



Department for

Communities

www.communities-ni.gov.uk

Review of the Northern Ireland Local Government Code of Conduct for Councillors

Public Consultation

DECEMBER 2016

This page is intentionally blank

Contents	Page
Introduction	1
About this consultation	1
Who this consultation is aimed at	1
Purpose of the consultation	1
Scope of consultation	1
Duration of the consultation	2
How to respond to this consultation	2
Consultation response	2
How we consult	3
Consultation principles	3
Freedom of information	3
Overview	4
Background	4
The Work of the Review Group	5
The Review Group's Proposals	5
Summary of Recommendations of the Review Group	5
Proposed Amendments to the Councillors' Code	8
Amendments to Part 3 (the Principles)	8
Amendments to Part 8 (Decision-Making)	9
Additional recommendations of the Review Group	10
Way forward	10
Annex A – Revised Northern Ireland Local Government Code of Conduct for Councillors	
Annex B – Detail of the Review Group Recommendations	

This page is intentionally blank

1. Introduction

This consultation sets out proposals to amend the current Northern Ireland Local Government Code of Conduct for Councillors (the Councillors' Code). These proposals have been put forward following a review of Parts 3 and 8 of the Councillors' Code carried out by the independent Code of Conduct Review Group (the Review Group). The Review Group, in considering whether to make recommendations for a revised Code, sought the views of councillors, groups representing councillors and councils, the Northern Ireland Commissioner for Complaints and the Local Government Auditor.

2. About this consultation

2.1 Who this consultation is aimed at

This consultation is seeking views on the proposals to amend the Councillors' Code, in particular, from councillors and those persons who interact with councillors and councils. The Department also welcomes the views of the general public.

2.2 Purpose of the consultation

The Department proposes to amend the Councillors' Code in line with the recommendations of the Review Group and seeks comments on the proposed amendments.

2.3 Scope of consultation

This consultation applies to Northern Ireland.

2.4 Duration of the consultation

The consultation period shall run **until 28th February 2017**.

2.5 How to respond to this consultation

Please email your consultation response to:

lqpdconsultations@communities-ni.gov.uk

Please ensure your response reaches us **by 28th February 2017**.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. We will acknowledge your response.

2.6 Consultation response

We will consider the responses received and publish a synopsis of those responses and the Departmental response on the Department's website.

In line with good practice and sustainable development this document has been published electronically.

3. How we consult

3.1 Consultation principles

This consultation is being conducted in line with the Fresh Start Agreement – (Appendix F6 – *Eight Steps to Good Practice in Public Consultation – Engagement*). These eight steps give clear guidance to Northern Ireland Departments on conducting consultations.

3.2 Freedom of information

The information you send us may need to be passed to colleagues within the Department for Communities in Northern Ireland (“the Department”).

Following the end of the consultation we shall publish a summary of responses received. Information provided in response to our consultations, including personal information, may be disclosed in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998. If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality.

To find out more about the general principles of Freedom of Information and how it is applied within the Department, please contact Information Management Branch (IMB):

Email: foi@communities-ni.gsi.gov.uk

IMB cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the [Freedom of Information Act](#).

4. Overview

This consultation sets out proposals to amend the current Northern Ireland Local Government Code of Conduct for Councillors. We would welcome views on the proposed amendments. Any amendment to the Councillors' Code will require the approval of the Assembly.

4.1 Background

The current Councillors' Code is underpinned by 12 principles of conduct which are intended to promote the highest possible standards of behaviour for councillors and which mirrored the principles contained in the code of conduct for Members of the Legislative Assembly (the MLA Code) which was in place at the time the Councillors' Code was being developed.

The Councillors' Code was approved by the Assembly on 28th May 2014. At this time, a review of the MLA Code was underway and the then Minister with responsibility for local government undertook to consider whether any changes should be made to the Councillors' Code in light of the review of the MLA Code.

