



Derry City & Strabane
District Council

Comhairle
Chathair Dhoire &
Cheantar an tSratha Báin

Derry Cittie & Strabane
Destrack Coouncil

Conflicts of Interest Policy

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1. Introduction

- 1.1 Derry City and Strabane District Council are committed to addressing the issue of conflicts of interest and therefore this policy seeks to ensure that conflicts of interest are identified and managed in a way that safeguards the integrity of staff and maximises public confidence in the Council's ability to deliver public services properly.
- 1.2 All Council officers are expected to observe the highest standards of conduct and should at all times be guided by the Code of Conduct for Local Government employees. The aim of this policy is to support officers in meeting their obligations set out within the Code of Conduct.
- 1.3 This policy brings together existing best practice policies and provides guidance on potential conflict of interest situations that may be encountered by Council officers.
- 1.4 This policy does not apply to Elected Members, as they are bound by their own Code of Conduct issued by the Department of the Environment (DOE).
- 1.5 It is important to have clear policy and guidance in this area as an officer's private interests may have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. This policy should protect Council officers from criticism and misunderstanding and protect the Council from allegations of wrongdoing or bias. Compliance with this policy will help the Council demonstrate good governance and transparency.
- 1.6 This 'Conflicts of Interest Policy' underlines the importance of managing the risk of conflicts of interest properly and serves a dual process. It:
 - Clearly sets out the Council's commitment to the effective management of conflicts of interest; and
 - Provides a framework for dealing with such conflicts in a consistent and transparent manner.

2. Purpose

- 2.1 The purpose of this policy is to ensure that actual, potential or perceived conflicts of interest are identified and managed in a way that safeguards the integrity of staff and maximises public confidence in the Council's ability to deliver public services properly.
- 2.2 This policy seeks to provide clear and simple advice and should also help staff in key positions to recognise when they have an actual, potential or perceived conflict of interest and how they should act when such a situation arises.
- 2.3 The main aim of the policy is to promote high standards in public life and especially to follow the key characteristics of propriety as defined in the 'Seven Principles of Public Life' known as the Nolan Principles. These seven principles underpinning public life are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty and Leadership.

3. Scope

- 3.1 This policy applies to all Council Employees (temporary, permanent, part time, full time and previous) and any agency staff, volunteers or consultants undertaking Council work. It also applies to those contractors working for the Council on Council premises.

4. Definitions

4.1 Conflict of Interest

- 4.1.1 “A conflict of interest involves a conflict between the public duty and the private interest of a public official in which the official’s private-capacity interest could improperly influence the performance of his/her official duties and responsibilities.”
- 4.1.2 A conflict of interest can also be perceived.
- 4.1.3 A **perceived** conflict of interest exists where it could be perceived, or appears, that private-capacity interests could improperly influence the performance of a public official’s duties and responsibilities. It may pose no actual risk to the conduct of public business, but it requires proper management in order to minimise the risk of reputational damage both to the organisation and the individual(s) concerned.
- 4.1.4 A perception of a conflict of interest can be just as significant as an actual conflict of interest. The key issue is whether there is a risk that a fair-minded outside observer, acting reasonably, would conclude that there is a real possibility of bias.

4.2 Family Relationship

- 4.2.1 A family relationship is deemed to exist between a Council officer and/or Elected Member and the person (i.e. the contractor, potential contractor, partner in a business etc.) if they are husband or wife or if the person is the:

- Parent
- Son or daughter
- Brother or sister
- Uncle or aunt
- Nephew or niece
- Grandparent
- Grandson or granddaughter

Of the Council officer or Elected Member, or of the spouse of the Council officer or Elected Member.

5. Policy Statement

- 5.1 Council employees are expected to conduct themselves with integrity and honesty in carrying out their duties and must provide the highest possible standard of service to the public.
- 5.2 Responsibility is placed on every member of staff for disclosing to an appropriate manager or officer of the Council every actual, potential or perceived conflict of interest in which he/she may be involved. In general employees' private interests must not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. Employees should not misuse their official position or information acquired in their official duties to further their private interest or those of others.

