

Local Government Act 2001
as amended by Local Government Reform Act 2014

Code of Conduct for Councillors

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OBJECT OF CODE

The object of this Code is to:

- Set out principles and standards of conduct, respect, dignity, equality and integrity for councillors, in performing their functions and in their relationship with each other, Council employees and with the public.
- Inform the public of the conduct it is entitled to expect from its elected representatives.
- Uphold public confidence in local government.

LEGISLATIVE BACKGROUND

Local Government Act 2001,
as amended by the Local Government Reform Act 2014
- Part 15 – Ethical Framework for the Local Government Service

Ethics in Public Office Acts 1995 and 2001

Safety, Health and Welfare Act 2005

Regulation of Lobbying Act 2015

1. Introduction

- 1.1 The public is entitled to expect conduct of the highest standards from all those involved in the local government service be they councillors, county/city chief executives, local authority employees or non-councillor members ("external members") of local authority committees. The Local Government Act 2001 ("the 2001 Act") sets out an ethical framework and that imposed a statutory duty on all in the local government service to maintain proper standards of integrity, conduct and concern for the public interest.
- 1.2 Local government has a long tradition of honest and impartial service to its communities. The core principles underlying democratic local government are based on councillors acting in good faith and with fairness and impartiality for the common good and to promote the public interest. This Code has been issued under Section 169 of the 2001 Act to promote these principles and to uphold public confidence - so that all councillors can be seen to 2001 Act solely in the public interest and within the law. The Code is accordingly to be read in this spirit at all times and not in any selective or restrictive manner contrary to its intent.
- 1.3 This Code is complemented by a separate code which applies to local authority employees. Together these codes represent a standard against which the conduct of all those involved in local government can be judged in the performance of their duties. They are intended to inform the public of the standards of behaviour that they have a right to expect and so help to maintain and enhance public trust and confidence. They add to and supplement the specific requirements under the 2001 Act and form an integral part of the ethical framework
- 1.4 Councillors and employees together have a common interest to work in co-operation in the best interests of the public which they both serve. There must be respect and a clear awareness of the different roles which Councillors and employees fulfil. Councillors have a mandate to make policy and represent the public. Employees have a duty to administer the policy of the Council subject to the constraints of legislation, regulation and resources.
- 1.5 Councillors exercise their mandate primarily in the Council chamber where they are entitled to represent issues – robustly if necessary – on behalf of

the community they represent. This mandate granted by the electorate does not exempt councillors from treating other councillors and employees with respect and dignity. This value of respectful treatment includes comments within and outside the Council Chamber, be it in direct speech written or on social media. The role of the elected member requires that they conduct their dealings with other councillors and employees, for whom the Council is their workplace, with respect and dignity

2. General conduct and behaviour

2.1 As holders of elected office, councillors are obliged to keep faith with the public trust placed in them. Core values such as integrity, impartiality and respect are fundamental to the public's perception of local government performance. Moreover, they require councillors to observe the highest ethical standards when delivering on their roles. These values should underpin all actions of councillors so that a high level of public trust continues to be maintained.

2.2 Councillors should abide by this Code and: -

- Act with integrity to uphold public service values;
- Act in a way that enhances public trust and confidence;
- Serve their local authority and its citizens honestly, conscientiously and impartially;
- Prevent conflicts of interest arising and never seek to use improper influence;
- Promote equality and avoid bias;
- Treat their colleagues and local authority employees with courtesy, respect and dignity;
- Courtesy and respect should also be observed when using social media channels, messaging applications and written communications.