Some concerns had also been raised regarding Part 8 (decision making) of the Councillors' Code and the then Minister appointed an independent review working group to review both the Principles in Part 3 of the Councillors' Code (taking account of the changes made to the MLA Code) and the rules on decision-making in Part 8.

4.2 The Work of the Review Group

The Review Working Group (Review Group) considered the changes made to the principles contained in the MLA Code and the issues raised concerning Part 8 of the Councillors' Code. This work commenced in November 2015 and finished in April 2016, when the Review Group presented its report to the then Minister with responsibility for local government.

To enable the Review Group to understand fully the issues regarding the Councillors' Code, the group decided to hold information gathering events to provide political parties, councillors, chief executives/senior officers, local government representative bodies, the Northern Ireland Ombudsman and the Local Government Auditor with an opportunity to provide their views in person; written submissions were also sought.

5. The Review Group's Proposals

A copy of the Review Group's Report, which contains more details on the establishment of the Review Group, and its proposals and recommendations in relation to the Councillors' Code and ethical standards framework, is being issued along with this consultation document.

The Department would like to hear any views or comments regarding the Review Group's Report.

5.1 Summary of Recommendations of the Review Group

Part 3 - Principles

The Review Group, taking account of the views of stakeholders, considered that the principles in the Councillors' Code should be

amended to reflect the principles and supporting descriptors provided for in the revised MLA Code. The Review Group also indicated that it would be advantageous to have as much consistency between the Councillors' Code and the MLA Code, as this would help to build both the public and elected members' understanding of the requirements placed on all elected representatives (see page 20 of the Review Group Report).

The Review Group made five recommendations in respect of the Principles of Conduct (see Annex A for full details):

Recommendation 1 - The principles of conduct in the Councillors' Code should be revised to reflect, as far as possible, those revised principles and descriptors provided in the MLA Code approved by the Assembly in June 2015.

Recommendation 2 - Consideration should be given to making the current principle of "Public duty" an enforceable rule in the Councillors' Code.

Recommendation 3 - The Review Group recommends the following wording for the new Rule of Public Duty –

"Public Duty

You shall uphold the criminal law. You fail to uphold the law only if you are convicted of, or admit formally, an offence committed when acting in your capacity as a Councillor."

Recommendation 4 - The principles of conduct in the Councillors' Code should be considered aspirational, in line with the revised principles in the MLA Code approved by the Assembly in June 2015.

Recommendation 5 - The Review Group recommends that paragraph 3.2 in Part 3 of the current Councillors' Code should be revised as follows –

“Councillors should observe the following principles of conduct. Whilst these principles will be taken into account when considering the investigation and determination of any potential breaches of the rules of conduct, the Principles are not themselves enforceable.”

Part 8 – Decision Making

The Review Group heard a number of views expressed with regard to Part 8 of the Councillors' Code (see pages 29 to 35 of the Review Group Report). These views highlighted areas of a councillor's work which seemed to be hindered by the application of some of the decision-making rules in Part 8 of the Code and the need for consistency in its application and clarity for councillors to determine how they should work within their council and serve their constituents.

The Review Group made two recommendations to address these issues :

Recommendation 6 - The wording of Rule 8.1 in the Councillors' Code should be revised, so that:

- Rules 8.1(a) to (h) apply to all decisions; and

- Rules 8.1(i)-(l) apply to quasi-judicial decisions (e.g. planning, licensing, etc.), to decisions on appointments and the awarding of contracts.

Recommendation 7 - The Review Group recommends that Part 8 of the Councillors' Code should be revised *in accordance with the previous recommendation* (see Annex A or page 36 of the Review Working Group Report for the revised wording).

6. Proposed amendments to the Councillors' Code

The Department has produced a revised version of the Councillors' Code (see attached Annex B) incorporating the proposals of the Review Group and would be grateful for any comments you may have on it and, in particular, any response to the questions set out below on the specific changes.