6. Conflicts of Interest

6.1 Is a conflict of interest always wrong?

- 6.1.1 In many cases a conflict of interest will be neither wrong nor unethical. The main concern is that the conflict is identified early and any risks are managed appropriately.

6.2 What are the risks to the organisation?

- 6.2.1 Actual, potential or perceived conflicts of interest can lead to doubt about the integrity of a public official and can impact on the reputation of the organisation. A conflict of interest that is concealed or managed poorly, even if unintentionally through ignorance of proper procedure, creates at best a risk of allegations or perceptions of misconduct. It could potentially result in more serious consequences against the employee or litigation against the organisation.

6.3 Whose interest?

- 6.3.1 The interest in question need not be that of the employee themselves, it can also include the interests of close relatives or friends and associates who have the potential to influence the employee's behaviour.
- 6.3.2 As a benchmark a 'close relative' would usually refer to the individual's spouse or partner, children (adult and minor), parent, brother, sister, in-laws and the personal partners of any of these. For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them. Where an individual has to declare interests of this nature they may wish to seek advice from a senior manager or the Chief Executive to ensure that all potential conflicts are identified.
- 6.3.3 A 'friend or associate' should be considered as someone with whom the individual has a longstanding and/or close relationship, socialises with regularly or has had dealings with which may create a conflict of interest.

6.4 How to recognise a conflict of interest?

- 6.4.1 The checklist at Appendix 1 should be used to help in determining if an actual, potential or perceived conflict of interest exists.

7. Potential Conflicts of Interest Situations

7.1 Staff are expected to conduct themselves with integrity, impartiality and honesty. Their private interests should not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. In particular, attention is drawn to the following examples of situations where potential conflicts of interest can occur.

7.2 Relationships with Elected Members

7.2.1 Employees are responsible to the Council through its senior managers and in many cases in carrying out their duties they also give advice to Elected Members. Mutual respect between employees and Elected Members is essential to good local government. Close personal familiarity between employees and individual Elected Members can damage this relationship and prove embarrassing to other employees and Elected Members and should therefore be avoided.

7.2.2 Employees should deal with Elected Members in a polite and efficient manner.

7.2.3 They should not approach nor attempt to influence Elected Members out of personal motives and should report to an appropriate manager if a councillor attempts to pressurise them to deal with a matter outside of Council procedure or policy.

7.3 Contact with the Local Community and Service Users

7.3.1 The community and service users have a right to expect a high standard of service from the Council. Employees have a responsibility to the community they serve and should, ensure courteous, effective and impartial service delivery to all groups and individuals within the community.

7.4 Relationships with Contractors, Planning Applicants and those applying for Council Grant

7.4.1 All relationships with external contractors or potential contractors or applicants for planning consent or grant must be made known to the appropriate manager. Similarly any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager.

- 7.4.2 Orders and contracts, grants and planning decisions must be decided in compliance with Council procedures. There should be no special favour shown in the tendering process to any businesses or potential suppliers particularly those run by, for example, friends, persons to whom the employee owes (or is owed) and obligation, partners or persons where a family relationship is deemed to exist. No part of the local community should be discriminated against.
- 7.4.3 On occasions, employees will have or had a private or domestic relationship with contractors, planning applicants or those applying for Council grants. Employees should declare that relationship as soon as they become aware of it when carrying out their role for the Council (see Appendix 2).
- 7.4.4 Employees must not accept money or any other reward from anyone who may benefit from work or funding provided by the Council. To do so would be corrupt.

7.5 Bribery & Corruption

7.5.1 Under the Bribery Act 2010 it is a serious criminal offence to:

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly.
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly.
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

7.5.2 More detail on this can be found in the Council's Anti-Bribery Policy.

7.6 Political Activity

7.6.1 Employees must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work. While the Council recognises and respects the rights of all employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest for their role within the Council. Employees who have concerns about where there is a potential conflict of interest should raise the matter with an appropriate manager.

7.7 Appointments and other employment matters

7.7.1 Employees involved in appointments should at all times act in accordance with the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures).

