

APPENDIX 1

Officers' Code of Conduct

The words in italics comprise the statutory Officers' Code of Conduct which is ~~already automatically~~ incorporated into Officers' Contracts of Employment and will prevail in circumstances where there is any contradictory provision elsewhere in the Code.

General Principles

1. ***The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing Authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.***
- 1.1 Local government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. ~~Flintshire employees are expected to show respect and courtesy in their dealings with the public, Councillors and fellow employees providing them with impartial and appropriate advice. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service.~~

Accountability

2. ***Qualifying employees of relevant authorities work for their employing Authority and serve the whole of that Authority. Qualifying employees are defined as all employees of a relevant Authority unless exempted by statutory regulation, e.g. Teachers and Officers of Fire Authorities. They are accountable to, and owe a duty to that Authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.***
- 2.1 Employees must report any impropriety or breach of procedure to their immediate manager, except where that relates to the conduct of the manager when it must be reported to the manager's manager. Managers should, in turn, report breaches to their manager. The ~~Director-Chief Officer~~ shall notify the Head of Legal & Democratic Services of the occurrence.
- 2.2 ~~All employees are required to familiarise themselves with and comply~~

~~with the Council's Financial Procedure Rules. Each Director shall be required to bring the Council's Financial Regulations to the attention of all employees within their directorate.~~ Any employee who fails to observe Financial Procedure Rules Regulations may be subject to disciplinary action.

- 2.3 Orders and contracts must be awarded on merit and no special favour should be shown in the procurementTendering process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.
- 2.4 Employees involved in the Tendering-procurement process and dealing with Contractors should be clear on the separation of client and Contractor roles within the Authority. Senior employees who have both a client and Contractor responsibility must be aware of the need for accountability.
- 2.5 Employees in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.
- 2.6 Employees who are privy to confidential information on Tenders or costs for either internal or external Contractors must not disclose that information to any unauthorised party or organisation.
- 2.7 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform their manager and withdraw from the contract awarding processes.
- 2.8 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 2.9 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- 2.10 Local Government Act 1972 117 - Pecuniary Interests - provides that if officers know that a contract in which they have a pecuniary interest is before the local Authority, they must give notice of their interest to the Authority. This does not, of course, apply to a contract with them in their own name because the Authority will then know of their interest. Section 117(2) forbids any officer "under colour of' their office or employment to accept "any fee or reward" whatsoever other than proper remuneration.

2.11 *The Bribery Act 2010*

The Bribery Act 2010 creates criminal offences for any individual who either offers or receives a financial or other advantage intending the advantage to be rewarded by the improper performance of a function or activity. The Act also creates an offence of directly or indirectly offering, promising or giving a bribe to a foreign public official so as to influence the actions of the foreign public official. Any individual found guilty of any of these offences is liable to imprisonment for up to a maximum period of 10 years.

- 2.12 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, Tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Any offer of sponsorship should only be accepted if the appropriate ~~Chief Officer~~ ~~Director~~ has so decided. Particular care must be taken when dealing with Contractors or potential Contractors.
- 2.13 Any offers of sponsorship received by employees should be referred to their ~~Chief Officer~~ ~~Director~~ for decision
- 2.14 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

Political Neutrality

3. ***Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold ~~or~~ the nature of the work they do, ~~or the salary they are paid~~), they must comply with any statutory restrictions on their political activities.***
- 3.1 Employees serve the Authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 3.2 Subject to the Authority's conventions, employees may be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own

personal or political opinions to interfere with their work.

- 3.4 Political assistants appointed on fixed term contracts in accordance with the local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.
- 3.5 The Local Government and Housing Act 1989, Pt 1 contains provisions to stop 'twin-tracking' (where a senior local Authority employee is also an elected Member of another local Authority) and to restrict the political activity of senior employees. Local Authority employees holding politically restricted posts are disqualified from membership of any local Authority, other than a parish or community Council (s1(1)), from being an MP, AM or MEP and are subject to prescribed restrictions on their political activity (s1(5),(6)).
- 3.6 The Local Government & Housing Act 1989 requires each Council to maintain a list of its politically restricted posts. These are posts which are:- Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No2) Regulations 1990 cover the posts which are politically restricted. These are:
- (a) specified in the legislation posts, such as the Head of Paid Service, Chief Officers and their Deputies.
~~and the Monitoring Officer. Chief Officers and their deputies are restricted without exemption or appeal;~~
 - (b) those posts which have delegated powers to make decisions on behalf of the Council, all posts which reach or exceed a prescribed remuneration ceiling (equivalent to Spinal Column Point 44). These posts are automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals is granted;
 - (c) those posts that regularly provide advice at Council, Cabinet or formal Committee or sub Committee meetings.
 - (d) those posts that speak on behalf of the authority on a regular basis to journalists and broadcasters, all posts which meet the duties-related criteria for determining a 'sensitive' post, irrespective of remuneration level, unless the post holder appeals successfully against determination. These posts are defined as those which (i) give advice on a regular basis to the employing Authority, to any Committee or Sub-Committee or another joint Committee on which the Authority is represented (but excluding purely factual information) or (ii) speak on behalf of the Authority on a regular basis to journalists and broadcasters.
- 3.7 The political restrictions are deemed to be incorporated in the contract of employment of every local Authority employee who holds a politically restricted post. If you are uncertain as to whether your post is politically

restricted you should seek clarification from your immediate manager and, if uncertainty remains, contact the Democracy and Governance Manager's Directorate.

