



CODE OF CONDUCT FOR EMPLOYEES OF SCOTTISH BORDERS COUNCIL

1.0 INTRODUCTION

- 1.1 The public expects a high standard of conduct from all local government employees in Scotland. There is a National Code of Conduct for Councillors and COSLA (Convention of Scottish Local Authorities) has produced a National Code of Conduct for local government employees in Scotland. The Local Government Ombudsman will use this National Code as a benchmark of good practice where a complaint of maladministration has been made. The Code of Conduct for Employees of Scottish Borders Council (the Code) is therefore based on the National Code and it sets out the minimum standards of conduct that are expected of you as an employee of Scottish Borders Council.
- 1.2 The Code also reflects the values of the Council which are:-
- Accessibility
 - Courtesy
 - Openness
 - Responsiveness
- 1.3 The Code does not affect your rights and your responsibilities under the law; its purpose is to provide clear and helpful advice to you. Some parts of the Code may apply more to some employees than to others because of the nature of their work, but all employees must act in accordance with the Code. Those employees involved in processing applications for services or resources, licences or statutory consents and also those involved in the procurement of goods and services need to pay particular attention to the Code. A breach of the Code may give rise to disciplinary action.
- 1.4 Equally importantly, the Code also provides you with guidance about your rights and responsibilities at work.
- 1.5 As far as possible you should also comply with the Code where you are appointed as a representative of the Council on any organisation, Trust or company.
- 1.6 **Please ensure therefore that you are familiar with the contents of this code.**

2.0 THE SEVEN PRINCIPLES OF PUBLIC LIFE

- 2.1 The Code has encompassed "The Seven Principles of Public Life" identified by the Nolan Committee on Standards in Public Life. They are listed below, altered slightly to place them in a local government context.
- 2.2 Selflessness
You should take decisions solely in terms of the Council's interest. You should not take decisions in order to gain financial or other material benefits for yourself, your family, or your friends.

2.3 Integrity

You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Council.

2.4 Objectivity

Any decisions or recommendations which you make in the course of your employment including making appointments, awarding contracts, or recommending individuals for rewards or benefits must be based solely on merit.

2.5 Accountability

You are accountable to the Council as your employer. The Council in turn is accountable to the public.

2.6 Openness

You should be as open as possible in all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when it is clearly demanded by Council policy or the law.

2.7 Honesty

You have a duty to declare any private interests which might affect your work with the Council.

2.8 Leadership

If you are a manager, you should promote and support these principles by leadership and example.

3.0 YOUR RELATIONSHIPS

3.1 The Public

You may have contact with members of the public as users of services, clients, citizens or potential employees. You should always be courteous and helpful. You should deal fairly, equitably and consistently with each member of the public.

3.2 The Council is committed to promoting equality of opportunity and eliminating discrimination within its own employment practices and service delivery. You must therefore comply with any equal opportunities policy adopted by the Council.

3.3 Councillors

The National Code of Local Government Conduct which relates to Councillors gives the following guidance on the relationship between Councillors and employees -

3.4 "Both Councillors and employees are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only as long as their term of office lasts. Employees are responsible to the Council. Their job is to give advice to councillors and their Council, and to carry out the Council's work under the direction and control of the Council, their committees and sub-committees.

3.5 Mutual respect between Councillors and employees is essential to good local government. Close personal familiarity between individual Councillors and employees can damage the relationship and prove embarrassing to other Councillors and employees."

3.6 These principles apply equally in this Code.

3.7 Colleagues

As an employee of Scottish Borders Council you must treat your fellow employees with courtesy and respect and have regard to relevant policies and procedures of the Council, for example, Equal Opportunities, Stress and Harassment.

3.8 Contractors

You must be fair and impartial in your dealings with contractors, sub-contractors and suppliers. By law you must give written notice to the Council of any interest you have in any contract or proposed contract. Such notice must be given to your line manager for inclusion in the departmental register of employee interests.

3.9 If you are involved in ordering of works, goods or services and/or the tendering process you must follow the procedures and rules contained in the Council's Financial Regulations and Standing Orders in relation to tenders and contracts.

3.10 If you are an employee who has both a "client" and "contractor" responsibility you must observe the requirement for accountability and even-handedness in undertaking these two roles.

3.11 If you have access to confidential information on tenders or costs for either internal or external contractors you must not disclose that information to any unauthorised individual or organisation. If you are in any doubt you must discuss any proposed disclosure with your line manager.

4.0 CONFLICTS OF INTEREST

4.1 As an employee of Scottish Borders Council you must not allow any private interest to influence your decisions.

4.2 You must not use your position to further your own interests or the interests of others who do not have a legitimate right to benefit under the policies of this Council.

