



# Part 5B Employees Code of Conduct

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# Code of Conduct for Employees

**March 2016**

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## 1. Introduction

- 1.1 The public rightly expects the highest standards of conduct from all employees of the council. This Code draws together existing laws, regulations and conditions of service to guide employees in their day to day work.
- 1.2 The aim of the Code is to lay down the requirements on you as a Local Government employee and thus help maintain and improve standards. It also helps to protect you from misunderstanding and unfair criticism. The Code should be considered where necessary in conjunction with:
- Appendix 1 Nolan Principles of Public Life
  - Appendix 2 The Whistle Blowing Policy (including form)
  - Appendix 3 Guidance on Gifts and Hospitality
  - Appendix 4 Access to Information and Information Technology Guidelines
  - Appendix 5 Financial and Non-Financial Interests
  - Appendix 6 Further Clarification on Employees' Interests
  - Appendix 7 Criteria for Politically Restricted Posts
- 1.3 Each of those documents confirms in detail the basic requirement of this Code for integrity of behaviour.

## 2. Who the code is aimed at

- 2.1 The Code applies to all employees of the council. It continues to guide you if you carry out for the council work as nominee to companies, voluntary organisations or other bodies.
- 2.2 The Code of Conduct is issued to each individual employee of the Council as part of the pre-Induction process and is also available on the Council's website. Every employee is expected to read, understand and accept the Code and abide by the standards of behaviour expressed within it.
- 2.3 Oldham Council expects its partners, and contractors employed by it, to adopt this code when working with the council in public service.

## 3. Compliance with the Code

- 3.1 It is your responsibility to comply with the Code.
- 3.2 If you have reason to believe that a fellow employee is in breach of this Code of Conduct, you must disclose the information using the procedure described in Appendix 2.
- 3.3 The council takes very seriously any allegations relating to fraud, corruption or breaches of this Code. If substantiated after investigation

they will be dealt with by the council's Disciplinary Procedure, and may be referred to the Police for prosecution.

- 3.4 Equally, abuse of this process by raising unfounded or malicious allegations would also be treated as a disciplinary matter.

#### 4. **Standards**

- 4.1 Employees are expected to give the highest possible standard of service to the public. Where it is part of your duties, you should provide appropriate advice to councillors, the public and fellow employees with impartiality.
- 4.2 The Nolan Committee outlined seven principles of Public Life. Whilst the principles were primarily devised to guide councillors and very senior officers, and are sometimes not precisely relevant to all employees, they are important as a set of simple statements which set the tone of behaviour this Code seeks to secure from you. In addition, these standards fully reflect the Oldham Values (Fairness, Openness, Responsibility, Working Together, Accountability, Democracy, and Respect) which employees are required to demonstrate in all their work for the council.
- 4.3 As reflected in the Oldham Value; Responsibility, it is essential that you promote a positive image of the Council and the Borough in your personal behaviour. Public confidence and the council's trust in you would be undermined if you;
- threaten, fight with or assault anyone, or persist in verbal or non-verbal behaviour which would intimidate or offend anyone.
  - steal, take without authority or deliberately damage things that belong to someone else or the council.
  - behaved in any way which would undermine trust and confidence in you or which is contrary to the council's expected values and behaviours.
- 4.4 If your role involves providing advice to councillors it is essential that mutual respect between you is maintained. Close personal familiarity between employees and local councillors can damage the relationship; you must therefore avoid it.
- 4.5 You must always remember your responsibilities to the community you serve and ensure courteous efficient and impartial service delivery to all colleagues, groups and individuals within that community, as required by the policies of the council.
- 4.6 The Oldham Value of Openness requires council employees to act openly and honestly. If your work requires you to use public funds, you must use them responsibly and lawfully, and comply with the council's rules.

4.7 You must use the care and economy you would use for your own money to secure value for money to the local community and to avoid legal challenges to the council.

4.8 Failure to adhere to these standards may result in disciplinary action and may result in dismissal.

## 5. **Disclosure of information**

5.1 The council supports the principles of open government. It acknowledges and will comply with the laws which require that certain types of information must be available to the public, service users, councillors, government departments and auditors.

5.2 Unless you are certain that the council has made information open / public, you should not disclose it. If you are in doubt, seek advice from your manager.

5.3 You must not use any information obtained in the course of your work for personal gain or benefit, or for political advantage. You must not pass it on to others who might use it in any of these ways.

5.4 Specific information received by you from a councillor which is personal to that councillor, and does not belong to the council, must not be divulged by you without the prior approval of that councillor, except when required or sanctioned by the law.

## 6. **Political neutrality**

6.1 You must serve the council as a whole. It follows that you must serve all councillors and not just those of the controlling group. You must ensure that the individual rights of all councillors are respected.

6.2 If your work requires you to advise political groups, you must not compromise your own political neutrality when doing so.

6.3 Some employees are in politically restricted posts (see Section 17). Their employment conditions are known to them and restrict their personal political activities. Beyond that you must follow every lawfully expressed policy of the council and must not allow your own personal or political opinions to interfere with the council's work or your job's proper contribution to that work.

## 7 **Business Interests**

7.1 Whatever your pay grade you must not undertake additional work (paid or unpaid) if it compromises your work or overlaps it in some way, or if, to do

that work, you would rely on access to knowledge/materials gained through your work for the council, save for work that has been previously approved in accordance with the council's voluntary work programme. Further details are available in the Employer Supported Volunteering Policy.

- 7.2 If you are paid above Grade 6 (above SCP 28) you must obtain specific prior written consent from your Head of Service before taking an additional appointment or any other work outside of your contract with the council. Your work for the council should be your primary employment. Additional employment should be disclosed to the Monitoring Officer and this data will be held on the E Register.
- 7.3 If you are concerned you fit into either of these categories, you must disclose it immediately to your Head of Service.
- 7.4 When any proposed additional employment, work or business conflicts with the council's interests or in any way might weaken public confidence in the council, the requests will be refused.
- 7.5 Your off-duty hours are your own personal concern. But again actions outside work must not compromise the public's confidence in public servants employed by the council.
- 7.6 In the context above, it is clear that you must not undertake outside work or activity for personal gain in the office or work place. Use of facilities, equipment, materials or computer facilities for none work related purposes (other than approved Employer Supported voluntary work) is not allowed.

## **8 Intellectual property**

- 8.1 Intellectual property is the term that includes inventions, creative writing, (such as computer software) and drawings. Nowadays many people's work habitually involves them in creating intellectual property for the council. When intellectual property is created by you during your employment with the council, on behalf of the council, then the work belongs to the council.
- 8.2 The council has a number of enterprise relationships to enhance delivery and efficiency of services. Any software, designs, content, methodologies, techniques, processes, inventions, materials or other deliverables developed in whole or in part by its enterprises, trading arms or contractors, on behalf of the council, remain the property of the council.

## **9 Personal interests**

- 9.1 You must declare to your Head of Service any interests financial or non-financial that you have which could conflict with the council's interest.

9.2 If you belong to an organisation which is not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules or membership or conduct, you must declare it to your Head of Service.

9.3 All personal interests reported will be recorded by the Monitoring Officer. Further advice about declarable interests is included at Appendix 5 and Appendix 6. The lists are not exhaustive. When in doubt, you must declare the interest at the earliest opportunity. Failure to do so is a Disciplinary matter and may result in dismissal.

