

Local Government Act 2001

**Code of Conduct
for Councillors**

June 2004

Contents

	Page
Introduction	3
General conduct and behaviour	4
Conflict of personal and public interest	5
Planning	7
Gifts	8
Hospitality	8
Personal dealings with local authority	9
Regard for council resources	9
Satisfactory working relationships	9
General	10

OBJECT OF CODE

The purpose of this Code is to set out principles and standards of conduct and integrity for councillors, to inform the public of the conduct it is entitled to expect and to uphold public confidence in local government.

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 managers, other local authority staff or non-councillor members ("external members") of local authority committees. The Local Government Act 2001 ("the Act") sets out a new ethical framework and imposes 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 in accordance with the Act to promote these principles and to uphold public confidence - so that all councillors can be seen to 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 staff. 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 Act and form an integral part of the new ethics framework.

2. General conduct and behaviour

2.1 The general conduct and behaviour of councillors in carrying out their role is an important yardstick by which the honesty, integrity, impartiality and performance of local government is judged and public trust maintained. It is important therefore that these core values underpin all actions of councillors affecting local authority business. As holders of elected office they have a duty to keep faith with the public trust placed in them. This is a personal responsibility and requires them to observe the highest ethical standards in the performance of their role.

2.2 Councillors in carrying out their role should abide by this Code and:-

- act in a way which enhances public trust and confidence;
- avoid conflicts of interest and never seek to use improper influence;
- make decisions based solely on consideration of the public interest and the common good;
- serve their local authority and its people conscientiously, honestly and impartially;
- promote equality and avoid bias;
- perform their functions in a responsible and diligent manner;
- treat their colleagues and local authority employees with courtesy and respect.

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. Conflict of personal and public interest

- 3.1** The 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.
- 3.2** The Act (and previously the 1976 Planning 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 which 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 and are set out in the Act.
- 3.3** Additionally, under the 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 knowledge¹) they or a connected person² 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.
- 3.4** The 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 s/he must in advance of the meeting make such disclosure in writing to the ethics registrar.
- 3.5** The foregoing statutory requirements, must be observed at all times and failure to do so is an offence. Analogous statutory requirements also apply to staff; and to external members of committees with the exception of the annual declaration in their case.

^{1 + 2} The terms “actual knowledge” and “connected person” are set out in section 166 of the Act.

- 3.6** The law as mentioned above sets out a framework for disclosure of what are 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 through 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. The public perception of the way a councillor is seen to deal with such matters is important for the maintenance of trust in local government.
- 3.7** 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.
- 3.8** This is all the more so 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 on the person concerned to take extra care in these circumstances.

- 3.9** 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 which is not in the public domain, or information obtained in confidence as a result of their public position.
- 3.10** The 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 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.

4. Planning

- 4.1** 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.
- 4.2** Extra care must therefore be observed in dealing with planning matters and in this context the provisions of this Code particularly as regards conflict of personal and public interest (see Section 3) are very relevant.

5. Gifts

- 5.1** The Act provides that a councillor is prohibited from seeking, exacting or accepting any remuneration, fee, reward or other favour for any 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.
- 5.2** 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.
- 5.3** 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.
- 5.4** 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.

6. Hospitality

- 6.1** 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.
- 6.2** However, subject to the foregoing, councillors should not be in a position where in carrying out their official role they cannot accept what are regarded as normal protocol and courtesies

such as invitation to and attendance at civic, cultural or festive events in accordance with such local protocol arrangements as may be in place for the authority concerned.

7. Personal dealings with local authority

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, higher education grant, etc. While they should, of course, enjoy the same rights in their personal dealings as any other person they should not seek preferential treatment.

8. Regard for council resources

8.1 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's or other allowance, conference attendance or other travel.

8.2 The Act permits the authorisation of conference attendance where the council is satisfied such is justified by reference to relevance to the authority and local community, 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 Act.

9. Satisfactory working relationships

9.1 The 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 should treat their colleagues with courtesy and respect and obey the rulings of the chair and standing orders.

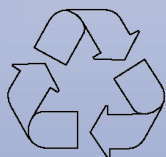
- 9.2** It is a matter for the individual councillor to decide on what view to take on any question to be decided by the elected council. In reaching decisions, councillors should take account of what is relevant, have regard to advice tendered to them, and comply with the relevant legal requirements.
- 9.3** Both councillors and staff have the common interest of serving the community. But their responsibilities are distinct. Councillors are responsible to the electorate for their elected term of office. Staff are responsible to the manager 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.
- 9.4** A small number of councillors are also local government employees. A special onus rests on them to ensure that their roles do not become blurred and so avoid any perception that their employment confers additional advantages to them in their role as councillors.

10. General

- 10.1** All councillors, whether elected or co-opted, are obliged by the 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.
- 10.2** 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 principles of this Code. In particular they should avoid any conflict of interest and are subject to the disclosure requirements of the Act and of this Code.
- 10.3** Given the range and complexity of local government activity a code such as this cannot deal with all situations and eventualities which 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.

- 10.4** This Code does not prejudice other specific statutory requirements which apply to councillors - such as those set out in the Local Government Act 2001, or in the Local Elections Acts - and is additional to other public sector wide legislation such as the recently strengthened anti-corruption legislation.
- 10.5** A court may have regard to the Code in any proceedings for an offence under Part 15 of the Act, as may the Standards in Public Office Commission in carrying out its functions.
- 10.6** Councillors should also have regard to any relevant advice as may be issued from time to time by the Minister for the Environment, Heritage and Local Government or by the Standards in Public Office Commission.



Printed on recycled paper containing a minimum of 75% post-consumer waste



AN ROINN COMHSHAOIL, OIÐHREACHTA AGUS RIALTAIS ÁITIÚI

**DEPARTMENT OF THE ENVIRONMENT, HERITAGE
AND LOCAL GOVERNMENT**