7.7.2 The Code of Procedures at Stage 2 - Composition of Panels states:

"Responsibility is placed on every panel member to disclose to an appropriate manager or officer of the council where potential conflict of interest may be present, for example partners or persons where a family relationship is deemed to exist."

And

"Where a potential conflict of interest exists, the issue is not about satisfying the conscience of the individual. Public perceptions and also those of other candidates must be considered and, in such cases, it may be appropriate for the individual to withdraw from the recruitment exercise."

Similarly, employees should not be involved in decisions in relation to discipline, promotion or pay adjustments for any other employee who is a friend, partner or person where a family relationship is deemed to exist.

7.8 Outside Commitments

7.8.1 An employee must not subordinate their duty to the Council to their private interests or put themselves in a position where duty and private interests conflict. It is not the objective of Council to attempt to preclude officers from undertaking additional employment outside their hours of duty. However, any such employment must not, in the view of the Council, conflict with or be detrimental to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

7.8.2 Employees should dedicate 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. Where an officer wishes to engage in other business or take up additional appointments they must seek permission of the Council and act at all times in accordance with any contractual obligations in this respect. Additional appointments must be approved by the relevant Lead Officer, Head of Service, Director or Chief Executive.

7.9 Personal Interests

7.9.1 Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest. Employees must declare to their line manager (as per Appendix 2) any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- Membership of an organisation receiving grant aid from the council;
- Membership of an organisation or pressure group which may seek to influence the Council's policies;
- Membership of an organisation which may seek to influence the performance of an employee in carrying out their duties; and
- Having a beneficial interest in land which is within the Council's district and is subject to any planning application.

7.9.2 Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services.

7.9.3 The Council recognises and respects the right of all employees to become members of organisations. It only requires that employees declare personal interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation.

7.10 Tendering

7.10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

7.10.2 Employees must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors. Employees who are privy to confidential information relating to the tendering process should not disclose that information to any unauthorised party or organisation.

7.10.3 Employees should ensure that in awarding contracts, no special favour is shown to any person or company. It should be noted that all council staff, sitting on procurement evaluation panels must sign a declaration to indicate that they have acted in accordance with the Code of Conduct and acted fairly and equitably and that they are aware of no conflicts of interest that could influence their ability to be or to be seen to be impartial in the procurement process.

7.11 Preventing Conflicts of Interest

7.11.1 Derry City and Strabane District Council aim to prevent conflicts of interest arising in the first place and therefore in order to do this encourage officers not to:

- Have any involvement in any decision that could lead to financial gain or benefit to the individual, a relative or close friend;
- Have any involvement in any decision that could lead to the appointment of a relative or friend;
- Have any involvement in, or influence, the award of a contract or grant where the Council Officer is connected to any of the tenderers or applicants;
- Carry out business on behalf of the organisation with their own or a relative's company;
- Own shares in, or work for, organisations that have dealings with the Council; and
- Accept gifts and hospitality in connection with their official role in compliance with the Council's Gifts & Hospitality Policy.

8. Managing Conflicts of Interest – Roles & Responsibilities

8.1 Declaration of Interest Forms

8.1.1 All Council employees are required to complete an annual declaration of interests form – see Appendix 2. This will allow the organisation to identify when a conflict may arise and plan how to manage it. Regularly completing this annual declaration will remind employees that they must guard against conflicts that may arise as a consequence of their employment. The annual declaration of interests form will be issued to all staff on the 1st April each year by the Lead Assurance Officer.

8.2 Register of Interest

8.2.1 Declaration of interest forms should be compiled into a 'Register of Interests' (refer to Appendix 3) and retained within each directorate by a designated officer. The register enhances transparency within the organisation and is a useful tool to help individuals and managers identify conflicts at an early stage and take the necessary steps to manage them. The register should be kept up to date through an annual declaration of interest's process. In addition, all staff must ensure that any new actual, potential or perceived conflicts of interest are declared immediately and any changes to their declarations are recorded as and when they arise.

8.2.2 The Register of Interests should record the following information for each conflict of interest:

- Name of the employee;
- The Circumstances involved;
- An assessment of the situation;
- How the matter was resolved or how the risk was reduced/eliminated; and
- Any action taken by the organisation.