6.1 Amendments to Part 3 (the Principles)

In summary, the Principles have been amended as follows-

Principles

- The principles have been amended to reflect the content and wording of the MLA Code;
- The current Principle of "Public Duty" has been removed. Public Duty is now an additional rule (see Rule 4.2 of the revised Councillors' Code);
- Paragraph 3.2 of the Councillors' Code is amended to clarify that the Principles are now considered to be aspirational and not enforceable on their own, in line with the MLA Code.

Question 1. - Do you agree with the changes made to the Principles contained in the Councillors' Code?

Question 2. – Do you agree that the Principle of “Public Duty” should be replaced with an enforceable rule?

Question 3. – Do you agree that the Principles should be aspirational rather than enforceable on their own?

Please provide any additional information which may support your view.

6.2 Amendments to Part 8 (Decision-Making)

Part 8 (Decision-Making) of the Councillors' Code has been amended to clarify that Rules 8.1(a) to (h) will apply to all council decisions and that, in addition, Rules 8.1(i) to (l) will apply to quasi-judicial decisions (for example, planning and licensing) and to decisions on making appointments and the awarding of contracts.

Question 4. – Do you agree that Rules 8.1 (a) to (h) in Part 8 should be applied to all decisions?

Question 5. – Do you agree that Rules 8.1 (i) to (l) should only apply to

- (a) quasi-judicial decisions;**
- (b) making appointments; and**
- (c) the awarding of contracts?**

Please provide any additional information which may support your views.

7. Additional recommendations of the Review Group

The Review Group, during its evidence gathering sessions, also heard concerns from the participants on matters which were outside the remit of the Review Group and not part of the Councillors' Code i.e. Training, Advice and Procedures. The Review Group considered it important to highlight in its Report those concerns which were consistently raised – these have been set out in the Review Group Report as Emerging Issues together with recommendations for consideration.

The Department would welcome any comments you may have on these Emerging Issues and the recommendations of the Review Group (see page 38 of the Review Group Report). The Department will consider these comments as part of its development of any future changes to the Ethical Standards Framework in councils and its delivery and effectiveness.

8. Way forward

The Department will consider all responses to this consultation and issue a report summarising the responses and replying to any issues raised. Any proposed change to the current code of conduct for councillors will require the Department to lay a copy of the revised Councillors' Code in the Assembly for its approval.

Annex A

Recommendations of the Review Working Group

Part 3 – Proposed Principles of Conduct

Recommendation 1

The principles of conduct in the Councillors' Code should be revised to reflect, as far as possible, those revised principles and descriptors provided in the MLA Code approved by the Assembly in June 2015. See proposed revised principles below:

PROPOSED REVISED PRINCIPLES OF CONDUCT FOR THE COUNCILLORS' CODE

Selflessness

You should act solely in terms of the public interest.

Integrity

You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in the performance of your duties as a councillor. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships.

Objectivity

You must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.

Openness

You should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

You should be truthful.

Leadership

You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Equality

You should promote equality of opportunity and not discriminate against any person, treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependents.

Promoting Good Relations

You should act in a way that is conducive to promoting good relations by tackling prejudice, promoting understanding and respect and encouraging participation between people on the grounds of different religion, political opinion, race, gender, age, sexual orientation and disability.

Respect

You should show respect and consideration for others at all time.

Good Working Relationships

You should work responsibly with other councillors for the benefit of the whole community. Your working relationship with council staff should at all times be professional, courteous and based on mutual respect.

Recommendation 2

Consideration should be given to making the current principle of “Public duty” an enforceable rule in the Councillors’ Code.

Recommendation 3

The Review Group recommends the following wording for the new Rule of Public Duty

“Public Duty

You shall uphold the criminal law. You fail to uphold the law only if you are convicted of, or admit formally, an offence committed when acting in your capacity as a Councillor”.

Recommendation 4

The principles of conduct in the Councillors’ Code should be considered aspirational, in line with the revised principles in the MLA Code approved by the Assembly in June 2015.