## 10 **Equality issues**

10.1 Our Fairness Statement sets out our commitment to equality and diversity in terms of our responsibilities as an employer, a commissioner of services and a deliverer of services. The Equality Act 2010 sets out the Public Sector Equality Duty, which requires us to pay due regard to the vulnerable groups protected by law when making any decision. We are also required to develop equality objectives to be renewed every four years. Our equality objectives form part of our ethical framework, complementing and supporting the delivery of our co-operative ambition for the borough by ensuring that we are inclusive in our approach. Additionally, we are required to publish our service data and workforce data on an annual basis. Our Fairness Statement, equality objectives and equality data can be found at:

[http://www.oldham.gov.uk/info/200146/strategies\\_plans\\_and\\_policies/976/equality\\_and\\_diversity](http://www.oldham.gov.uk/info/200146/strategies_plans_and_policies/976/equality_and_diversity)

10.3 The council expects all of its employees to play a part in making sure that it meets its commitments and ensures that Oldham provides quality services fairly and equitably to the whole community. All employees are responsible for familiarising themselves with these documents.

10.4 All employees are required to treat colleagues and the public in a fair and equitable way; avoiding unfair discrimination in any form and anything which would demean, distress or offend other people.

10.5 The council takes these commitments very seriously and any deliberate act of discrimination or other serious breach of the Equality and Diversity Policy by Oldham employees may be considered as an act of gross misconduct and may result in disciplinary action, possibly leading to dismissal.

## 11 **Behaviour during the tendering process**

11.1 If you are involved in the potential contracting out of a service, whether on the client or contractor side, you must ensure that competition between

prospective contractors is fair and open, and that all competing parties, both external and internal, are treated equally.

- 11.2 In general, as a public servant your employment with the council should take precedence over any business interests you may have or wish to have. But any relationships of a business or personal nature with current or potential contractors must be made known to your Head of Service and Monitoring Officer to be held on the E Register. You must award orders or contracts on merit, by fair competition against other tenders. The council's procurement procedures for such competition must be followed.
- 11.3 If you engage or supervise contractors; or have any like official relationship with them on behalf of the council, and have previously done or currently do business with them in a private or domestic capacity, you should declare that to your Head of Service and be guided.
- 11.2 Information on tenders or costs of internal or external contractors is confidential and must not be disclosed.
- 11.3 You must follow the council formal procedure for the procurement of agency workers and consultants.

## 12. **Corruption and Bribery**

- 12.1 It is a serious criminal offence of corruption if you receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or for showing favour or disfavour in the course of your work. Anyone offered an inducement (in whatever form) to undertake an action or make a decision in favour of another person, regardless of whether the same decision would have been made without the inducement, could be deemed as committing a corrupt act.
- 12.2 If inducements have been made it would be for you to demonstrate that they have not been corruptly obtained or given. In layman's terms, for this offence alone in British law, you would be presumed guilty until proved innocent.
- 12.3 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.
- 12.4 Under the Bribery Act 2010, individuals can be prosecuted for accepting bribes or offering bribes. It is an offence to offer, promise or give a bribe. It is also an offence to request, agree to receive, or accept a bribe. In this case a bribe is a financial or other advantage, which is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity.

- 12.5 In addition, the council can be prosecuted for failing to prevent bribery committed to obtain or retain business advantage for the council by an employee, other individual or organisation performing services for the council. The council will comply with its duty to report alleged acts of bribery to the police if it becomes aware or reasonably suspects that bribery is taking place.
- 12.6 You have an obligation to report any financial interest or relationship which could affect the decisions or policies of the Council to the Monitoring Officer. This data will be held on the E Register.
- 12.7 If involved in appointments you must decide them on the basis of merit, as detailed in the Recruitment and Selection Policy. It is unlawful to do otherwise.
- 12.8 You must not be involved in an appointment if you are related to an applicant or have a close personal relationship outside work with him or her.
- 12.9 Similarly you must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee with whom you have a close personal relationship.
- 12.10 Cases of alleged corruption or bribery will be dealt with seriously. Failure to adhere to these rules may lead to disciplinary action being taken, which may result in dismissal.

### 13. **Hospitality and gifts**

- 13.1 Giving hospitality - You must be authorised by your manager to offer and give hospitality. Any hospitality offered must be justified as in the interest of the council, and must be on a scale appropriate to the occasion. Extravagance must be avoided. Further guidance and specific examples are at Appendix 3.
- 13.2 Receiving hospitality - Treat cautiously offers to you of hospitality. In general refuse them.
- 13.3 Where there is any possibility of concern of improper influence, you must refuse the offer of hospitality. Be especially cautious of offers when the person or organisation is seeking business with the council or requires a certain decision from the council e.g. - suppliers such as advertising agencies at contract renewal, or the family of a client whose home care visits are about to be reassessed and may be scaled back.
- 13.4 If to take the hospitality offered is in the council's interest, whenever possible obtain the prior approval of your Head of Service. During the event avoid extravagance. Later, record the hospitality received which is

then to be lodged with your Head of Service (the Monitoring Officer for Chief Officers). This data will be held on the E Register.

13.5 Gifts - As a general rule you should refuse personal gifts from companies, clients and colleagues. Items of token value such as pens, diaries and calendars may be kept without declaration. All gifts over £25 in value must be declared to your line manager immediately upon receipt. Gifts of money, vouchers, alcohol or tickets to entertainment must only be accepted with the approval of your Head of Service.

13.6 You must not accept a legacy in a will or a life-time gift from a person served by you during your employment with the council.

#### 14. **Corporate Sponsorship - giving and receiving**

14.1 All sponsorship must be formally approved by your Head of Service.

14.2 Giving sponsorship - When you propose for the council to sponsor an event or service, you, your partner, spouse or relative must not benefit from the sponsorship directly. Also when through sponsorship, grant aid, financial or other means, the council gives support in the community, you must ensure that impartial advice is given and no conflicts of interest is involved. All such sponsorship must be approved by your Head of Service.

14.3 Receiving sponsorship - If an organisation approaches you to sponsor or is seeking to sponsor a council activity by invitation, tender, negotiation or voluntarily, the council's requirements apply for competition, tendering and contracting of that sponsorship, so too does this Code's requirements on gifts and hospitality. Particular care must be taken when dealing with current or potential contractors.

#### 15. **Use of facilities**

15.1 In general, you must not use council owned facilities, property or equipment for your own personal use. They are provided to help you to do your work in relation to your post or for volunteering work in accordance with the Employer Supported Volunteering Policy.

#### 16 **Information Technology and Data Management**

16.1 IT equipment is provided to employees to assist in undertaking council work. This equipment is property of the council and should be treated as such.

16.2 The council recognises that employees may wish to use social networking sites in their own time. Careful use of such is essential.

- 16.3 Employees have a duty not to bring the council into disrepute and so should act responsibly to ensure that any postings on the internet do not have this consequence.
- 16.4 Information obtained at work, or used at work belongs to the Council. Information about individuals and some of the Council's business is confidential and must be treated appropriately.
- 16.5 Further detailed guidance in relation to information technology, the use of social media and information management is outlined in Appendix 4.

## 17 **Political Restrictions**

- 17.1 You have a right to belong to a political party if you wish to. However, under the Local Government and Housing Act 1989, the holders of certain posts are disqualified from political activities.
- 17.2 The Act prevents an individual from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office. They are also restricted from canvassing on behalf of a political party or a person who seeks to be a candidate. They are also prevented from speaking to the public or publishing any written or artistic work that could give the impression that they are advocating support for a political party.
- 17.3 Appendix 7 gives detailed guidance as to the posts which this Act applies to. If your post is politically restricted you will have been formally advised by letter, or within the documents given to you when you were appointed.