8.2.3 The Chief Executive and the Directors will review their relevant registers at least annually. Evidence of this review should be documented and retained. In addition to this the registers will be inspected by Audit on a regular basis.

8.2.4 Officers should be aware that the registers may be released under the Freedom of Information Act.

8.3 Disclosing a conflict of interest

- 8.3.1 Council officers must be open and transparent about any overlap between their official role and private interests and must fully disclose any such conflict of interest to the organisation. This allows others with suitable expertise to determine whether an actual, potential or perceived conflict of interest exists, to assess its seriousness and to decide on any action needed to manage it.
- 8.3.2 In addition to the annual declaration of interests and notification of changes as they arise, conflicts of interest should also be declared where they arise in specific settings. For example tender evaluations, recruitment processes, committee meetings etc.
- 8.3.3 A declaration of interests form should be completed as part of the appointment process for all council employees. A declaration of interests section should be included in job application packs, enabling the interview panel to review this information. This allows the conflict to be explored to determine how it might affect the individual's ability to contribute effectively and impartially to the role and how the conflict may be handled following appointment. If the interview panel regards the conflict as so serious that impartiality and integrity could not be assured, the individual's application may be deemed ineligible.

8.4 Managing conflicts of interest

- 8.4.1 When an actual, potential or perceived conflict of interest has been identified, organisations must carefully consider what action, if any, needs to be taken to adequately avoid or mitigate the associated risks. The seriousness of the conflict, as well as the range of options available to manage or monitor it, must be assessed.
- 8.4.2 As and when conflicts of interest are declared they will be reviewed by the relevant Lead Officer / Head of Service / Director or the Chief Executive to establish what action, if any, needs to be taken. When an individual reports an interest, management must consider how it should be dealt with. Questions to be answered include:
- Could the council employee's family or friends gain from his/her connection to the Council?
 - How is the declared interest likely to be perceived externally?
 - Could the declared personal interest damage the reputation, impartiality or integrity of the Council?

- Is there a possibility that the declared interest might influence decision making by the employee or others?

8.4.3 There are different options for managing conflicts of interest including the following:

- Register
- Restrict
- Recruit
- Remove
- Relinquish
- Resign

Refer to Appendix 4 for the most and least suitable times to use the above management strategies.

8.5 Breaching the Conflicts of Interest Policy

8.5.1 All employees are required to comply with this policy and failure to do so may result in a range of consequences for both the individual concerned and the organisation including the following:

Individual

- Embarrassment
- Disciplinary action
- Being subject to an internal or external enquiry
- Loss of employment
- Criminal prosecution

Organisation

- Reputational damage
- Loss of public trust
- Being subject to an external inquiry
- Legal action

9. Implementation

This policy applies to all Council workers (temporary, permanent, part time, full time and previous) and any agency staff, volunteers or consultants undertaking Council work. It also applies to those contractors working for the Council on Council premises.

9.1 Support & Advice

Advice and guidance on how matters of concern may be pursued can be obtained from the Internal Audit Manager, Lead Legal Services Officer or Lead Assurance Officer.

9.2 Guidelines & Forms

The Code of Conduct for Local Government Employees will assist in the implementation of or compliance with this policy.

9.3 Communication Strategy

All Council Workers, agency staff and consultants will be provided with a copy of this policy. Staff will be advised if further information is required in relation to the policy to contact the Internal Audit Manager, Lead Legal Services Officer or Lead Assurance Officer for advice and guidance. Training will also be delivered in relation to this policy.

9.4 Risk Management

Failure to effectively implement this policy increases the risk of the Council not achieving the highest possible standards in terms of openness, probity and accountability. This in turn increases the risk of problems being overlooked or the concern being directed to the media or other external bodies. This policy will be monitored regularly to ensure that it is being implemented.

10. Monitoring, Review & Evaluation

10.1 This Policy will be reviewed in April 2019 by the Lead Assurance Officer.

Appendix 1 – Recognising a Conflict of Interest

Do you think you have an actual, potential or perceived conflict of interest?

The following questions may help when assessing an issue being considered and the situation in which you are involved.