4.3 You may have a private interest which relates to the work of the Council. That interest may be a financial one or one which a member of the public might reasonably think could influence your judgement. In addition close family members or people living in your household may have financial interests in the work of the Council. All such interests of which you are aware must be declared to your line manager for inclusion in the departmental register of employee interests.

4.4 If you have an interest in a matter which is being discussed at a meeting of the Council, at one of its committees, sub-committees or joint committees, or, at any other work related meeting which you are due to attend you must declare the interest to your line manager or other senior officer prior to the meeting or immediately it becomes apparent. You must not be present at the meeting when the matter is being discussed and decided upon.

4.5 If you are a member of an organisation or a club where membership might result in a conflict of interest in relation to any aspect of your work with the Council you must declare this membership to your line manager for inclusion in the departmental register of employee

interests. This requirement applies equally to membership of organisations or clubs which are not open to the public and which have secrecy about their rules e.g. Freemasonry.

5.0 OPENNESS AND DISCLOSURE OF INFORMATION

- 5.1 Scottish Borders Council's decision making process must be transparent and open and the Council must provide the public with clear and accessible information about how it operates. There is a comments and complaints procedure, 'Something to Say', which is in place for the public to use when things go wrong but also to express satisfaction with our services.
- 5.2 You should be aware however that there are exceptions to the principle of openness where confidentiality is involved and information may be withheld. For example, it may be necessary to keep, as confidential, information about either an individual or an organisation which might compromise the right of personal or commercial confidentiality or breach Data Protection legislation. Any legal duty to provide such information may override these considerations.
- 5.3 You must follow any policy of the Council or guidance issued on making information available to the public and you must not break the law in this area. If you are in any doubt, you should seek guidance through your line manager, Legal Services or Corporate Administration as appropriate.

6.0 PAID EMPLOYMENT AND VOLUNTARY WORK OUTSIDE THE COUNCIL

- 6.1 Your loyalty as an employee should be to the Council. However you are permitted to undertake work outside the Council unless there is a possible conflict or adverse effect on the work of the Council. With the exception of Chief Officials (Chief Executive, Directors, Assessor and Heads of Service) who are required to obtain written permission there is no specific requirement for any other employee to obtain permission to undertake other work. You are advised however to seek the advice of your line manager where any doubt exists or where there is some similarity between your job with the Council and the other work outwith the Council. Under no circumstances should you make use of confidential or sensitive information gained through your employment with the Council. You are not permitted to use the equipment or resources of the Council when carrying out work outside the Council except with the specific approval of the Director or Head of Service (see Use of Resources) and you must not undertake such work during your normal working hours. You must ensure that the total hours you work for the Council and any other employer together do not breach the requirements of the Working Time Regulations.
- 6.2 If you receive a fee for a publication, broadcast, speech or lecture where you have used official information, Council time or Council resources then the fee should be paid to the Council.
- 6.3 Employees whose job involves processing applications for services or resources, licences or statutory consents and also those involved in the procurement of goods and services must pay particular attention to the sections on Hospitality and Gifts.

7.0 HOSPITALITY

- 7.1 In the course of your employment you should only accept offers of hospitality if you can answer 'Yes' to the questions

- 'Can I justify this?' and
- 'Can I be sure I will not be subject to legitimate criticism?'

7.2 If you are in any doubt, you should seek the advice of your line manager, but err on the side of caution.

7.3 In accordance with the Council's Financial Regulations, employees must declare any offer of hospitality valued at over £10, whether accepted or not, in their departmental register as soon as possible after the offer.

7.4 You should only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented. Before accepting any such invitation you must seek specific authority from your Director or Head of Service. You should not accept regular hospitality from the same source.

7.5 If you are making a visit to inspect equipment, vehicles, land or property with a view to possible purchase on behalf of the Council, or to attend meetings to discuss such matters, you must ensure that the costs are met by the Council.

7.6 **Appendix 1 contains further guidance to assist you in responding to offers of hospitality.**

8.0 GIFTS

8.1 In the course of your employment you must not accept personal gifts from other organisations or members of the public, colleagues, pupils etc except for items of nominal value for example pens, diaries, calendars, flowers or other small tokens of gratitude.

8.2 In accordance with the Council's Financial Regulations employees must declare the offer of gifts valued at over £10, whether accepted or not, in their departmental register as soon as possible after the offer.

8.3 **Appendix 1 contains further guidance to assist you in responding to offers of gifts. Day Care Outreach Staff must also refer to guidelines issued by Lifelong Care on Dealing with Client Finances.**

9.0 CORRUPTION

9.1 It is important that you are aware that it is a serious criminal offence (and disciplinary matter) for you 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 the course of your work with the Council.