## 18 **Health and Safety**

- 18.1 The council has a legal duty of care for health, safety and welfare of its employees. In addition, all employees must take reasonable steps to protect their own health and safety and that of other people who may be affected by their actions or omissions at work. Employees must comply with health and safety arrangements put in place by the council, and must co-operate with the council to support compliance with statutory requirements.
- 18.2 All employees have health and safety responsibilities, the specific responsibilities of managers etc are detailed in the council's Health and Safety policy and supporting arrangements.
- 18.3 The council's Health and Safety policy and supporting guidance are available on the council's intranet at,

[http://intranet.oldham.gov.uk/working-ombc/health\\_safety\\_and\\_wellbeing\\_service.htm](http://intranet.oldham.gov.uk/working-ombc/health_safety_and_wellbeing_service.htm)

Extensive guidance is available on all areas of health and safety, including accident reporting, risk assessment, work at height and violence to staff.

- 18.4 If you are not sure what the safety procedures are for your service area or where to get protective clothing and equipment, you must raise this immediately with your line manager.
- 18.5 You have a duty to help prevent accidents and injuries at work by being aware of the procedures and safe systems of work that apply to your work, and to comply with them at all times.

## 19 **Contact with the Media**

- 19.1 Relations with the media require specific skills and expertise. All contact with the media should be conducted through or in consultation with the Communications Service both to protect individual employees from unwanted media attention and to ensure the corporate promotion of the policies and reputation of the council.
- 19.2 If you are asked by the media to comment, give an interview or answer questions on a council matter, you should immediately refer the matter to the Communications Service for further advice.

## 20 **Disclosure of Criminal Convictions**

- 20.1 Employees are required to disclose to the council such details as it may require of criminal convictions, cautions or bindovers that are received during their employment which directly impact upon / restrict their ability to undertake their work.
- 20.2 Failure to do so, for whatever reason, may be regarded as gross misconduct under the council's Disciplinary Policy, and may result in dismissal.

## 21 **Drugs and Alcohol**

- 21.1 Employees must not report for duty incapable due to drinking alcohol or under the influence of illegal drugs.
- 21.2 You must not be in possession of, consume, or supply any controlled drug (other than appropriately prescribed medication) in the workplace, in any council vehicle, or whilst on duty.
- 21.2 No alcohol should be consumed whilst in the workplace, or in any council vehicle, regardless of whether on duty at the time. In addition, alcohol must not be consumed whilst on call.

21.3 Failure to adhere to these standards may result in disciplinary action and may result in dismissal.

## 22. Safeguarding

22.1 All employees who come into contact with children, young people and vulnerable adults in their work have a duty of care to safeguard and promote their welfare. It is essential that a safe and supportive environment is promoted in all council services to ensure the very best outcomes for children, young people and vulnerable adults in the care of the council.

22.2 In taking due regard of current legislation and statutory guidance, Oldham Council requires all employees to take account of and adhere to the DCSF Guidance for Safer Working Practice for Adults who Work with Children and Young People. <http://www.safeguardingschools.co.uk/wp-content/uploads/2013/06/Guidance-for-safer-working-practice-for-adults-who-work-with-children-and-young-people.pdf>

22.3 This guidance outlines the correct practices to follow when in contact with children and young people and, amongst other matters, includes the appropriate approaches in relation to issues of confidentiality, propriety and behaviour, dress and appearance, gifts and rewards, social contact, sexual contact, home visits and access to inappropriate images and internet use.

22.4 The following safeguarding principles have been agreed by the Government within the Care Act 2014 as a foundation to achieving good outcomes when in contact / working with vulnerable adults:

- **Principle 1 – Empowerment** - Ensuring that people who use services have genuine choice both of and within services.
- **Principle 2 – Protection** - Support and care for their needs to live full lives, free from abuse and neglect
- **Principle 3 – Prevention** – Empowered to make choices and supported to manage risks
- **Principle 4 – Proportionality** - Proportionate and least intrusive response to the risk presented
- **Principle 5 – Partnerships** - Local solutions through services working with their communities
- **Principle 6 – Accountability** - Accountability and transparency in delivering safeguarding.

22.5 For further information on the principles see; <http://www.skillsforcare.org.uk/Document-library/Standards/Care-Act/learning-and-development/care-act-implications-for-safeguarding-adults-briefing.pdf>

- 22.6 The council takes the commitment to safeguarding very seriously and any breach of the guidance and practice noted above may be considered as an act of gross misconduct and may result in disciplinary action, possibly leading to dismissal.
- 22.7 In the event that allegations are made in respect to matters of safeguarding, the council will, as a matter of policy, make a referral to the Multi Agency Safeguarding Hub (MASH) to ensure that measures can be put into place to safeguard those as appropriate.

## **Code of Conduct – Short Code**

You must:

### **Relationships with councillors (7.1)**

- Avoid close personal relationships with councillors

### **Relationships with the community and service users (7.2)**

- Serve all groups, individuals and colleagues with courtesy, efficiency and impartiality
- Comply with the council's equal opportunities policies and practices

### **Appointment and employment processes (8)**

- Make appointments on merit using the principles in the council's Recruitment and Selection Policy
- Withdraw from the appointment process, if you would be involved in an appointment and have a close personal relationship with an applicant.
- Withdraw from decisions relating to promotion, pay adjustment or discipline for another employee who is a relative, partner or the like.

### **Outside commitments (9)**

- Avoid other work or business commitments in general, but especially when they might conflict or overlap with your work for the council.
- If you are allowed these interests and have them you must declare them in writing to your departmental head.
- If paid above SCP28 you must obtain specific prior written approval to do another job or any additional work. In general such requests will be refused.

### **Equality Issues (12)**

- Treat colleagues and the public in a fair and equitable way; avoiding unfair discrimination in any form and anything which would demean, distress or offend other people

### **Corruption and Bribery (14)**

- You must not behave corruptly or accept, offer, promise or provide a bribe to gain personal, commercial, regulatory or contractual advantage.

### **Hospitality (16.1 and 16.2)**

- Treat cautiously offers of hospitality. In general refuse them.
- If to take hospitality is in the council's interest, whenever possible obtain the prior approval of your Head of Service; at the time of the event avoid extravagance. Later, record the hospitality received on the official form which is then to be lodged with your Head of Service.

**Gifts (16.3)**

- Refuse to accept personal gifts from companies, clients and colleagues.
- Declare all gifts over £25 in value immediately on receipt. Items of token value such as pens, diaries and calendars may be kept without declaration. Never accept gifts of money, vouchers, alcohol or tickets to entertainment.

**Legacies (16.4)**

- You must not accept a legacy in a will or a lifetime gift from a person served during your employment with the council.

**Disclosure of information (5)**

- Use information from work for personal gain or benefit. You must not pass it on to others to do so.

**Outside commitments (9)**

You must not:

- Do outside work (other than approved voluntary work) or any personal activity at work.
- Make personal use of council facilities.
- Breach the public's trust of council employees by your actions outside work.

**Personal Standards (20)**

- Your personal standards of behaviour must be high in dealing with colleagues, Councillors and members of the public

**Health and Safety (22.1)**

- You must comply with the health and safety arrangements put in place by the council, and must cooperate with the council to support compliance with statutory requirements.

## **Appendix One – The Nolan Principles**

The Seven Principles of Public Life, known as the Nolan Principles, were defined by the [Committee for Standards in Public Life](#) in 1995. They are:

### 1. Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

### 2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### 3. Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

### 4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### 5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### 6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### 7. Leadership

Holders of public office should promote and support these principles by leadership and example.