Relations with members, the public and other employees

- 4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.**
- 5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.**

5.1 Councillors

Employees are responsible to the Authority through its senior managers. For some their role is to give advice to Councillors and senior managers, and all are there to carry out the Authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

5.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Authority.

5.3 Contractors

Orders and contracts must be awarded on merit, by fair competition ~~against other Tenders,~~ and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the Tendering procurement process. No part of the local community should be discriminated against.

If during the course of your work you are dealing with an external Contractor with whom you have, or have had within the last 12 months, a business or private relationship you must immediately make your manager aware of that relationship.

Equality

- 6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the Authority, in addition to the requirements of the law.**

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

Stewardship

7. ***Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Authority for personal use unless authorised to do so.***
- 7.1 All employees ~~are required to familiarise themselves with the should be aware of the existence of the~~ Council's Financial Procedure Rules Regulations and Contract Procedure Rules, ~~Financial Standing Orders and Standing Orders Relating to Contracts~~ and know where they can inspect a copy of them. Any doubt concerning Financial Procedure Rules Regulations and Contract Procedure Rules Standing Orders should be raised with your immediate manager and, if the doubt continues, with the ~~Director of Finance Department~~ Financial, Legal and Democratic Services.
- 7.2 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

Personal Interests

8. ***Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:***
- (1) ***any rules of their relevant Authority on the registration and declaration by employees of financial and non - financial interests,***
 - (2) ***any rules of their relevant Authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the Authority. Qualifying employees must not accept benefits from a third party unless authorised to do***

so by their relevant Authority.

- 8.1 ~~Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Authority's interests. In addition to the criminal offence under Section 117 of the Local Government Act 1972 concerning pecuniary interests (see paragraph 2.10 above) there are the following rules concerning personal interests.~~
- 8.2 ~~It is stressed to employees of all grades that they should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her position (for example, an architect or planner who draws up plans within the Authority for an applicant for planning consent). It is irrelevant whether or not the work is paid.~~
Employees have a personal interest whenever a reasonable person would perceive a conflict between the employee's private interests and the work the employee does for the authority.
- 8.3 ~~Employees' off duty hours are their personal concern but they should not subordinate their duty to their private interests or put themselves in a position where their duty and their private interests conflict. There would be a personal interest under 8.2 if in the course of the employee's Council work he/she would normally deal with a matter that would affect him/her, their family, a close personal associate, their property, or an organisation they are associated with. For instance, if in the course of the employee's work they would normally deal with a planning application affecting a relative's property or where the employee is involved in processing a payment to an organisation with which the employee is associated.~~
- 8.4 ~~Any additional employment undertaken by employees must not conflict with or react detrimentally to the Authority's interests, or in any way weaken public confidence in the conduct of the Authority's business. Employees above Scale 6 shall devote their whole-time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without the express consent of the Council.~~
Wherever the employee has such a personal interest they should immediately draw it to the attention of their Line Manager who would normally decide that the employee should not be involved in dealing with that matter. This does not mean that the employee can not be trusted but is to protect both the Council's reputation and the employee's reputation against allegations of favouritism. In exceptional circumstances where the employee's skills can not be replicated the Manager may allow the employee to undertake the work but put in

place other controls such as being copied into all communications.

~~8.5 No outside work of any sort will be undertaken on Council premises, and use of facilities, e.g. telephones, or access to typists is forbidden. Employees are also instructed that correspondence and incoming telephone calls related to outside work are not allowed.~~

The arrangements must be recorded in writing and communicated to all other employees who need to know what the arrangements are. Each Chief Officer should have a register to record all such declarations of interest and any consequential working arrangements promptly in it. It is the employee's responsibility to ensure their declaration of interest is recorded.

8.6 Intellectual property

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

8.7 Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if:-

- * they have been made in the course of the employee's normal duties; or
- * they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- * it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

~~8.8 Employees must declare to their manager any non-financial interests that they consider could bring about conflict with the Authority's interests.~~

~~8.9 Employees must declare to their manager any financial interests which could conflict with the Authority's interests.~~

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~~8.10 Managers must in turn report any such declared interests to their manager.~~

~~8.118~~ Employees must declare to the Head of Legal & Democratic Services Chief Officer, Governance membership of Freemasonry or of

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any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

8.129 The Authority will maintain a register of written declarations by employees who are members of Freemasonry or any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about the rules or membership or conduct. Such a register will be maintained by the ~~Head of Legal & Democratic Services~~ Chief Officer, Governance, the register being disclosed to the extent ~~the Head of Legal & Democratic Services~~ Chief Officer, Governance believes it to be in the interests of the Council.

