity of subsequent purchasing decisions, the cost of approved visits to inspect equipment including software demonstrations should be met by the Council. Particular care should be taken to avoid accepting any hospitality offered by tenderers when undertaking such visits.

## 12.6 **Procedure for Acceptance/Refusal**

- 12.6.1 The acceptance of gifts or hospitality other than those approved by the Council may be treated as serious misconduct which will be dealt with under the Council's disciplinary procedure. In certain circumstances, this could ultimately lead to prosecution.
- 12.6.2 For their own protection, employees if in doubt about their particular circumstances should seek advice from their Executive Director or, if necessary, Chief Executive.
- 12.6.3 A central register is maintained by the Democratic Services Manager recording all gifts and hospitality offered and action taken.
- 12.6.4 All offers of gifts or hospitality, even if they are refused, (apart from the exceptions detailed above) must be recorded in the Register.

## 13. **Prevention of Money Laundering**

- 13.1 The Proceeds of Crime Act 2002 and the UK Money Laundering Regulations 2003 replaces responsibility on Council employees to combat money laundering. Under the legislation it is a criminal offence to:
- assist a money launderer;
  - 'tip-off' a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigation;
  - fail to report a suspicion of money laundering;
  - acquire, use or possess criminal property.

**Employees contravening the regulations can be faced with imprisonment (up to 14 years), a fine or both.**

- 13.2 In order to combat money laundering and to protect itself and its employees from the consequences of failing to comply with the legislation, the Council has issued guidance for any employee dealing with large sums of money in or out of the Council. The following list identifies a number of areas that the guidance applies to but it is not exhaustive:
- Cashiers
  - Officers receiving large sums of money, eg land sales
  - Benefits officers, large payments to landlords
  - Employees making payments for large contracts, consultants fees
  - Property deals
  - Receipt and repayment of performance bonds
- 13.3 Employees whose duties involve working in the areas listed above should ensure that they are familiar with the guidance which is available from the Internal Audit Section.

**14. Sponsorship - Giving and Receiving**

- 14.1 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. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 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 an appropriate 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.

**15. Records**

- 15.1 Employees should keep full and accurate records of all transactions. Where an employee is required to complete records such as time sheets or leave sheets, these must be completed accurately. Falsification of records is criminal and is gross misconduct.

**16. Personal Conduct**

- 16.1 Employees are expected to be polite and courteous at all times and in particular the following are unacceptable behaviour:
- The use of abusive or offensive language towards members of the public, Councillors or other members of staff
  - Threatening or aggressive behaviour
  - Inappropriate sexual conduct
  - Dishonesty

**17. General Note**

- 17.1 Copies of all policies mentioned in this Code of Practice are available on the Intranet or from your Senior Manager.

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