10.0 USE OF RESOURCES

10.1 You and your colleagues serve the public and you must remember this principle when you use Council equipment, materials and resources, in order to ensure value for money. You must follow any policy/practices of the Council on the personal use of Council equipment, for example, reporting and paying for personal telephone calls or use of the photocopier.

10.2 In accordance with the Financial Regulations no Council property or equipment may be used other than for Council purposes except with the specific approval of the Director or Head of Service.

11.0 APPOINTMENTS

- 11.1 Employees must follow the principles contained in the Council's Recruitment and Selection Policy and Procedure. All appointments must be made solely on the basis of merit.
- 11.2 If you are involved in the recruitment and selection process and have any kind of relationship which might affect your ability to be impartial, that relationship **must** be declared to your line manager who will decide whether you can or cannot participate in the recruitment and selection process.
- 11.3 The same procedure must be followed by you where any other personnel procedure is involved, for example, grievance, discipline or job evaluation and where a similar kind of relationship exists. Where any doubt exists, the advice of your line manager should be sought.
- 11.4 You must not lobby a Councillor or another colleague either directly or indirectly to secure either your own appointment or promotion or the appointment or promotion of another person. If you have been lobbied either by an applicant, another colleague, a Councillor or any other person you must report the matter to your line manager. Your Line Manager may discuss this with departmental managers and/or HR as appropriate.

12.0 CONTACT WITH THE MEDIA

- 12.1 In the course of your employment with the Council, you should only make contact with the media or respond to enquiries from the media where you have been authorised to do so by the Chief Executive, Director or Head of Service. Any such statement you make must reflect the policies and views of the Council. You must follow any Departmental instructions in relation to contact with the media.
- 12.2 The provisions set out in the previous paragraph do not apply to employees where they are acting in their capacity as trade union representatives and are communicating the view of their trade union to the media.

13.0 POLITICAL NEUTRALITY

- 13.1 Your political neutrality as an employee is expected by the public and must be respected by Councillors. The political activities of a small number of employees are restricted by law. Those employees holding politically restricted posts will have been notified individually in writing by HR confirming the restrictions which apply.
- 13.2 You must serve the Council as a whole and all Councillors, regardless of their political outlook. The Chief Executive and senior officers have an additional responsibility to help ensure the implementation of the policies of the Council.
- 13.3 You must implement the policies of your Council irrespective of your personal views.
- 13.4 If you are asked by a Councillor to provide assistance on a matter which is clearly party political or which does not have a clear link with the work of the Council you should politely refuse the request and inform the Councillor that you are referring the matter to your line manager, who must ensure that it is reported to the Chief Executive.
- 13.5 Some employees will have a close working relationship with Councillors of the majority political group (or groups) which form the administration of the Council. However, any political group may wish a Council employee to attend a meeting to advise the group. The

following procedure about access by political groups to the advice of employees must be followed, therefore if you are approached directly you should refer the Councillor(s) to the Chief Executive.

- a) The office Bearer(s) (of the group) must first approach the Chief Executive.
- b) The nature of the advice sought must be indicated to the Chief Executive.
- c) The Chief Executive will decide whether attendance at the meeting is appropriate and if so which employee(s) should attend.
- d) Once the employee has given the advice to the group the employee must leave the meeting before any decision is made.
- e) *Strict confidentiality must be observed by the employee - the discussion in one political group should not be disclosed to another political group or to any member of that group.*

14.0 YOUR RIGHTS AS AN EMPLOYEE

14.1 Public Statements

As a member of the public, you are entitled to express your views about the Council, provided you do not make use of any confidential information gained through your work with the Council. However, in your work capacity you should not knowingly criticise the Council either through the media or at a public meeting, or in any written or oral communication with members of the public.

14.2 Access to Councillors

As a member of the public, you are entitled to raise with Councillors any complaint which you have about the services of the Council, but if your complaint concerns any aspect of your work you must make use of the Council's Grievance Procedure.

14.3 Fair and Reasonable Treatment at Work

You are entitled to expect fair and reasonable treatment by your colleagues, managers and by Councillors. If you feel that you have been unfairly treated or have been discriminated against you are entitled to make use of the Council's Grievance Procedure, Harassment Policy or other relevant procedure or policy.

