

Employee conduct and propriety

Aim

To provide clear guidelines for all employees about the level of conduct and propriety which is expected within the organisation

In particular, this document covers:

1. General principles
2. Statutory and contractual background
3. Statutory monitoring
4. Financial matters
5. Fraud and corruption
6. County Council facilities
7. Confidentiality and information
8. Gifts
9. Bequests
10. Sponsorship
11. Hospitality
12. Where contractual involvement should be Avoided
13. Political neutrality
14. Conflicts of interest
15. Secondary employment
16. Politically restricted posts
17. Personal relationships
18. Collections for colleagues
19. Intellectual property
20. Equality issues
21. Offences
22. Confidential reporting of concerns about others conduct.

1. General Principles

The public is entitled to demand conduct of the highest standard of anyone involved in local government service. Accordingly, no reasonable suspicion must be allowed to arise that any County Council employee could in any way be influenced by improper motives, or obtain improper personal advantage from or through his/her work.

All employees must act honestly, fairly and objectively. No member of the public should receive a better or worse service because of attitudes to:

- gender or gender reassignment; marital status; sexual orientation; race, language, ethnic or national origins and nationality (including citizenship); religious belief; disability and / or medical conditions; age; whether they have dependants or are pregnant; trade union membership status and activity and or political views/affiliations, or
- because the employee concerned has a personal or financial interest in the outcome of the decision which is to be made or the service which is to be given.

All local authority employees are expected to abide by codes of official conduct. There are specific codes of conduct for senior local government officers and for members of particular professions. A breach of the code of official conduct could lead to serious consequences, both for the authority and the individual.

Apart from the special case of political restrictions (more information is given later in this document), the main circumstances in which there are potential difficulties affecting official conduct are:

- Where an external organisation is seeking to provide work, goods or services to the County Council
- Where an external organisation needs some decision or authority (e.g. in relation to planning applications) from the County Council.

Employees in some Business Units (e.g. Planning Services and Procurement Support) will be well aware of these issues already, but employees in all Business Units need to be made aware of them.

New employees are made aware of these issues through specific information given in their Statement of Written Particulars and in the attached Associated document (the “Blue Pages”). Guidance on these issues is also contained in the Staff handbook, which is issued to all new starters.

2. Statutory and contractual background

There are several statutory provisions that relate to the conduct of local authority employees in specific instances such as:

- Standards of official conduct
- Fraud and corruption
- Disclosure of information
- Contracts for goods or services
- Outside commitments and personal business interests
- Political neutrality
- Councillor – employee relationships
- Intellectual property
- Equality issues
- Recruitment matters

The main sources of information are shown in the “Sources of Information” document and the “West Sussex County Council Standards of Conduct” document, which can be downloaded from the People Management Guide.

Some responsibilities apply to all employees within local government; but there are also provisions drawn up specifically within the County Council.

There may be further local procedures within Business Units to deal with particular circumstances.

Individual members of staff should also ensure that they are aware of and observe the relevant code of ethical behaviour for their professional body (if any).

3. Statutory Monitoring

The Local Government and Housing Act 1989 (Section 5) requires each local authority to have a monitoring officer who has formal responsibility to investigate any breach of statutory requirements or breach of (for example) professional codes of conduct. In West Sussex County Council it is the Head of Legal Services who has this role, reporting to the Council.

The County Treasurer undertakes a similar monitoring role on financial matters under the Local Government Act 1988. Major problems of propriety may need to be dealt with through this mechanism if they are not resolved by more routine methods.

THE FOLLOWING SECTIONS OF THIS TOPIC ARE TAKEN FROM THE WSCC CONSTITUTION, AND READERS SHOULD REFER TO THE CONSTITUTION FOR THE MOST UP TO DATE VERSION OF THIS DOCUMENT.

4. Financial Matters

Any member of staff who is responsible for financial matters (whether in a line management or accounting role) must follow the County Council's Financial Regulations.

- Staff responsible for the procurement of goods and services must also comply with Standing Orders on Contracts and guidance on good practice in procurement matters.
- Staff must ensure that invoices for payment are certified only in accordance with authorised procurement procedures and Standing Orders on Contracts.
- All invoices should be capable of being identified as relating to an official order. Where the sums involved are significant, a formal contract must be agreed and signed by the supplier before invoices are authorised for payment.
- Payment under contract must be made in accordance with the terms specified in the contract. These may include payment schedules, requirement of confirmation of successful completion of acceptance tests. Where there is no written form of contract, staff must certify invoices for payment when they are satisfied that the work has been done or the goods have been received and that the correct prices have been charged and the proper discounts have been taken.