- 2.3 More generally, councillors should in all matters seek to ensure that their conduct does not bring the integrity of their office or of local government into disrepute

3. Local authority meetings and satisfactory working relationships

- 3.1 The 2001 Act provides that local authorities should organise meetings of the authority and its committees in such a fashion that they operate to promote effectiveness and efficiency in the discharge of business. Meetings should be conducted in a professional and business-like manner and in a way that would stand up to objective public scrutiny: this criterion should guide all concerned. Councillors must treat their colleagues and employees with courtesy and respect and obey the rulings of the chair and standing orders.
- 3.2 If, in the opinion of the chair, a councillor's conduct is considered to be disorderly then the chair may move that the councillor concerned leave the meeting and the motion, if seconded, shall be put and determined without discussion. Schedule 10 of the 2001 Act, as amended by the 2014 Act, provides that sanctions can be applied against a councillor who refuses to leave a meeting after the passing of such motion and whose refusal then causes that meeting to be adjourned¹.
- 3.3 It is a matter for the individual councillor to decide on what view to take on any question to be decided by the elected council. In reaching decisions, councillors should take account of what is relevant, have regard to advice tendered to them, and comply with the relevant legal requirements.
- 3.4 Councillors are responsible to the electorate for their elected term of office. Employees are responsible to the Chief Executive in carrying out their duties. Mutual respect and courtesy between councillors and employees is essential to good local government and should be maintained at all times.
- 3.5 There is an onus on councillors to be aware of the statutory obligation on local authorities to prevent any improper conduct or behaviour in the

¹ Paragraph 13, Schedule 10 of the Local Government Act 2001, as inserted by section 57 of the Local Government Reform Act 2014

workplace that is likely to put the safety, health and welfare of others at risk, including bullying behaviour and harassment.

- 3.6 Councillors should familiarise themselves with their local authority's *Dignity at Work* policy (or equivalent policy promoting respect, dignity, safety and equality in the workplace) and seek to conduct themselves in accordance with the principles of that policy.
- 3.7 As Councillors may also be local government employees, or employees of other public bodies, a special onus rests on them to ensure that these roles remain separate and distinct, avoiding any perception that their employment confers additional advantages to them in their role as councillors or vice versa.

4. Conflict of personal and public interest

- 4.1 The 2001 Act prohibits a councillor from influencing or seeking to influence a decision of a local authority in any matter with which the local authority is concerned in the performance of its functions and in which, or related to which, the councillor has actual knowledge that s/he or a connected person has a pecuniary or other beneficial interest.
- 4.2 The 2001 Act sets out specific requirements regarding declaration/disclosure of interests by councillors. All councillors and certain employees must complete and furnish to the Ethics Registrar an annual declaration setting out declarable interests that are maintained in a public register. Annual declaration forms are supplied by the Ethics Registrar. Declarable interests are mainly of a financial/property/business nature as set out in the 2001 Act.
- 4.3 Local Enterprises Offices (LEOs) are part of the local government system. Where a councillor is engaged in external activities, including contracts, with a LEO then this must also be declared.
- 4.4 Additionally, under the 2001 Act councillors must disclose at a meeting of the local authority or of its committees any pecuniary or other beneficial interest, (of which they have actual knowledge) they or a connected person have in, or material to, any matter with which the local authority is concerned in the discharge of its functions, and which comes before the

meeting. The councillor must withdraw from the meeting after disclosure and must not vote or take part in any discussion or consideration of the matter or seek to in any other aspect influence the decision making of the Council.

- 4.5 The 2001 Act also provides that where a councillor has actual knowledge that a matter is going to arise at a meeting at which s/he will not be present, but if s/he were, a disclosure would be necessary, then in advance of the meeting s/he must make such disclosure in writing to the Ethics Registrar.
- 4.6 The foregoing statutory requirements must be observed at all times, and failure to do so is an offence under Section 181 of the 2001 Act. Analogous statutory requirements also apply to employees, and to external members of committees with the exception of the annual declaration in their case.
- 4.7 The law as mentioned above sets out a framework for disclosure of what is termed ‘pecuniary or other beneficial interests’. However, there may be other private or personal interests (not necessarily involving financial matters) which can also pose a real potential for conflict of interest or damage to public confidence in local government. Such interests could include family, close friends or business associates, as well as those arising from a position of responsibility in a club, society or other organisation. Private or personal interests of this kind must not be allowed to conflict with public duty or improperly influence the decision-making process. Where such interests, of which a councillor is aware, arise in relation to a matter which comes before a meeting for consideration they should be dealt with in a transparent fashion. This is necessary so that public trust and confidence in local government is upheld – disclosure of such an interest is invariably appropriate except where it is of a remote or insignificant nature; if in doubt disclosure should be made.
- 4.8 The test to be applied by a councillor is not just what s/he might think - but rather whether a member of the public knowing the facts of the situation would reasonably think that the interest concerned might influence the person in the performance of his or her functions. If so, disclosure should follow, and a councillor should consider whether in the circumstances s/he should withdraw from consideration of the matter. In this context it is important to ensure that as well as the avoidance of actual impropriety, occasions for suspicion and appearance of improper conduct are also avoided in case of private or personal interests. The public perception how