## Appendix 2 - Whistleblowing Policy

### 1. Introduction

- 1.1 Whistleblowing occurs when a person raises a concern about dangerous, illegal activity or any wrong-doing within their organisation. It can involve sharing potentially vital information about health and safety risks, environmental factors, possible fraud, harm of children or vulnerable adults, covering up for someone and many more.
- 1.2 Oldham Council is committed to openness, probity and accountability. It expects employees and others with serious concerns about the council's work to come forward and voice them.
- 1.3 This policy encourages and enables employees to raise serious concerns inside the council rather than ignore the concerns or disclose them outside. It is essential these factors are addressed immediately, so employees should 'blow the whistle' as early as possible to prevent any real damage being done.
- 1.4 This policy includes any occasion when an employee is concerned that their:
  - colleagues or the council are acting unlawfully
  - colleagues or councillors are breaching the council's Codes of Conduct and its other operational or financial rules.
- 1.5 Throughout this process, employees will be given full support from Senior Management, concerns will be taken seriously and the council will do all it can to help employees throughout the investigation. This policy is also approved locally by the trades unions where additional support is available.
- 1.6 This policy provides guidance on how issues should be raised with the council. This does not preclude any employee from reporting an issue with the police in conjunction with the whistleblowing process where it is believed that criminal activity is involved.
- 1.7 Other procedures exist to register a grievance about an employee's own employment. If an employee has an individual complaint relating to their employment, for example, their contract of employment, pay, conditions, this should be raised under the Council's Grievance Policy.
- 1.8 The policy respects confidentiality and helps employees to raise concerns without fear of reprisal.
- 1.9 This document details:
  - How employees can raise a concern
  - How employees are safeguarded when raising a concern

- How the council will respond
- What employees can do if the council response does not resolve their concern

## **2. Employees Covered by this Policy**

### **2.1 This Policy applies to all:**

- employees of Oldham Council
- employees of contractors working for the council, for example, agency staff, builders and drivers
- employees of suppliers
- those providing services under a contract or other agreement with the council in their own premises, for example, care homes, and;
- voluntary workers working with the council.
- people who in the course of their work come into contact with employees of council

## **3. Policy Statement**

3.1 Employees are often the first to realise that there may be something seriously wrong within the council. Whistleblowing is viewed by the council as a positive act that can make a valuable contribution to the council's efficiency and long term success. It is not disloyal to colleagues or to the council to make a disclosure.

3.2 The council is committed to achieving the highest standards of service delivery. To help achieve these standards, the council encourages freedom of speech.

## **4. Aims of the Policy**

4.1 The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the council's work to come forward and voice those concerns at the earliest opportunity.

## **5. Procedure**

### **5.1 How Employees can Raise a Concern**

5.1.1 The first step depends on the seriousness and sensitivity of the issues involved and who is thought to be involved. Whenever possible, employees should normally raise concerns with their immediate manager or superior. If an employee believes that management is involved, they should approach the Audit and Counter Fraud Team. They can be contacted on 0161 770 4897 or by email at [investigations@oldham.gov.uk](mailto:investigations@oldham.gov.uk).

- 5.1.2 Employees will not be expected to prove the wrongdoing, but will need to demonstrate to the person contacted that there are sufficient grounds for concern.
- 5.1.3 Concerns should be raised in writing. See Whistleblowing Form at the end of this policy.
- 5.1.4 If an employee does not feel able to put the concern in writing, they can telephone or meet a member of the Internal Audit and Counter Fraud Team (or one of the Appropriate Officers (see 5.1.5 below). They are used to working in complete confidence and are trained to listen carefully.
- 5.1.5 Alternatively, advice and guidance on how matters of concern may be pursued can be obtained from the Appropriate Officer. Within the council these are;

Director of Legal Services (Monitoring Officer)	0161 770 4822
Head of Corporate Governance	0161 770 4783
Director of People	0161 770 4695
Director of Finance	0161 770 4902
Chief Executive	0161 770 3542

- 5.1.6 The final route is to invite a trade union or a professional association to raise the matter through the council's Whistleblowing procedure on the employee's behalf.

**5.2 How Employees are Safeguarded when Raising a Concern**

- 5.2.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions.
- 5.2.2 The Act makes it unlawful for the council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.
- 5.2.3 The Public Interest Disclosure Act 1998 and Employment Rights Act 1996 clearly define what types of disclosure qualify employees for protection against dismissal and detrimental treatment by your employer. These are known as 'protected disclosures.'

The following qualify as a protected disclosure:

- Criminal offences (section 43B(1)(a), ERA 1996).
- Breach of any legal obligation (section 43B(1)(b), ERA 1996).
- Miscarriages of justice (section 43B(1)(c), ERA 1996).
- Danger to the health and safety of any individual (section 43B(1)(d), ERA 1996).
- Damage to the environment (section 43B(1)(e), ERA 1996).
- The deliberate concealing of information about any of the above (section 43B(1)(f), ERA 1996).

5.2.4 A disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.

### 5.2.5 Harassment or Victimisation

The council will not tolerate harassment or victimisation by those involved with the matters of concern or from others. It will take action to protect employees when they raise a concern in the public interest. The council takes its responsibilities in this seriously as it is responsible as the employer for any detriment caused.

Due regard and sensitivity will be exercised by all involved in the process to ensure that employees do not suffer detrimental treatment as a result of raising a complaint.

5.2.6 If employees are already the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of an employee whistle-blowing.

### 5.2.7 Anonymous Allegations

This policy as a whole encourages employees to put their name to the allegation.

Although concerns expressed anonymously are much less powerful they will be considered taking into account:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from other, attributable, sources.

Employees will be unable to be told the outcome of any investigation of a concern which was brought forward anonymously.

### 5.2.8 Confidentiality

The council will do its best to protect employee identity when they raise a concern and do not want their name to be disclosed.

It is important to note that the investigation process may ultimately need to reveal the employee as the source of information. On some occasions a statement by the employee may be required as part of the evidence.

### 5.2.9 **Untrue Allegations**

If an employee makes an allegation in the public interest and reasonably believed it to be true, but it is not confirmed by the investigation, no action will be taken against the employee.

If, however, an employee makes malicious or frivolous allegations, or repeated allegations which have no foundation, disciplinary action will be taken against the employee.

## 5.3 **How the Council will Respond**

5.3.1 The action taken by the council will depend on the nature of the concern.

The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor;
- form the subject of an independent inquiry.

5.3.2 To protect individuals and the council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Most matters will, initially, be investigated internally. Concerns or allegations which fall within the scope of specific current procedures (for example, child protection or discrimination issues) will normally be dealt with through those routes.

5.3.3 Within ten working days of a concern being received, the council will write to the employee:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- informing the employee as to whether any initial enquiries have been made; and
- informing the employee as to whether further investigations will take place and, if not, why not.

5.3.4 Some concerns may be resolved by immediate action without the need for an investigation.

5.3.5 The amount of contact between the Officer(s) considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the amount and clarity of the information the employee provided. If necessary, further information will be sought.

5.3.6 When any meeting is arranged with the employee as a whistle blower, they have the right to be accompanied by a Trades Union or professional

association representative, or a colleague who is not involved in the area of work to which the concern relates.

5.3.7 The council will act as necessary to minimise any difficulties which employees may experience as a result of raising a concern. For instance if, later, employees are required to give evidence in criminal or disciplinary proceedings, the council will advise the employee directly as to the procedure.

5.3.8 The council accepts that employees need to be assured that the matter has been properly addressed so, subject to legal constraints, the employee will receive information about the outcomes of any investigations.

#### **5.4 What Employees Can Do if the Council Response Does Not Resolve their Concern**

5.4.1 This policy is intended to provide employees with an avenue to raise concerns and to have them resolved inside the council. The council hopes its investigations, and the action arising from them, will resolve their concern. If not, and the employee feels it is right to take the matter outside the council. In such circumstances, employees should seek advice from the council's Monitoring Officer to ensure correct procedures are followed and that confidential information is not disclosed.