Specific procedures apply to home care staff employed within Adults and Children's Services. Details can be found in the handbook, 'Guide for Home Care Staff'. Please see the end of this document for a link to this document.

5. Fraud and Corruption

West Sussex County Council has an Anti-Fraud and Corruption Strategy – Policy Statement. This can be accessed through the People Management Guide or from the Fraud Hotline pages on the internet hosted by Internal Audit.

6. County Council Facilities

Staff are reminded that they cannot use County Council facilities for private purposes without permission, although this may be given in either general or specific terms.

All staff should be aware of and abide by the West Sussex County Council Acceptable Use of Computer systems policy. This policy can be access from the People Management Guide.

7. Confidentiality

In general staff should act upon the presumption that open government serves the public better than secrecy.

- Staff should be aware of and comply with relevant statute and common law which provides for either confidentiality or rights of access to information for County Councillors, auditors and members of the public. A list of these documents can be found in "Sources of Information" – available from the People Management Guide.
- Personal information, in particular, must be treated in compliance with the provisions of the Data Protection Act 1998.
- Staff should not use the information obtained in the course of their employment for personal gain or benefit nor should they pass it to others who might use it in such a way. Staff must not abuse their right of access to information for other than legitimate employment-related purposes, e.g. personal curiosity.
- Where staff obtain confidential information belonging to the County Council as such they must not disclose it to any person not authorised to receive it (unless they are required to do so by law or by court order.) Advice and further details on this should be obtained from the Head of Legal Services.
- Staff should observe all security arrangements (e.g. IT security procedures, safety of files) designed to protect confidentiality of information, particularly personal or commercially-sensitive information. Confidential papers, files and valuables should not be left unattended on desks and should be securely locked away when no longer required for immediate use.
- Responsibilities as set out above will apply to treatment of information obtained while at work even after a member of staff has retired or otherwise left the employment of the Authority.

8. Gifts

The general rule is that staff should tactfully refuse all offers of gifts from organisations or persons who do or might provide work, goods or services to the County Council or who need some decision from the County Council.

Many staff are working in close proximity to individual recipients of services and their families and friends. The general rule in that case also is that staff should not accept gifts in any circumstances. Any offer of a gift should be reported to the line Manager, and in the case of a Executive Director or other Chief Officer, to the Chief Executive or the Head of Legal Services.

Exceptions include:

- modest gifts of a promotional character given to a wide range of people, such as calendars, diaries, articles for use in the office etc, or
- a small gift on the conclusion of a courtesy visit to a factory or firm provided it is of a sort normally given by the firm to visitors.

Such exceptions relate only to modest gifts and obviously an expensive gift should raise a question even if it would otherwise fall within one of the above categories.

It is, however, recognised that there are instances where to refuse a gift of small value, i.e. up to £10, would be hurtful to individual recipients of services. Acceptance, therefore, on an occasional basis, of such small personal gifts would not be seen as infringing the general rule. In such circumstances, the member of staff should report the matter to his or her manager, who will consider the circumstances of the gift and if he/she is satisfied that no undue influence has been exercised in obtaining the gift, shall approve the acceptance of it and record the acceptance and circumstances in a log book to be retained in the managers office. Reporting gifts is particularly important. Guidance from more senior managers may be appropriate in complex cases.

Gifts to the value of more than £10 should be returned to the service user by the manager.

Staff should not enter into any commercial transactions (including buying and selling properties or products or loaning or borrowing products) with any service user and should not act on a service user's behalf in such transactions unless the specific action forms part of the staff member's agreed duties (e.g. shopping for an elderly person). Entering into commercial transactions, apart from those specifically authorised (for example, in Adults' Services a care plan for an individual), will be a disciplinary matter.

9. Bequests

Staff should not act as an executor of a will or encourage any gift or bequest from a service user as such.

- If a member of staff discovers that they have been named as a beneficiary under the will of a service user, a previous service user or other work contact, they should

declare the bequest to their Executive Director who will determine whether the acceptance of the bequest is authorised or not.