a councillor is deals with such matters is important for mainting public trust in local government.

- 4.9 This is more relevant where the nature of a councillor's occupation, profession or business is such that it interfaces to a significant degree with local authority functions (e.g. related to land development or property transactions). There is a special onus in such councillors to clearly demonstrate the separation between personal business interests and their role as an elected member of the local authority.
- 4.10 Councillors must not seek to use their official position so as to benefit improperly themselves, their professional or business interests, or others with whom they have personal, family or other ties. Likewise, they must not seek to use or pass on for personal gain or the personal gain of others, official information that is not in the public domain, or information obtained in confidence as a result of their public position.
- 4.11 The 2001 Act provides that it is the duty of every councillor (and employee) to maintain proper standards of integrity, conduct and concern for the public interest. Councillors should base their conduct on a consideration of the public interest and the common good. They are individually responsible for being alert to a potential conflict of interest, avoiding such conflicts and for ensuring that their actions, whether covered specifically or otherwise by this Code, are governed by the ethical and other considerations implicit in it.

5. Planning

- 5.1 Key decisions on planning matters such as the making of development plans are vested in the elected council as representatives of the local community acting in the interests of the common good and the proper planning and sustainable development of the area. The planning system is a very open one allowing for input by all parties. It is all the more important therefore that consideration of planning matters by councillors is carried out in a transparent fashion, follows due process, and is based on what is relevant while ignoring that which is irrelevant within the requirements of the statutory planning framework. The same applies as regards input by individual councillors in relation to planning applications, decisions on which vest in the executive. Therefore, extra care must be observed when

dealing with planning matters so as not to compromise the statutory process.

- 5.2 Furthermore, councillors should be cognisant of the role of the Planning Regulator (established following Government consideration of the *Final Report of the Tribunal into Certain Planning Matters and Payments*) who is empowered to independently assess all local authority forward planning, including zoning decisions, and also to review planning authority procedures including risks of corruption. In this context, the provisions of this Code particularly as regards conflict of personal and public interest and compliance with relevant legal requirements (see Section 4), is very relevant

6. Lobbying

- 6.1 Councillors are designated public officials (DPOs) in accordance with the Regulation of Lobbying Act 2015. Councillors should be proactive in advising possible lobbyists that he/she is a DPO when attending a meeting, participating in a conference call, etc. to assist people communicating with him/her in understanding and complying with their obligations.
- 6.2 Communication with a DPO on zoning or development outside of the regular application or public consultation processes is lobbying in accordance with the Regulation of Lobbying Act 2015. The person communicating with a Councillor must register and submit returns of their lobbying activity. The obligation to register and submit returns rests with the person lobbying, not the Councillor.
- 6.3 Lobbying can also include communications concerning other matters between councillors and interest groups, representative bodies, industry, NGOs, charities, professional lobbyists, etc.
- 6.4 Councillors should have regard to the Regulation of Lobbying Act 2015. It is advisable that they become familiar with that Act, the Standards Commission's Code of Conduct for persons carrying on lobbying activities and tailored *Guidance for Local Authority Members* published by the Commission, in order to facilitate the compliance of constituents engaged in lobbying. More information is available on the Commission's website, www.lobbying.ie.