~~8.13 All employees must disclose any personal interests that they feel conflicts with the Authority's interests (e.g. acting as a school governor within schools maintained by the Authority, involvement with an organisation receiving grant aid from the Authority, membership of a National Health Service Trust Board, involvement with an organisation or pressure group which may seek to influence their Authority's policies.)~~

Section 9 – Gifts & Hospitality

9.1 In addition to the criminal offences covered by the Bribery Act 2010 referred to in paragraph 2.11 above there are the following rules concerning gifts and hospitality.

9.2 Employees must not retain personal gifts obtained, whether directly or indirectly, as a result of their work for the authority. The only gifts that employees are entitled to retain are insignificant items of token value such as pens and diaries. With any other gifts the employee should draw this to the attention of their Line Manager who may decide that rather than the gift being returned it should be forwarded to the civic office as a donation to the Chair's charity. All offers of gifts should be recorded in the register maintained by the Chief Officers.

9.3 Offers of hospitality can only be accepted when authorised by Chief Officers or where covered by paragraph 9.4 below.

9.4 Unless specifically authorised by the Chief Officer hospitality can only be accepted when an employee is attending conferences or courses, launch events, award ceremonies and other events/functions organised by Council, partners or other public bodies at which the Council needs to be represented where it is clear the hospitality is being offered indiscriminately and the value of any such hospitality does not exceed £10.

9.5 When gifts or hospitality are declined those making the offer should be courteous but firmly informed of the procedures and standards operating within the authority that require it to be declined.

9.6 It is the employee's responsibility to ensure that offers of gifts and hospitality are recorded in the appropriate departmental register.

Section 10 – Employees' Outside Work

10.1 All employees have conditions of service which require them to obtain written consent before they take on any outside employment.

10.2 Employees must not undertake outside work if their official work for the authority overlaps in any way with such outside work. It is irrelevant whether or not the outside work is paid for or not.

10.3 No outside work of any sort can be undertaken on Council premises or use Council facilities such as telephones or IT. Incoming correspondence or telephone calls relating to outside work are also not allowed.

10.4 Whilst an employee's right to a private life is respected that does not justify conduct which could reasonably be regarded as bringing the authority into disrepute or significantly and fundamentally affect the employee's ability to work for the Council.

10.5 There would be a breach of paragraph 10.4, for example, if an employee were to act in such a way that when other employees or service users became aware of it they reasonably refuse to work or communicate with the employee concerned.

~~8.14 Acceptance of hospitality must be authorised and recorded by your Director.~~

~~8.15 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Authority.~~

~~8.16 Employees must not accept significant personal gifts from Contractors and outside suppliers, but are permitted to keep insignificant items of token value such as pens, diaries, etc.~~

~~8.17 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Authority may be taking affecting those providing the hospitality.~~

~~8.18 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Authority gives consent in advance and where the Authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the~~

~~cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.~~

~~8.19 Each Director must record all offers of hospitality together with the decision as to whether they can be accepted or refused. Employees must ensure that offers of hospitality are recorded in the Hospitality Register maintained by their Director.~~

Section 11 – Disclosure of Information

11.1 Flintshire supports the principles of open government and encourages employees to assist the public in obtaining public documentation in accordance with the rights contained in the Local Government Act 1972, the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

11.2 The Council's Constitution, available on the Infonet, contains Access to Information Procedure Rules explaining the legislation relating to these information rights. If an employee is uncertain as to whether information being sought should be disclosed the employee must seek advice from his/her Manager and, if uncertainty remains, the Manager can seek guidance from the Democracy & Governance Manager.

11.3 Only employees with specific delegated authority may disclose to members of the public any information arising, documentation considered or events occurring at a time when a Council, Cabinet, Committee or sub-Committee meeting has decided to exclude the press and public from that part of its meeting.

11.4 Employees must not disclose personal information where this is not permitted under the Data Protection Act 1998. If in doubt seek advice from your Manager and explain to the person requesting the information the importance of complying with the Data Protection Act. If the Manager is uncertain, advice is available from the appropriate member of the Council's Data Protection Team.

11.5 These rules apply not only to the press and public but also to requests from Councillors and from partner agencies or external bodies.

11.6 Where enforcing authorities such as the Police, Wales Audit Office or Health & Safety Executive are seeking information they may be doing so pursuant to statutory powers which they would quote. It is important to ensure that the request is being made by the regulatory body not an impostor. Legitimate bodies accept the need to produce written authority. If in doubt advice is available from the Council's Legal Department. Where such bodies are not using their statutory powers to obtain information then personal information should not be disclosed without ensuring it would not breach the Data Protection Act.

11.7 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

Whistleblowing

129. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant Authority's confidential reporting procedure, or any other procedure designed for this purpose.

Appointment of Employees

134. Qualifying employees of relevant authorities involved in the recruitment and appointment of employees must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

134.1 Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

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

13.3 All candidates for any appointment under Flintshire County Council shall, when making an application, disclose in writing to the Authority whether to their knowledge they are related to any Member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he/she shall be liable to dismissal. Every ~~Member and~~ senior officer of the

Authority shall similarly disclose to the Authority any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware. ~~It shall be the duty of~~ the Chief Executive's office will ~~to~~ keep a record of any such disclosure made.

Investigations by Monitoring Officers

14. Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.