### **6. The Monitoring Officer**

6.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. S/he maintains a record of concerns raised and the outcomes (but in a form which does not endanger employee confidentiality).

6.2 Details of all concerns raised and subsequent information will be retained for 5 years. The purpose of this is to ensure that a central record is kept which can be cross referenced with other complaints in order to monitor any patterns of concern and to assist the Head of Corporate Governance in monitoring the effectiveness of this policy.

## **Appendix Three - Hospitality and Gifts (Further guidance)**

### **1. Introduction**

- 1.1 The following guidance draws together the law and National Conditions of Service to make clear the council's requirements in relation to hospitality and gifts.
- 1.2 It applies to all employees of the council, regardless of the terms and conditions under which an individual is employed.
- 1.3 To a large extent, the good reputation of Local Government depends on the conduct of its employees, and what the public believes about employee conduct.
- 1.4 Public confidence is sustained by employee conduct of the highest standards.
- 1.5 All employees are expected to use restraint and common sense when assessing any situation, especially when there may be concern about improper influence.
- 1.6 The guidance is intended to assist employees to reach the right decision on each occasion. If there is still doubt, advice should be taken from a senior manager.
- 1.7 Employees should always remember
  - to exercise caution; and
  - that the decision is theirs.
- 1.8 The Monitoring Officer maintains an E-Register of hospitality and gifts. Employees who receive a gift should notify the Monitoring Officer in order that this is registered appropriately.
- 1.9 The key figures are for gifts, £25; and for hospitality a ticket with a seat value of up to £25 or a meal of up to the value of £25.

### **2. Giving Hospitality**

- 2.1 Employees must be authorised by their manager to offer and give hospitality.
- 2.2 Any hospitality offered to employees must be justified as in the interest of the council, and be on a scale appropriate to the occasion. Extravagance must be avoided.

### 3. **Receiving Hospitality**

- 3.1 Employees should treat cautiously offers of hospitality. In general, they should be refused.
- 3.2 Hospitality offered by another non-commercial public body e.g. - another local council; established partners of Oldham Council, such as, for example, the Police, or the Oldham NHS Trust may be accepted. However, employees should be particularly sensitive to its timing in relation to decisions which the council is taking which may affect those offering the hospitality.
- 3.3 Offers from commercial bodies must always be treated with caution. Examples of acceptable hospitality include:
- A modest working lunch enabling employees, on the council's behalf, to continue discussing the council's work;
  - Invitations to attend functions when employees represent the council or to functions which employees attend by virtue of position (opening ceremonies, occasions when you have been invited to speak, trade shows: tickets for public performance events or a concert sponsored by business (e.g. – at the QEH) when the event is part of the life of the community);
  - A drink following a meeting or site inspection.
  - Hospitality offered by another non-commercial public body, as above;

Hospitality can also generally be accepted;

- From commercial bodies when there is a genuine need to impart or receive information in the normal course of business relations with the council. This is of particular relevance currently to the requirement to develop and build partnerships with the private sector, or through that, with other parts of the public sector.
- When representing the council at local or regional events. One test is frequency, i.e. - they should not be regular even if they are below the threshold.
- Offers to attend social or sporting functions, when these are part of the life of the community or when the council should be seen to be represented. On receipt of them, these offers should be authorised by the Head of Service or more senior officer and recorded in the E-Register before attendance at the event (personal invitations to sporting or social events, such as golf days, horse race meetings, other forms of corporate sporting entertainment or to social entertainment must always be pre-authorised in advance of the event).
- Through attendance at relevant conferences and courses when the hospitality is corporate rather than personal provided that purchasing, contract or other significant decisions of the council are not compromised.

- Attendance at meetings, seminars or conferences organised by councils, regional or sub-regional groupings of local councils, or the LGA or similar bodies.
- Attendance at other meetings or events when employees are attending as a nominee, or as an appointed director or when the event is sponsored by this council. Any such nominations, directorships or sponsorships must be recorded in the list of employees' interests (E-Register). If that organisation has a code of conduct then its code would apply. If it has no code, employees are bound by this code.

#### **4. Gifts**

- 4.1 The acceptance of gifts by employees from a person or organisation that has, or may seek to have, dealings with Oldham Council would, correctly, be viewed negatively by the public. It could make employees, and the council, extremely vulnerable to criticism. It may also be a disciplinary offence, or contrary to law.
- 4.2 Employees should never suggest to a firm or organisation with which the council does business that a gift would be appropriate. To do this would result in disciplinary action being taken against the employee.
- 4.3 In general therefore, employees should politely and tactfully refuse any personal gifts from persons, companies, clients or colleagues which are offered to:
- the employee
  - any other employee or co-worker
  - any member of the employee's family
  - any organisation the employee is a member of
- 4.4 Gifts which may be accepted and need not be registered are:
- Small gifts of token value, given by way of trade advertisements and offered to a wide range of people, and not uniquely to an employee e.g. - pens, diaries, calendars or chocolates etc (but not wines and spirits). This includes offerings of this type at trade stands at national conferences.
  - Similar small gifts at the end of a courtesy visit to an office, site or factory; twin towns or friendship links.
  - Gifts immediately to be donated to the Mayor's Charity or to residents of the council's or voluntary sector establishments.
- 4.5 All gifts over £25 in value must be declared in the E-Register immediately upon receipt.
- 4.6 Very occasionally it would be inappropriate to refuse less modest gifts. They should not be retained for personal use but should be passed to the Mayor's Charity for fund raising. A record should be made of the receipt

and the passing on of the gift.

- 4.7 Any bottle of alcohol; an item of clothing or furniture; tips, borrowing from clients or accepting loans; tickets to entertainment, vouchers for goods, services or food are not to be accepted except with the approval of the Head of Service.
- 4.8 If an employee receives a gift without warning which is not a small token gift as above or is not obviously a gift to be refused as above, the employee should immediately report it to their Line Manager who will discuss it with the Monitoring Officer.
- 4.9 A decision whether the gift should be returned, or forwarded to a Charitable or deserving cause will be made. In all such cases the Monitoring Officer should inform the donor what happened to the gift and why and ask the donor not to offer gifts in the future.
- 4.10 If there is ever any doubt when a gift may be accepted employees should politely and tactfully refuse.

## **5. Quick summary**

5.1 The following are examples of hospitality or gifts which are acceptable and which are not.

### **5.2 Acceptable**

- A modest working lunch which enables discussions of council business to continue
- Attendance at functions when employees represent the council i.e. - as a speaker or as an official representative at opening ceremonies or trade shows.
- Attendance at a public performance such as Coliseum Civic Night or a concert in the town sponsored by business (e.g. - at the QEH) when the event is part of the life of the local community.
- Personal or personalised gifts with a value of less than £25.
- An offer of a drink following a meeting or site inspection.

5.3 Unacceptable (without express approval in advance of the event from the Head of Service)

Holidays.

- Golf days, horse race meetings or other forms of corporate sporting entertainment.
- Hotel accommodation or theatre tickets.
- Use of company premises such as holiday cottages or flats.
- Gifts of tips, money, vouchers, alcohol, tickets to entertainment or gifts in kind.
- Legacies or bequests in wills.

## **Appendix Four - Access to Information and Information Technology Guidelines**

### **1. Introduction**

- 1.1 Line managers must ensure that staff are adequately trained to use information systems and / or work appropriately with information. Staff need to have demonstrable competences in ensuring that the confidentiality, integrity and availability of information is maintained.
- 1.2 All employees have a responsibility for managing information and below are some key guidelines. Further information can be obtained from line managers, the council intranet, the Information Management Team or ICT Client Team.
- 1.3 Unauthorised use or misuse of council information or IT systems may lead to disciplinary action.