7. Gifts

- 7.1 The 2001 Act provides that a councillor is prohibited from seeking, exacting or accepting any remuneration, fee, reward or other favour for any 2001 Act done or not done by virtue of his or her office. Councillors in observing this provision must also have regard to this Code's guidance.
- 7.2 The overriding concern in all cases is that the actions of councillors in carrying out their duties should be above suspicion and not give rise to any conflict of interest and that their dealings with business and other interests should bear the closest possible scrutiny and avoid any risk of damage to public confidence in local government.
- 7.3 Subject to the foregoing requirements, the normal presentation of 'official gifts' or tokens exchanged or given as part of protocol (where for instance a councillor receives a visiting dignitary, or is a speaker at a conference etc.) would not be precluded; nor would minor infrequent items such as diaries, calendars, pens or other infrequent tokens of modest intrinsic value. All other offers of gifts should be declined, or if this would cause offence, should be handed over to the local authority.
- 7.4 The local electoral code sets out specific requirements governing political donations which include the furnishing of an annual statement to the local authority and the prohibition of the acceptance of certain donations. These requirements must be observed; failure to do so is an offence.

8. Hospitality

- 8.1 In their contacts with outside organisations or persons, every care must be taken by councillors to ensure that any acceptance of hospitality does not influence them, and could not reasonably be seen to influence them, in discharging their official functions.
- 8.2 However, subject to the foregoing, councillors should not be in a position wherein carrying out their official role they cannot accept what is regarded as normal protocol and courtesies such as invitation to and attendance at civic, cultural, sporting, twinning or festive events in accordance with such local protocol arrangements as may be in place for the authority concerned.

9. Social Media and use of Council Equipment

- 9.1 Social Media is defined as any online forum, internal or external to the Council which is used to publish information that can be accessed by the public or organisations internal or external to the Council.
- 9.2 Social Media activity relates to the use of any Council equipment or personal devices, e.g. mobile phones, desktop computers, laptops or tablets, supplied to councillors or their own devices used for the purposes of communication to others including fellow councillors, employees or members of the public.
- 9.3 Councillors shall comply with a local authority's Computer and I.T. Resources Acceptable Use Policy and shall abide by the Terms and Conditions as outlined by the local authority on taking up of office.
- 9.4 The following is a list of examples of unacceptable use/misuse -
- Profane or derogatory language or content;
 - Content that promotes, fosters, or perpetuates discrimination on the basis of gender, civil status, family status, sexual orientation, disability, age, race, religious belief or membership of the Traveller Community;
 - Sexually explicit content or links to sexually explicit content;
 - Illegal activity or encouragement of same;
 - Information or content that may compromise the safety or security of the local authority, a local authority employee or another councillor;
 - Content that violates a legal ownership interest of any other party;
 - Information or comment on a matter that is currently before the courts;
 - Inclusion of personal data as defined under the Data Protection Acts;
 - Sensitive information provided to a councillor in their role as a director of a company or membership of a local authority audit committee or other information provided in confidence that if released into the public domain may prejudice the outcome of a statutory process.

10. GDPR

- 10.1 Personal data means data, whether held electronically or manually, relating to a living individual who is or can be identified, either from the data or from the data in conjunction with other information in, or likely to come into, the possession of the data controller.
- 10.2 Councillors are all subject to requirements under the GDPR as data controllers. A controller must ensure that it is in a position to demonstrate that the processing of personal data for which it is responsible is in compliance with the Data Protection Act 2018 and in particular with subsection (1) to (8) of Section 71 of the Act.
- 10.3 Councillors are required to comply with the guidelines issued by the Data Protection Commission

Guidelines on the processing of personal data by Elected Representatives under Section 40 of the Data Protection Act 2018

And

Procedures issued at a local level by the Elected Representatives respective authority.

11. Personal dealings with the local authority

- 11.1 Councillors may have dealings with their local authority on a personal level for instance as a tenant, ratepayer or an applicant for a grant of planning permission, etc. While they should, of course, enjoy the same rights in their personal dealings as any other person they should not seek preferential treatment.