- Would I or anyone associated with me benefit from, or be detrimentally affected by, my proposed decision or action?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?
- Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?
- Do I or a relative, friend or associate stand to gain or lose financially in some covert or unexpected way?
- Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?
- Have I contributed in a private capacity in any way to the matter my organisation is dealing with?
- Have I made any promises or commitments in relation to the matter?
- Have I received a substantial gift, benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?
- Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?
- Could this situation have an influence on any further employment opportunities outside my current official duties?
- Could there be any other benefits or factors that could cast doubt on my objectivity?

Appendix 2 –Declaration of Interest Form

Declaration by Member of Staff

Period / Date:

Surname	
Forename	
Job Title	
Section / Directorate	
Date of Appointment to Current Position	
Date of Appointment to Council (if different)	

Please include dates and role

1. Company Interests – any relationship with a company or commercial organisation; Directorships, paid employment, consultancy; close family connection.

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2. Self-Employment

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3. Land or Property Holdings

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4. Charities - trusteeships, governorships or employment with any charities or voluntary organisations.

5. Public Appointments – remunerated or unremunerated.

6. Memberships - including membership of professional or external bodies, trade.

7. Close family links – specific close family interest in any of the above.

8. Other interests - any other interests held by you or your close family.

I confirm that the above declaration is complete and correct to the best of my knowledge and belief. The interests I have declared include both direct and indirect interests (i.e. those of a partner, spouse or close relative) and any specific financial interests are shown.

Signature:

Date:

Print:

Appendix 4 –Managing Conflicts of Interest

Management Strategy	When Most Suitable	When Least Suitable
<p>Register</p> <p>Where details of the existence of a possible or potential conflict of interest are formally registered.</p>	<ul style="list-style-type: none"> • For very low-risk and potential conflict of interest. • Where the act of transparency through recording the conflict of interest is sufficient. 	<ul style="list-style-type: none"> • The conflict of interest is more significant or higher risk. • The potential or perceived effects of a conflict of interest on the proper performance of the employee’s duties require more proactive management.
<p>Restrict</p> <p>Where restrictions are placed on employee’s involvement in the matter.</p>	<ul style="list-style-type: none"> • The employee can be effectively separated from parts of the activity or process. • The conflict of interest is not likely to arise frequently. 	<ul style="list-style-type: none"> • The conflict is likely to arise more frequently. • The employee is constantly unable to perform a number of their regular duties because of conflict of interest issues.
<p>Recruit</p> <p>Where a disinterested third party is used to oversee part or all of the process that deals with the matter.</p>	<ul style="list-style-type: none"> • It is not feasible or desirable for the employee to remove themselves from the decision-making process. • In small or isolated communities 	<ul style="list-style-type: none"> • The conflict is serious and ongoing, rendering ad hoc recruitment of others unworkable. • Recruitment of a third party is not appropriate for the proper handling of the matter. • A suitable third party is unable to be sourced.
<p>Remove</p> <p>Where an employee chooses to be removed from the matter.</p>	<ul style="list-style-type: none"> • For ongoing serious conflicts of interest where ad hoc restriction or 	<ul style="list-style-type: none"> • The conflict of interest and its perceived or potential effects are

	recruitment of others is not appropriate.	<p>of low risk or low significance.</p> <ul style="list-style-type: none"> The employee is prepared to relinquish the relevant private interest rather than radically change their work responsibilities or environment.
<p>Relinquish</p> <p>Where the employee relinquishes the private interest that is creating the conflict.</p>	<ul style="list-style-type: none"> The employee's commitment to public duty outweighs their attachment to their private interest. 	<ul style="list-style-type: none"> The employee is unable or unwilling, for various reasons, to relinquish the relevant private interest.
<p>Resign</p> <p>Where the employee resigns from their position within the organisation.</p>	<ul style="list-style-type: none"> No other options are workable. The employee cannot or will not relinquish their conflicting private interest and changes to their work responsibilities or environment are not feasible. The employee prefers this course as a matter of personal principle. 	<ul style="list-style-type: none"> The conflict of interest and its potential or perceived effects are of low risk or low significance. Other options exist that are workable for the employee and the organisation.