### **2. Council Equipment**

- 2.1 Telephones and computer hardware, e.g. PC, Laptop, Tablet, other mobile device, etc, have been provided to help employees to do their work in relation to their job role and in connection with volunteering work in accordance with the Employer Supported Volunteering Policy,. They should therefore be regarded as any other piece of office equipment i.e. - the property of the council. Not only does the equipment have a value, the information held on the devices is a valuable asset and both device and content need to be protected.
- 2.2 Even where the devices are the property of the employee, it must be remembered that council information remains in the ownership of and/ or the responsibility of the council at all times and the employee is responsible for the safe protection of it.

### **3. Council Information**

- 3.1 Information obtained at work, or used at work belongs to the council. Information about individuals and some of the council's business is confidential and must be treated appropriately. If employees are unsure about the status of information they are using, they ask their line manager.

### **4. Data Protection Act**

- 4.1 The council, and those undertaking work on its behalf, are obliged to adhere to data protection legislation, framework and principles. Failure to do so may result in sanctions, both against the Council, its partners/suppliers and/or individuals.

4.2 Employees must only process personal information on devices and in environments that provide confidentiality, security and protect the integrity of the information

## 5. **IT Devices**

5.1 Employees must make sure that their devices are kept physically safe, e.g. portable devices and media are locked away when not in use.

5.2 It is essential that log on details or passwords are not shared with other members of staff.

5.3 Employees must not leave unattended devices and / or information in unattended vehicles, or when out of the office, e.g. working at home, on visits.

5.4 Care must be taken that others cannot accidentally access a device / information. Even where employees are using their own device, it is essential to ensure that the information is not easily accessible.

5.5 Employees must ensure that any changes made to the devices' configuration are undertaken by authorised sources and / or conform with the council's standards. Employees must not introduce non authorised software.

5.6 It is important to make sure that only authorised personnel remove / replace devices and / or access or recover the information held.

5.7 Any portable device should be encrypted and password protected. Passwords should be a minimum of 8 characters and contain a mix of upper case and lower case characters and punctuation marks.

5.8 Employees must make sure that all work on the devices is undertaken via the council network - this ensures that the information is backed up to protect against corruption and unauthorised access.

5.9 All paper confidential information that is no longer required should be disposed of in the red confidential waste bins.

5.10 Staff should ensure at all times that there is no unauthorised access to council buildings or information technology systems.

5.11 Staff working from home or accessing council systems remotely should exercise the same level of care as if they were working in the office.

5.12 Employees should ensure that their office / home / car doors are properly shut and secure.

## **6. Use of E-mail and Internet**

- 6.1 Should employees need to send sensitive and / or confidential information by email, advice must be sought from their line manager to identify whether or not this is the most secure method.
- 6.2 The conventions governing written communications also apply to electronic mail. Messages should relate to the council's business and be courteous.
- 6.3 Employees must remember, emails, like paper or electronic files are all subject to potential disclosure by virtue of individuals rights to access to information.
- 6.4 It is essential that employees do not respond to any emails that ask to enter user and password details, or other information. This could compromise council IT systems and information.
- 6.5 All employees should log out of their E-mail when they have finished using it - this makes the council network more secure.
- 6.6 If any material is encountered which could be considered to be of an offensive nature, employees are to report the matter to their line manager who will inform Internal Audit.
- 6.7 Employee use of the Internet / Email can be monitored to assure acceptable use of resources and misuse could lead to disciplinary action.
- 6.8 Any information about the council, its services and staff can only be published on the Internet with the prior approval of the Communications Service.
- 6.9 Software may not be down-loaded from the Internet, because of the danger of importing a virus as well as the possibility of breaching copyright or licence. All requests for software and software upgrades must be submitted to the IT Service Desk.

## **7. Responsible Use of Social Networking Sites, Internet Forums and Blogging**

- 7.1 The internet is a fast moving technology and it is impossible to cover all circumstances. However, the principles set out in this document should always be followed. The intention of this guidance is not to stop Oldham Council staff from conducting legitimate activities on the internet, but serves to highlight those areas in which conflicts can arise.\_

- 7.2 Oldham Council employees are free to edit online encyclopaedias (such as Wikipedia) but should be transparent about doing so. Employees may respond to legitimate criticism of Oldham Council but not remove it.
- 7.3 Oldham Council recognises that staff may want to use social networking sites such as Facebook, Twitter, MySpace and YouTube both in and outside work, provided that such use is in the staff member's own time. Staff have a duty not to bring the council into disrepute, and so should act responsibly to ensure that your electronic communications do not have this consequence. Employees must be aware that any information posted onto internet sites is public and may be viewed by colleagues, the public and the press.
- 7.4 If it brought to the council's attention that inappropriate information, images or comments have been posted onto the internet, whether during or out of working hours, at work or at home, then the allegation will be investigated. This may result in disciplinary action being taken up to and including dismissal.
- 7.5 Employees are responsible for any comments or posting made onto the internet. When using internet sites, in and outside of work, the council expects its employees to:
- Make it clear in any posting that the comments are not on or on behalf of the council or any other council employees.
  - Not post information or make comments that could bring the council into disrepute. Comments should not be speculative or have a negative impact on the council's reputation, or cause embarrassment to the council, its employees or residents.
  - Not make any comments about colleagues or residents which could cause offence, even where names are not mentioned.
  - Not reveal any confidential information, council data or any material covered by existing council policies and procedures.
- 7.6 It is important to be aware that individuals are personally liable for any comments, images or information that is posted and that action may be taken against an individual by a third party, such as a colleague or resident.
- 7.7 If employees have a grievance at work, this should not be posted on a social networking site or blog. Any grievance should be raised to the appropriate manager in accordance with the council's Grievance Policy.
- 7.8 This guidance does not dictate that employees must never talk about their job, however, before posting comments employees must carefully consider that information posted is appropriate for colleagues, managers and the public to read.

- 7.9 Setting up social media profiles, pages, groups or services related to Oldham Council in any form should be discussed with the Communications Service beforehand. If the potential users are under 13 then specific rules in relation to consent apply, please seek advice from the Information Management Team
- 7.10 Any social media profiles, pages, groups or services that were set up prior to the implementation of this Code should be handed over to the Communications Service upon request.

## **Appendix Five - Financial and Non-financial Interests**

### **1. Public duty and private interest - guiding principles**

- 1.1 As a public servant, an employee's overriding duty is to the whole local community.
- 1.2 If an employee has a private or personal interest in a matter which they, fellow employees or councillors will have to decide, they must never take part in any decision or work about that matter.
- 1.3 Employees must never do anything as a public servant which would adversely affect your reputation or this council's.
- 1.4 Working for this council does not, and must not be seen to, entitle individuals to any special treatment, privileges or favours in their own dealings as a citizen with the council. It will not, in addition, disadvantage employees, in comparison to other citizens. It is not enough to avoid actual wrongdoing. Employees should at all times avoid any suspicion and any appearance of improper conduct.
- 1.5 Most of this guidance details how employees should behave when they have interests and they, their family or close friends raise a matter with the council.
- 1.6 If during their daily work, employees are asked to work on a matter related to them, their family or close friends, it is their duty to inform their line manager. In most cases, employees will not be expected to continue to work on the matter.