12. Regard for council resources

- 12.1 Councillors must show all reasonable care for local authority property, resources and funds and not use them, or permit their use, for unauthorised or non-official purposes. They must observe in full and at all times the rules governing the making of claims and of payments of any kind. This includes representational payment, annual allowance, Cathaoirleach or other allowance, conference attendance or other travel expenses and subsistence domestically or internationally. Councillors must in particular ensure that they do not make claims from more than one body in respect of the same absence on official business.
- 12.2 The 2001 Act permits the authorisation of conference attendance where the council is satisfied such is justified by reference to relevance to the authority and the local community and the cost and the benefits likely to accrue. It is the personal responsibility of each individual to ensure his or her proper attendance for the duration and to report back to the council in accordance with the 2001 Act.

13. Contraventions

- 13.1 Where the Council's Ethics Registrar becomes aware of a possible contravention by a councillor of a provision of Part 15 of the Local Government Act 2001, it is his or her duty to bring it to the attention of the Chief Executive and the Cathaoirleach of the Council (or the Chief Executive if the matter concerns the Cathaoirleach). It is a matter for the Chief Executive and the Cathaoirleach (or the Chief Executive, as appropriate) to consider what action should be taken in accordance with the legislation. This may include investigation, referral to the Director of Public Prosecutions or the making of a complaint by the Cathaoirleach/Chief Executive to the Standards Commission.
- 13.2 The Standards in Public Office Commission supervises the Ethics in Public Office Acts 1995 and 2001, the Local Government Act 2001 (Part 15 Ethical Framework for Local Government Service) and the Regulation of Lobbying Act 2015.

13.3 Complaints to the Commission

Complaints can be made to the Commission about:

- A contravention of the Ethics Acts or Part 15 of the Local Government 2001 Act (e.g a failure to disclose an interest or
- A ‘specified act’, i.e. an act inconsistent with proper performance of official functions

13.4 A court may have regard to the Code in any proceedings for an offence under Part 15 of the 2001 Act, as may the Standards in Public Office Commission in carrying out its functions.

13.5 The Standards Commission will not generally consider a complaint about a contravention of Part 15 until all appropriate local avenues have been exhausted. Complainants should therefore raise the matter with the Ethics Registrar in the first instance. If a person is not satisfied with the outcome of the consideration of the matter following referral to the Ethics Registrar, he or she may make a complaint to the Standards Commission

14. General

14.1 Councillors must declare that they have read and understood this Code as part of their annual declaration made under section 171 of the 2001 Act. All councillors, whether elected or co-opted, are obliged by the 2001 Act to have regard to and be guided by this Code in the exercise of their functions. The principles and intent of the Code should also underpin the conduct of councillors when appointed to other public bodies and local government associations.

14.2 External members are appointed to strategic policy committees and to various other committees at the discretion of the local authority. In carrying out their role, such persons should abide by the provisions of Part 15 of the 2001 Act, where relevant and the principles of this Code. In particular, they should avoid any conflict of interest and are subject to the disclosure requirements concerning pecuniary and other beneficial interests.

- 14.3 Given the range and complexity of local government activity, a code such as this cannot deal with all situations and eventualities that may arise. If other situations of potential conflict arise between personal and public interest or if instances of perceived questionable conduct arise, councillors should aim to deal with them in accordance with the principles and intent of the Code.
- 14.4 This Code does not prejudice other specific statutory requirements which apply to councillors - such as those set out in the 2001 Act, or in the Electoral Acts - and is additional to any other relevant legislation concerning public sector standards.
- 14.5 A court may have regard to the Code in any proceedings for an offence under Part 15 of the 2001 Act, as may the Standards in Public Office Commission in carrying out its functions.
- 14.6 Councillors should also have regard to any relevant directions or guidance as may be issued from time to time by the Minister for Housing Planning and Local Government or by the Standards in Public Office Commission.
- 14.7 Councillors should declare that they have read and understood this Code. Councillors should further undertake to have regard to and be guided by this Code in the exercise of their functions.