14.4 Disclosure of Unlawful or Improper Actions "Whistle Blowing"

There may be rare occasions when you feel that you have been or may be required by a colleague, a Councillor or a member of the public, or by an organisation, to act in a way which is dangerous, fraudulent or otherwise illegal, improper, unethical or which is otherwise in conflict with the principles or the spirit of this Code of Conduct. There may also be an occasion where you have information leading you to believe that an employee, Councillor or other person associated with the Council is behaving dangerously, fraudulently or otherwise illegally, improperly, unethically or in a way which is otherwise in conflict with the principles of this Code of Conduct.

14.5 Examples of this type of unacceptable behaviour are:

- failure to comply with a legal obligation
- improper or unauthorised use of public or other funds
- a criminal offence

- financial irregularity
 - dishonesty
 - malpractice
 - corruption
 - bribery
 - abuse of people within the Council's care
 - miscarriage of justice
 - danger to the health or safety of any individual
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- damage to the environment
 - the deliberate concealing of information about unlawful or improper actions

14.6 In these circumstances you must follow the Council's procedure for dealing with such matters which aims to ensure that they are raised and addressed within the Council (see Appendix 2).

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Guidance On Responding To Offers Of Hospitality Or Gifts

1.0 GENERAL GUIDANCE

- 1.1 This guidance note is intended to give you, as a Scottish Borders Council employee, further guidance on what action is appropriate if you receive an offer of hospitality or a gift in the course of your employment.
- 1.2 The following apply to offers of both hospitality and gifts:
- you should treat all offers of hospitality or gifts with caution
 - where you receive any offers of hospitality or gifts, you should be sensitive to the timing of decisions which affect the provider of the offer, for example, during the tendering process for letting contracts or the processing of an application for a Council service such as licensing, housing or planning
 - you must reject any offer where it might be seen as intended to influence you in the discharge of your duties
 - you should accept an offer only if you feel that by doing so you can comply with these guidelines. If you feel that an offer should not be accepted, or you have any doubt that it should be accepted, you should err on the side of caution and refuse the offer.
 - where you decline an offer of hospitality or a gift, you should do so courteously and inform the offerer of the requirements and standards of the Council as set out in the Code.
 - you must declare any offer of hospitality or gifts valued at over £10, whether accepted or not, in your departmental register as soon as possible after the offer.

2.0 GUIDANCE ON OFFERS OF HOSPITALITY

- 2.1 Offers of hospitality may be made to Council employees for a variety of reasons and whether any such offers should be accepted will depend on a number of different factors. The following guidance is intended to assist you in making judgements on these matters.
- you should only accept offers of hospitality if you can answer 'Yes' to the questions
 - 'Can I justify this?' and
 - 'Can I be sure I will not be subject to legitimate criticism?'
 - you should accept an offer of hospitality only if there is a genuine need for you to impart information or represent the Council in the community.
 - you should only accept offers to attend social or sporting events where these are clearly a part of the life of the community or where the Council would be expected to be represented.
 - you should not accept regular hospitality from the same source.

3.0 GUIDANCE ON OFFERS OF GIFTS

- 3.1 Similar considerations apply to dealing with the offer of gifts. Such offers may vary from items of token value which would be discourteous to refuse, to items of value where the offer may be interpreted as either an attempt to influence your judgement or to reward you for services supplied or to be supplied to the offerer of the gift.
- 3.2 You may only accept small personal gifts of low value such as pens, diaries, calendars, flowers or other small tokens of gratitude.

- 3.3 You must not encourage anyone to offer you a gift or other personal benefit from any organisation or individual in connection with your duties. Also you must not accept an offer of a gift from any company which you know to be in negotiation with, or tendering for a contract with the Council.
- 3.4 Day Care Outreach Staff must also refer to the “Guidelines for Day Care Outreach Staff when dealing with Client Finances” issued by Lifelong Care.
- 3.5 On rare occasions senior officers may be asked to accept a gift on behalf of the Council. Such gifts should only be accepted following consultation with the Director of the department and will become the property of the Council. A record of the receipt of such official gifts will be maintained by the Director of Corporate Resources.

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Procedure on the Disclosure of Unlawful or Improper Actions – otherwise known as “Whistle Blowing”