### **2. Disclosure of financial and other interests**

- 2.1 Employees must declare in the E-Register kept by the council for this purpose their standing interests. In this context, they must also declare the interests of a spouse or partner with whom they are living.
- 2.2 Employees must disclose both direct and indirect financial interests, including those of a spouse or partner with whom they are living which they may have in any matter coming before the council, a Committee, a Sub-Committee or which is to be dealt with by fellow employees under Delegated Powers. They must not be involved in the matter as a council employee. These requirements must be scrupulously observed at all times.
- 2.3 Private or personal interests which are not financial can be just as important. Private and personal interests include those of an employee's family and friends. They include those arising through membership of or association with clubs, societies and other organisations such as the

Freemasons, Trade Unions and Voluntary Bodies. Employees should not allow the impression to be formed that you are, or may be using their position as a council employee to promote a private or personal interest rather than forwarding the general public interest.

2.4 If an employee has a clear and substantial private or personal non-financial interest in a matter arising before the council, they must always disclose it, unless, it is one which they share with other members of the public generally as a council taxpayer, elector or inhabitant of the area.

2.5 In deciding whether an interest is clear and substantial, the employee should ask themselves, whether, if members of the public knew the facts about them, they would reasonably think they might be influenced by it. If the public would think that, then the employee should regard the interest as clear and substantial, and make the declaration.

### 3. **Disclosure in other dealings**

3.1 Employees should always apply the principles about the disclosure of their interests and not being involved in processing the matter to their dealings with other council employees, councillors and the public.

### 4. **Conflicts of interest**

4.1 There are two broad areas where employee private and personal interests may come into conflict with their duties and obligations as a public servant. Basically, these are financial (pecuniary) interests and non-financial (non-pecuniary) interests. These interests must be declared.

4.2 Financial interests which present a conflict with the council's interests must be declared in the E-Register for the purpose. Continuing non-financial interests such as memberships of closed societies must also be declared in the register. Other non-financial interests must be declared when the possession of them may conflict with work as a public servant, or when own matters come before the council as a whole to be dealt with.

4.3 Declarations also have to be made when matters involving the interests of close family members or friends are being dealt with.

4.4 In general, employees must not allow any impression to be formed that they are, or may be, using their position as a public servant to promote private or personal interests rather than promoting the general public interest.

### 5. **Detailed guidance - conflicts of interest**

5.1 As a public servant, employment with the council makes special demands of its employees which mean that they may be unable to act as fellow

citizens do.

- 5.2 In general, council employees should not have other substantial employment or business interests. Officers paid above scale point 28 cannot have other employment or business interests without the council's specific approval to them. Those rules limit the scope for conflicts of interest.
- 5.3 The declaration of interest by employees is a complex matter. The following guidance covers the key issues.
- 5.4 The question employees should consider when deciding whether to declare (and register) an interest is:
  - Would members of the public, knowing the facts of the situation, reasonably think I might be influenced by it?
- 5.5 If the answer is yes, the employee should register the interest, and stand aside from any matter dealt with by the council or its employees which relate to that interest. In most cases the answer will be yes, so employees should declare and register the interest, and be prepared to stand aside from the decision making and processing.
- 5.6 It is not part of the duty of an employee's manager or of the council's regulatory officers to identify or remind employees that they have an interest to declare. However, they will give advice if asked. Employees should treat the interests of a spouse or other partner as if they are their own.

## 6. **Disclosure of financial and other interests**

### 6.1 **Legal Duties**

If an employee fails to declare and register but still participates in a matter related to the interest, they will be subject to disciplinary action. The council may also have committed a form of misconduct and be subject to public censure. It may possibly also be a crime.

### 6.2 **Non-Financial Interests**

Employee's own interests which are not financial can be just as important and, generally speaking, the same procedure applies. With non-financial interests, too, employees should never allow the impression to be formed that they are, or may be, using their position as an employee of the council to promote a private or personal interest rather than forwarding the general public interest. Private and personal interests include those of family and friends, as well as those arising through membership of, or association with, clubs, societies and other organisations such as the Freemasons, Trade Unions and Voluntary Bodies. Again, failure to comply may lead to disciplinary action.

### 6.3 **Lobbying/Dealing with Fellow Employees and Councillors**

When an interest, of whatever kind exists, it is not enough simply to declare and register it. Employees should not try to persuade fellow employees or councillors in their formal consideration of the matter or try to take part in discussions with them behind the scenes. This is as not to give the impression that you they improperly using their position to put pressure on fellow employees or councilors.

6.4 If an employee needs to make representations to fellow employees or councillors on a matter of their own, it is best to do so in writing, making clear their interest in the matter.

## 7. **Relationships with fellow employees**

7.1 Employees must declare an interest if called on to advise a council Committee or Working Group responsible for a Department for which an employee does significant work, and in relation to that employee they are:

- married
- the partner
- otherwise closely related such as child, sister, brother, parent or grandparents

7.2 The same applies where their relationship with another employee e.g. - sexual or membership of the same club, society or political party could jeopardise the work of the council. In this instance Significant is defined as regular and continuing.

## 8. **Register of interests**

8.1 There is a quite separate obligation on employees to give a written notice of certain specified financial interests. The E-Register for these is maintained by the Monitoring Officer. It is not open to public inspection.

8.2 This register also requires employees to give information about those non-financial interests they have or about financial interests of close family members and people living in the same household as them, where they are in conflict with their duties with the council. Failure to disclose the required information, failure to keep the information up-to-date, or the provision of false or misleading information is, once again, a disciplinary matter.

8.2 The requirement to declare and record these interests must not be confused with the obligation to declare them when specific matters are being dealt with. The fact that an employee has registered an interest does not affect the obligation on them to declare that interest should circumstances arise which would require a declaration.

### 8.3 **Exceptions - General**

The exceptions to the general rules about declaring interests are as follows:

- Employees need not declare an interest arising merely by virtue of being a council taxpayer, elector or inhabitant of the area.
- Employees need not declare an interest in any matter relating to the terms on which any council service is to be offered to the public generally.
- Employees need not declare a financial interest merely because of their membership of, or even any approved employment by a public body, (e.g. - a nationalised industry or the National Trust), provided they do not have a beneficial interest in any securities of that company or body

### 8.4 **Exceptions - Specific**

In the following circumstances, employees can remain involved in a matter even when they have declared a clear and substantial private or personal interest:

- If the interest arises from being appointed as a representative on the Management Committee or other Governing Body of a Charity, Voluntary Body or other organisation formed for a public purpose (and not for the personal benefit of the employee as an individual). However, to perform that role in dealings for the Body with the council, the employee should perform it outside of working hours, when necessary by prior agreement from the Head of Service.
- If the interest arises from being an ordinary member or supporter of such an organisation (but the employee is not a member of its Managing Committee or the Governing Body). However, no facilities to perform a role at work in relation to a matter before the council would be given.
- Even if one of the above dispensations applies, employees should still consider whether, in the light of their own particular circumstances, it is appropriate to participate. There may be, for example, circumstances when it would be inappropriate for the employee to take part in a matter if they might be seen in the eyes of the public as too closely committed to the proposal from the body in question.

### 8.5 **Declarations affecting work of council or Committee**

- Circumstances may arise where the work of the council be impeded because several or many employees may have personal interests in some matter and to declare and withdraw would mean a matter could not be properly dealt with. In that case the Monitoring Officer should be notified and the employee(s) may be allowed to continue to take part in the matter even when they and others have a clear private or personal non-financial interest.

8.6 In general, the best advice is always to err on the side of caution. It cannot be stressed too highly that the responsibility for declaring an interest rests entirely with the employee.

**8.7 Remember**

- Declare standing interests; register them; and keep them up to date
- When employees deal with the council as citizens, they must declare their interests when contacting the council.
- If over spinal point 28 employees should not take other work, employment or business interests without prior, specific written approval. If given that approval, they must register the interest on the E-Register.
- If work causes an employee to deal with a matter of their own, their family's or their close friends, they must inform their line manager and be prepared to stand aside.