- Acceptance of bequests up to a value of £250 may be authorised by the Executive Director or other Chief Officer following full consideration of the circumstances relating to the bequest. This will apply only where individual members of staff have been providing personal services to the service user concerned and not in any other circumstance.
- Acceptance of any bequest without the express permission of the Executive Director or other Chief Officer will be considered as gross misconduct and may result in the member of staff being dismissed.

Executive Directors and other Chief Officers may delegate the operation of the policy to Business Unit Heads.

10. Sponsorship

Sponsorship by external organisations

- Where outside organisations wish to sponsor local government activities, potential sponsors should disclose whether their organisations are contracted by the County Council to provide goods or services. Staff involved in setting up such sponsorship arrangements should draw this to the attention of sponsors.
- County Council Sponsorship
- Where the County Council wishes to sponsor an event or service, neither a member of staff nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate manager of any such interest.
- Similarly, where the County Council, through sponsorship, grant aid, financial or other means, gives support in the community, staff should ensure that impartial advice is given to the beneficiaries and that no conflicts of interest are involved.

11. Hospitality

When to accept hospitality is clearly a matter of judgement. It would be wrong to produce an atmosphere in which even those in a representative capacity for the County Council, such as staff acting as a formal representative of the County Council, refuse all invitations for social involvement with those who have, or may seek to have, business dealings with the County Council. Contacts that are established in a social environment can often be helpful to the County Council's interests.

However, it is important to avoid any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence.

All units will maintain hospitality registers. Heads of Business Units should ensure that checks are made not less than once every six months, to confirm that each hospitality

register is properly completed. The register will be subject to normal audit review on a periodic cycle.

The following general guidelines are intended as examples only:

Acceptable

- A working lunch of a modest standard provided to allow the parties to discuss business, or following/prior to business discussions. A useful test would be whether the County Council would provide refreshments if the venue were reversed. If there is a series of meetings requiring hospitality, the County Council should seek to act as host on an approximately alternate basis.
- An invitation to a professional society dinner or one associated with a body with whom that member of staff may have been working, e.g. a private architect's invitation to a RIBA dinner.
- An invitation to join other company guests as County Council representatives at sponsored events e.g. cultural, sporting or other public occasions in West Sussex or neighbouring counties. Non-reciprocal company invitations to events further afield, including London, should always be notified to the County Secretary, as should any invitations to particularly costly or exclusive occasions.
- An invitation to join other company guests in a company jubilee, opening or other special occasion.

The first three points are permissible arising out of occasional invitations. However, accepting frequent invitations from the same source could well lead to criticism and render the otherwise acceptable, unacceptable.

Unacceptable

- Paid holiday or leisure travel or accommodation.
- Tickets for premium events which are offered on a personal basis.
- Use of a company flat or hotel.
- Discounted services, materials, labour, etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them. Staff may consider it appropriate to get more than one quote for private works, e.g. on their own house, if a supplier to the County Council is involved.

When a particular person or firm has a matter currently in issue with the County Council then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance. In case of doubt, the responsible manager, Business Unit Head, Executive Director, Head of Legal Services or Chief Executive should be consulted, according to the level and significance of the offer.

12. Where Contractual Involvement Should Be Avoided

Where there is any financial or close personal connection the staff member should not be involved in making any decision for the placement of contracts or for a decision carrying value for the person on behalf of whom it is made (as for example with the granting of planning permission). This includes not only making such decisions but also participating in them whether by attending or advising members who are making such decisions or advising or managing other staff members who are doing so.

13. Political Neutrality

Staff serve the County Council as a whole. It follows they must serve all County Councillors and not just those of the controlling group, and must ensure that the individual rights of all the County Councillors are respected.

Subject to the West Sussex conventions, staff may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

Staff, whether or not politically restricted, must follow every lawful expressed policy of the County Council and must not allow their own personal or political opinions to interfere with their work.

14. Conflicts of Interest (Financial or Personal)

Conflicts of interest refer to any situation where the financial or personal interests of individuals could affect, or be thought to affect, their professional or other working involvement. An important safeguard for the County Council, and for staff, is that they should be open about any interests and should declare them.

Members and senior officers are required by statute and by governmental directive to declare their interests. However, it is important for all staff, particularly those who are or may become involved in contracting decisions, to be aware of their responsibilities when they have financial and other interests which relate to work. It is also important for the County Council to be aware of such interests.