Recommendation 5

The Review Group recommends that paragraph 3.2 in Part 3 of the current Councillors’ Code should be revised as follows –

“Councillors should observe the following principles of conduct. Whilst these principles will be taken into account when considering the investigation and determination of any potential breaches of the rules of conduct, the Principles are not themselves enforceable.”

Part 8 – Proposed Decision-Making Rules

Recommendation 6

The wording of Rule 8.1 in the Councillors' Code should be revised, so that:

- Rules 8.1(a) to (h) apply to all decisions; and
- Rules 8.1(i)-(l) apply to quasi-judicial decisions (e.g. planning, licensing, etc.), to decisions on appointments and the awarding of contracts.

Recommendation 7

The Review Group recommends that Part 8 of the Code should be revised as follows:

“8. RULES RELATING TO DECISION-MAKING

8.1 It must be acknowledged that councillors fulfil different roles at different times.

For example, they can sit as a council member, committee chair, member of a committee or of their party political group, representing a district electoral area or their constituents or as a council-appointed member of an outside body.

Some of these roles can cause members to be in conflict.

However, it is up to each individual member to decide which role they are carrying out at any time and observe the rules accordingly.

General Rules – Applicable when making all decisions

When participating in meetings or reaching decisions regarding the business of your council, you must

- (a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;
- (c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- (e) act in accordance with any relevant statutory criteria;
- (f) act fairly and be seen to act fairly;
- (g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;

Additional Rules – Decisions regarding quasi-judicial issues, making appointments and awarding contracts

In addition to the general rules which relate to all decisions, for decisions in relation to quasi-judicial issues, making appointments and awarding contracts, you must also:

- (i) not organise support for, or opposition against, a particular recommendation on the matter being considered;
- (j) not lobby other councillors on the matter being considered;
- (k) not comply with political group decisions on the matter being considered, where these differ from your own views; and
- (l) not act as an advocate to promote a particular recommendation in relation to the matter being considered.”

The Northern Ireland Local Government Code of Conduct for Councillors



Department for
Communities
www.communities-ni.gov.uk

2nd Edition

Approved by the Northern Ireland
Assembly on [] [2017 }

This page is intentionally blank

Contents

Part	Page
1. Introduction	1
Effective date of the Northern Ireland Local Government Code of Conduct for Councillors	1
Background	1
Public Expectations	2
Guidance	2
2. Requirement to comply with the Code	3
Who does the Code apply to?	3
When does the Code apply?	4
Enforcement of the Code	5
3. Principles of Conduct	6
4. Rules of General Conduct	8
Your obligations as a councillor	8
Behaviour towards other people	9
Disclosure of information	10
Use of your position	10
Use of your council resources	11
Expenses and allowances	11

Acceptance and registration of gifts and hospitality	11
5. Rules relating to the registration of interests	12
The role of the Chief Executive	12
Interests	12
Registration of financial and other interests and memberships and management positions	13
Sensitive information	14
6. Rules relating to the disclosure and declaration of interests	15
Pecuniary interest	15
Private or personal non-pecuniary interest	15
Dispensations	15
7. Rules relating to lobbying and access to councillors	18
Rules of conduct regarding lobbying	18
8. Rules relating to decision making	20
9. Application of the Code of conduct with regard to planning matters	22
Development management	22
Decisions contrary to officer recommendation	24
Decisions contrary to local development plan	24
Policy and strategic issues	24
Other interests	24
Unauthorised development	25

Annex A – Sources of guidance relating to the Code	26
Annex B – Glossary	28
Annex C - Sanctions	30

1. **INTRODUCTION**

Effective Date of the Northern Ireland Local Government Code of Conduct for Councillors (the Code)

- 1.1 The mandatory Code of Conduct for councillors in Northern Ireland has been in force since May 2014, following its approval by the Northern Ireland Assembly on 27 May 2014. Parts 1 to 8 came into force on 28 May 2014 and Part 9 (Planning) came into force on 1 April 2015. From November 2015 to April 2016, a review of the Code was carried out and a revised Code was approved by the Assembly on [insert date]. The re-issued Code (2nd Edition) has effect from [insert date]. The requirements of the previous version of the Code still apply to the conduct of councillors during the time that it was in place.