1.0 INTRODUCTION

- 1.1 This procedure provides a mechanism to enable employees to raise genuine and legitimate concerns on behaviour which is dangerous, fraudulent or otherwise illegal, improper, unethical, or which is otherwise in conflict with the principles or the spirit of the Code of Conduct. Examples of this type of unacceptable behaviour are detailed on page 8 of the Code of Conduct. It is intended to protect
- employees who raise genuine and legitimate concerns internally and in exceptional circumstances with appropriate external regulatory bodies
 - the Council and other employees against false, vexatious, malicious or frivolous accusations
- 1.2 The Council recognises that sometimes it will be very difficult for employees to report a concern, especially if it relates to a fellow employee. You are assured that you will not be penalised in any way for bringing forward genuine concerns. The Council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith. However, where an employee makes an allegation they know to be false or which is vexatious, malicious or frivolous disciplinary action may be considered against the employee making the allegation.
- 1.3 The Council also recognises that employees will wish their concerns to be raised and dealt with in a confidential manner. The Council will do its best to protect an individual’s identity when a concern is raised. Your initial contact will always be dealt with in the strictest confidence and discussed only with other relevant persons for the purpose of seeking advice. You must understand however, that the investigation process may reveal you as the source of the information and the information or concerns you express may lead to you becoming involved in other processes which may include being a witness under the Council’s disciplinary procedure or a criminal investigation. In these circumstances anonymity is unlikely to be maintained, however, you will be given as much support as possible throughout such processes.
- 1.4 Employees are encouraged to put their names to allegations as concerns raised anonymously are much less powerful. However, concerns raised anonymously may be investigated at the discretion of the Council, taking into account
- the seriousness of the issue raised
 - the credibility of the concern, and
 - the likelihood of confirming the allegation from attributable sources

2.0 PROCEDURE

- 2.1 If you have been required or requested to behave in a way which is dangerous, fraudulent or otherwise illegal, improper, unethical or which is otherwise in conflict with the principles or the spirit of the Code of Conduct, or you have information leading you to believe that an employee, Councillor or other person associated with the Council is acting in this manner, you must report this to your Line Manager. Following consultations as appropriate with the

Head of Service, Director and/or other Senior Officers in the Council, your Line Manager will inform you of what action will be taken.

- 2.2 If you feel unable to approach your Line Manager because, for example, it is the behaviour of your Line Manager that is the cause of your concern, you must report the matter to the next appropriate more senior officer in your department. Following appropriate consultation you will be informed by the Senior Manager of the action being taken.
- 2.3 If you feel unable to discuss the matter with any Manager within your department, or the concern relates to an Elected Member, you must report the matter to the Monitoring Officer for the Council, currently the Head of Legal Services. Following consultations as appropriate with the Chief Executive or other Senior Officers of the Council, the Monitoring Officer will determine what action should be taken and will inform you of this.
- 2.4 If you feel that it is not appropriate to approach any of the above you should report the matter to the Chief Executive who will determine what action should be taken and inform you of this.
- 2.5 If you feel that it is not appropriate to approach any officer of the Council, including the Chief Executive, you should report the matter to one of the following Councillors:
Leader
Depute Leader
Civic Head
Depute Civic Head
Or if you prefer, with any other Councillor, who would raise the matter on your behalf with one of the above Councillors.
Following appropriate consultation you will be informed of what action is being taken.
- 2.6 Concerns may be reported orally or in writing and normally an appropriate officer will be appointed to carry out a comprehensive internal investigation. This will usually commence with a detailed interview of the employee making the allegation and a full record of the concerns will be prepared. Once the investigation is complete the investigating officer will send their report to the appropriate managers, normally including the Director and Chief Executive. Where it is considered that a complaint is justified, appropriate action, possibly including a disciplinary hearing, will be taken. Although you might be involved in such a hearing as a witness you will not be informed of the outcome of the hearing as this is confidential. Where there is evidence of possible criminal activity, the Chief Executive would decide whether to inform the police, who may carry out their own investigation.
- 2.7 All concerns should normally be reported as detailed above in the first instance. You may only make a disclosure to other parties where you remain dissatisfied with the outcome of the internal procedure or in exceptional circumstances where you reasonably believe that
 - you would be victimised as a result of raising the issue, and/or
 - that relevant evidence would be concealed or destroyed by the Council, and/or
 - the alleged breach of conduct was so exceptionally serious as to justify bypassing the internal procedure
- 2.8 Appropriate other parties are:
 - **SBC Councillors** – SBC Councillors can be contacted at Council HQ, Newtown St Boswells, or at their regular surgery. If you are unsure how to contact them, call the Council on 01835 824000 for advice.

- **External Auditors** – Scott Moncrieff, a firm of private accountants are currently appointed by the Accounts Commission to scrutinise the Council's finances and performance. Tel No: 0131 473 3500.
- **the Police** – suspicions of fraud or corruption may be investigated by the Police

- **the Local Government Ombudsman** – this is an independent body set up by the Government to deal with complaints against Councils in the United Kingdom. Scottish Public Services Ombudsman Tel No: 0870 011 5378
- **Public Concern at Work** – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 020 7404 6609 or can be e-mailed at whistle@pcaw.demon.co.uk
- **The Health and Safety Executive** Tel No: 0131 247 2000
- **your Trade Union**