An example of where a conflict of interest might arise would be:

- Where a member of staff (or their close relative or those with whom they live) with responsibility for the purchase of goods or services on behalf of the County Council has a financial interest in the organisation supplying the goods or services.
- Where a member of staff (or their close relative or those with whom they live) has an interest in an organisation or body which needs some decision or authority (e.g. in relation to planning applications) from the County Council.
- There are special cases of political restrictions (which are covered in greater detail below).

15. Secondary Employment

- Permission from the County Council through line management at a level to be set and monitored by the Executive Director, Chief Officer or Head of Business Unit is required if a member of staff wishes to take secondary work.
- Any secondary work must not prejudice the way in which the member of staff carries out his/her work for the County Council. Where volunteers or contractors are involved the same principles must be observed.
- For employees with a basic pay at or above spinal column point 31, and for all management grades, Teachers, Soulbury or JNC Youth, it is a condition of employment that they may not engage in any other business, or take up any other additional appointment which may affect the performance of their official duties without the consent of the Head of Business Unit.
- The off-duty hours of local government members of staff are their personal concern but they should not subordinate their duty to their private interests to put themselves in a position where their duty and their private interests conflict.
- The employing authority should not attempt to preclude staff from undertaking additional employment, but any such employment must not, in the view of the authority, 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.
- Particular attention will be paid to the impact of the Working Time Regulations and other statutory protection of staff.
- A secondary job with an organisation that supplies work or services to the County Council, for example, could create a conflict – especially if the main employment involved responsibilities for acquiring those supplies or services. The Local Conditions of Service reflect this principle.
- Staff should not use County Council facilities and assets, e.g. accommodation, computing resources (including electronic mail and access to the Internet) for the purpose of any secondary employment. Management approval may be given for the use of such assets/facilities outside normal working hours to support voluntary work on a case by case basis.

16. Politically Restricted Posts

The Local Government and Housing Act 1989 requires local authorities to prepare and maintain a list of politically restricted posts. People occupying the listed posts cannot be politically active in the ways described in the legislation.

Posts are listed if they fall in any of the following categories:

a) The Remuneration Criteria

Any appointment made for posts on Spinal Point 44 or above are subject to the "Politically Restricted Post" provisions and these must be brought to the attention of the member of staff at the time of appointment. Similarly, where someone is appointed on a scale which will eventually allow them incremental progression to that point, the provisions that would then apply should be brought to their attention at the time of appointment.

b) The Politically Sensitive Criteria

Posts which involve one or both of the following:

- Giving advice on a regular basis to the County Council or any of its Committees or Sub-Committees or to any Joint Committee on which it is represented.
- Speaking on behalf of the County Council on a regular basis to the media.

c) Other Criteria

Executive Directors, other Chief Officers, Business Unit Managers and officers to whom functions of the County Council are delegated in their own right are also restricted, but do not have any right of appeal.

The terms and conditions of employment of politically restricted post holders are deemed to incorporate the following restrictions:

- Standing for election as an MP, MEP, or member of a local authority except a parish to town council.
- Acting as an election agent.
- Holding certain offices in a political party.
- Canvassing on behalf of a political party or on behalf of a candidate for election.
- Speaking or writing publicly with the apparent intention of affecting public support for a political party.

If the holder of a politically restricted post feels that the post has been wrongly listed he/she should discuss it initially with his/her Executive Director/other Chief Officer/Business Unit Manager. If after discussion, the Executive Director/other Chief Officer/Business Unit Manager confirms that, in the authority's view the post has been correctly listed, the post holder may appeal or apply for exemption to the County Council's Standard's Committee.

Those appointed to politically restricted posts should be issued with the document 'Political Restrictions on Local Government Officers' with their Written Statement of Particulars. To view a copy of this document, please see the end of this topic.

A member of staff whose post becomes politically restricted through salary advancement should receive a copy of the document as and when they qualify. Full details about an individual's rights of appeal are given in the document.

17. Personal Relationships

Elected Members

Mutual respect between County Councillors and officers is essential to good local government. Close personal familiarity between individual County Councillors and officers can damage the relationship and prove embarrassing to other County Councillors and officers (National Code of Local Government Conduct paras 23,24 and the West Sussex Conventions).

There is no bar to people who have a close personal relationship both working for the County Council, or even working in the same Business Unit. However, certain proprieties have to be observed.