## **Appendix Six - Further clarification on employees' interests**

### **1. Introduction**

- 1.1 Sections 95 and 117 of the Local Government Act 1972 state the main obligations on employees to disclose their financial interests and step aside from involvement in the council's dealings with, or decisions on those matters.
- 1.2 The Code of Conduct for Employees adopted by the council helps employees to satisfy the requirements of the Act above.
- 1.3 Employees must declare their standing interests or interests relating to matters as they arise to their Head of Service.
- 1.4 These declarations are maintained in an E-Register by the Solicitor to the council as Monitoring Officer. The declarations made are not open to public inspection, except for officers on Grade SM3 and above.
- 1.5 The Code deals mainly with the obligation to make declarations of interest. The advice below gives further clarification of the position and quotes specific examples and limits in place.
- 1.6 There are three basic rules on declaring employees' interests. Employees must:
  - Declare any pecuniary interest.
  - Ensure pecuniary interests are entered in the E-Register.
  - Not take part in any matter related to their interest being dealt with anywhere in the council.

### **2 What is a Pecuniary Interest?**

- 2.1 A pecuniary interest can be direct or indirect, actual or potential, and it can be to an employee's financial advantage or disadvantage.
- 2.2 Employee spouse's interests count as their own (if he or she is living with them). In addition, so do interests of partners' (if any) and direct relatives (e.g. - children, parents, grandparents, brothers or sisters).
- 2.3 The interests of any other employer (person, firm company), employees are allowed to count as an indirect interest.
- 2.4 Employment by a public body, e.g. - another council or another body established for public purposes not for profit counts as an indirect interest. An employee could, for example, have a direct interest (i.e. - affecting their pay or employment) in a proposal concerning a public body.

- 2.5 If a matter discussed concerns a company in which an employee holds shares with a nominal (not market) value of either of over £5,000 or over 1% of total issued capital, this counts as a pecuniary interest.
- 2.6 If an employee own shares in a private or public company with a capital of less than £5,000 and a turnover of over £5,000 per annum they should declare it.
- 2.7 If an employee trades as a sole trader or in partnership they should declare that.

### **3 Insignificant Interests**

- 3.1 If an employee has an interest that they consider is so slight that it will not affect their own work or any matter under consideration it does not count as an interest.
- 3.2 If an employee is in doubt, or others might think differently, they should declare it as an interest.

### **4 Shared Interests**

- 4.1 Interests which employees share with the public at large do not count e.g. - when their only interest is as someone liable to pay your Council Tax or Non-Domestic Rates in respect of a permitted business or as someone who receives a service or pays library fines or pays for cesspool emptying or benefits from concessionary fares for pensioners.
- 4.2 It need not even matter if they get slightly more benefit than others from, for example, being an annual passholder for swimming, but a shared interest that affects an employee in particular, such as the building of a new road close to their home which also affects others, does count as a pecuniary interest because it could cause the value of their property to rise or fall.

### **5 The E-Register**

- 5.1 Employees must declare information under the following headings (5.4) for entry in the council's E-Register. What is declared is intended to balance employee's reasonable right to privacy and the public's reasonable right to be protected from what might influence an employee in their work for the council.
- 5.2 Employees should outline their major interests only, without revealing details (such as amount of pay, share holdings, or client's names).
- 5.3 Employees paid above SCP28 are reminded of the need to obtain express prior approval to additional employment.

- 5.4 Employee's should register their spouse's interests if they affect or are affected by their work for the council.
- **Employment**  
Employer's name should be stated (or if self-employed). A brief description of paid job(s) e.g. - for worker: gardening work. Income should not be stated.
  - **Contracts**  
Outline if an employee works as a sole trader; or in partnership. If employee has an interest in a small company as described above they must not trade or attempt to trade with the council.
  - **Land**  
Brief identification of any land in the council's area (excluding the employee's home) that is owned or jointly owned, rented or leased, or has a right to occupy and enjoy an income from. Options on land are registerable but land where the employee is a trustee, executor or administrator of the estate of someone deceased is not, unless they become a beneficiary in receipt of the land.
  - **Licensees to Occupy Land**  
Any land in the council's area must be stated of which the employee is not owner or tenant but has a right to occupy under a licence. The address or a brief description must be given so it can be identified.
  - **Tenancies of Property of the Council**  
The address must be given of, or a description of, any land or building that the employee rents from the council as a sole trader, in partnership or through a small company.

## 6 **Revision of Notices**

- 6.1 When any of the above relevant interests change employees must change their entry in the E-Register within one month of the change.

## 7 **Offences**

- 7.1 It is a disciplinary offence if an employee:
- does not declare an interest
  - and the employee deals with that matter personally or the matter is dealt with elsewhere in the council
  - gives false or misleading information, for the E-Register or omits information but it will not be a disciplinary offence if they can prove that they did not know that a matter in which they had an interest was being dealt with or if they have a reasonable excuse for omitting an interest from the register.

## **Appendix Seven – Criteria for politically restricted posts**

### **1. Introduction**

- 1.1 These fall into 2 broad categories; Specified posts and Sensitive posts.
- 1.2 It is the post that is politically restricted so the restriction relates to interims and consultants covering such posts.

### **2. Specified posts**

#### 2.1 Criteria 1:

- The Head of Paid Service (Chief Executive)
- Chief Officers – those who report directly to the Chief Executive excluding secretarial and administrative support i.e. the two Deputy Chief Executives
- Deputy Chief Officers – officers who report to a Chief Officer excluding secretarial and administrative support – generally AED or Head of Service posts.
- The Monitoring Officer
- The Section 151 Officer

#### 2.2 Criteria 2:

- Those Officers who are in posts that are specified by the authority as being on the 100g (2) list i.e. that the post has responsibility under the Councils or the Directorates Scheme of Delegation, for exercising delegated powers. As the post-holder must be responsible and accountable for taking the decision on behalf of the council, it is unlikely to apply to officers below 3<sup>rd</sup> tier.
- These post holders are politically restricted without the right of appeal for exemption.

### **3. Sensitive posts**

#### 3.1 Is one which meets one or both of the following “duties related” criteria:

- “Giving advice on a regular basis to the authority itself, to any committee or sub-committee or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority to any committee of that executive; or to any member of that executive who is also a member of the authority”
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters. In reality this will be only be likely to cover those senior posts who are responsible for external press and PR communication involving answering questions or presenting un-scripted information as the “face” of the council.

- 3.2 Within the council, the first “duties related” criteria will apply to holders of such posts who give regular advice to Cabinet, any sub-committee of that Cabinet, or to the individual Members of Cabinet, in person or in a report.
- 3.3 This does not cover factual information but advice which may influence a decision or which recommends a course of action. The post holder must again be able to be held accountable or responsible for that advice ie not on behalf of the Head of Service.
- 3.4 These post holders can appeal to the local standards committee to be exempted from the list, on the grounds that the authority has wrongly applied the criteria.
- 3.5 There is a third category of Political Assistants but these fall outside normal political restriction arrangements and apply only to specific named posts within an authority.

#### **4 Provisions regarding Political Restriction**

- 4.1 Politically restricted employees will not be able to:
- Stand for or hold elected office e.g. local councillor or MP or MEP; except for a Parish Council;
  - Act as an election agent
  - Canvass on behalf of a political party or a person who seeks to be a candidate;
  - Speak to the public at large or publish any written or artistic work that could give the impression that they are affecting support for a political party
  - Hold office in a political party

They can:

- Be a member of a political party
- Put posters up in their own homes