When a candidate for an appointment is related to or has a personal relationship with an Elected Member, Executive Director, other Chief Officer or Deputy Chief Officer or Business Unit Manager, he/she must disclose the fact. Likewise, a Executive Director, other Chief Officer or Deputy Chief Officer or Business Unit Manager who knows of such an application must inform People Management Support.

Other Staff

For similar reasons, no member of staff may be involved in the selection, appointment, promotion or disciplinary procedures involving a person with whom they have a close relationship.

If, through promotion or for other reasons, a line manager is likely to come to have responsibility for a member of staff with whom he/she has a close personal relationship then they must both understand that adjustments will have to be made. This would be to avoid any suggestion that the personal relationship is improperly affecting the working situation. Such a situation would be dealt with wherever possible by means of a mutually acceptable resolution. Reference to the National Code on Local Government Conduct is also useful if there is a problem in this area.

Contractors

Any personal relationships with contractors or potential contractors should be made known in accordance with the legal requirements to declare financial interests.

18. Collections for Colleagues

It is acceptable common practice in many work-groups to make a collection and to provide a gift for a colleague who is leaving or on bereavement, marriage or birth of a child. However, it is not normally permissible to solicit contributions from contacts outside the County Council. Executive Directors, other Chief Officers and Business Unit Managers have discretion to allow contributions from outside contacts including other Business Units where close day-to-day working relationships make this appropriate.

19. Intellectual Property

Inventions and Patents

Inventions made before 1 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 1 June 1978 inventions are only the property of the employer if:

- They have been made in the course of the member of staff's normal duties.
- They have been made in the course of duties specifically assigned to the member of staff and where invention might be reasonably expected.
- It was made in the course of the member of staff's duties and at the time the member of staff had (because of the nature of his duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

Any staff involved in:

- Research or analysis work
- Software development using IT facilities
- Design work

in the course of their employment shall treat any resulting invention or innovation as the property of West Sussex County Council.

20. Equality Issues

Staff should be aware of the provisions of and their responsibilities under the following Acts:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Acts 1975 and 1995, as amended 1999 and 2004
- The Human Rights Act 1998
- Employment Equality (Age) Regulations 2006

Staff should also be aware of the County Council's Equality and Diversity Policy.

Compliance

All members of the local community, customers and other staff have a right to be treated with fairness and equity. All local government staff should ensure that policies relating to equality issues, as agreed by the County Council, are complied with in addition to the requirements of the law. Discrimination on any grounds, e.g. age and sexual orientation or personal interest, is completely unacceptable.

To view a copy of the County Council's Equality and Diversity Policy, please see the link at the end of this document.

21. Offences

All applicants are asked to declare on the job application form any history of offences, other than spent offences, before they are appointed. For some posts (e.g. those involving contact with children or vulnerable people), no offences are regarded as "spent". Checks may be made, via the Criminal Records Bureau, with the consent of the applicant.

The Rehabilitation of Offenders Act 1974 sets out when and in what circumstances offences are "spent" and so do not have to be disclosed. This information is available from the People Management Guide in the "Recruitment" section.

Any member of staff who is charged with a criminal offence other than traffic violations which do not carry an endorsement while in employment with West Sussex County Council should notify their line manager immediately. This notification may lead to precautionary steps being taken. This is only likely in a limited number of cases (e.g. a charge of child abuse, even if outside their work, for a careworker) but it could mean, for example, suspension until the case is heard.

Failure to disclose such a charge may be considered as a disciplinary offence.

The offence itself will affect the member of staff's employment only if it affects their ability or suitability to undertake their work. Even if they are not convicted, however, the **circumstances** that gave rise to the charge could result in disciplinary action being taken.

22. Concern about Possible Impropriety from Others

Staff may, during the course of their work, become aware or begin to suspect that other staff have breached the guidelines set out in this document.

There may also be similar difficulties with reference to contractors, clients or elected members. The County Council has approved a confidential reporting policy, which has been circulated to all staff, to support staff in such situations and staff should observe the guidance set out in the policy. This policy is available via the People Management Guide or from the Internal Audit pages on the intranet.

Attachments

- Guide for Home Care Staff
- Sources of Information
- West Sussex County Council Standards of Conduct
- Acceptable use of computer systems
- Anti fraud and corruption strategy
- Political restrictions on Local Government officers
- Equality and Diversity Policy
- Confidential reporting Policy

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