Background

The Local Government Act (Northern Ireland) 2014 (the 2014 Act)

- 1.2 As a consequence of decisions taken by the Northern Ireland Executive on the future shape of local government, the 2014 Act contains a number of provisions for the reform of local government. These include a new ethical framework for local government in Northern Ireland, a key element of which is the introduction of a mandatory code of conduct for councillors. Previously, councillors were guided by the non-mandatory Northern Ireland Code of Local Government Conduct which issued in April 2003.
- 1.3 The 2014 Act:-
- provides for the introduction of a mandatory Northern Ireland Local Government Code of Conduct for Councillors;
 - imposes a requirement for councillors to observe the Code; and
 - establishes mechanisms for the investigation and adjudication of written complaints that a councillor has failed, or may have failed, to comply with the Code.

- 1.4 The 2014 Act requires the Department to consult councils and such associations and bodies representative of councils and council officers and such other persons as appear to it to be appropriate, before issuing or revising the Code.

Public expectations

- 1.5 The Northern Ireland public has the right to expect high standards of behaviour from councillors and the manner in which they should conduct themselves in undertaking their official duties and in maintaining working relationships with fellow councillors and council employees. As a councillor, you must meet those expectations by ensuring that your conduct complies with the Code. The Code details the principles and rules of conduct which you are required to observe when acting as a councillor and in conducting council business. Therefore your behaviour will be judged against these standards of conduct.

Guidance

- 1.6 To assist you in understanding your obligations under the Code, you should read the guidance available from:
- the Northern Ireland Local Government Commissioner for Standards, on the application of the Code and the complaints procedure,
 - the Department for Infrastructure, on planning matters, and
 - the Equality Commission for Northern Ireland on section 75 obligations.

Information on where you can find this guidance and additional contact details are provided at Annex A.

2. REQUIREMENT TO COMPLY WITH THE CODE

Who does the Code apply to?

- 2.1 The Code applies to councillors of councils established in accordance with section 1 of the Local Government Act (Northern Ireland) 1972 Act (the 1972 Act) as amended by the Local Government (Boundaries) Act (Northern Ireland) 2008.
- 2.2 The 1972 Act requires a councillor to serve on the Chief Executive of their council, a declaration of acceptance of office before they can act in the capacity of councillor. This declaration includes an undertaking that the councillor has read and will observe the Code (as revised from time to time).
- 2.3 The 2014 Act requires that a person who is not an elected person, but who becomes a member of any committee of a council, may not act as such unless they have given a written undertaking to the Chief Executive of the council and, in the case of a joint committee, to each of the Chief Executives of the councils constituting the committee. This includes an undertaking that they have read and will observe the Code (as revised from time to time).
- 2.4 In summary, the Code applies to the following persons-
- (a) any person who is elected to office within a council,
 - (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
 - (c) any person treated as a non-voting member by section 17 of the 2014 Act, and
 - (d) any person who is a member of an overview and scrutiny committee of a council but who is not an elected representative as mentioned in section 28(4) of the 2014 Act.

Throughout the Code, where the term “councillor” is used, it shall refer to those persons mentioned in sub-paragraphs (a) to (d) above.

- 2.5 **As a councillor, it is your responsibility to make sure that you are familiar with the provisions of the Code and that you comply with those provisions.**

When does the Code apply?

2.6 You must observe the Code:

- (a) whenever you conduct the business, or are present at a meeting, of your council;
- (b) whenever you act, claim to act or give the impression you are acting in the role of a councillor; and
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your council.

2.7 You must also observe the Code if you are appointed or nominated to represent your council on another body **unless**:

- (a) that body has its own code of conduct relating to its members, in which case you must observe that code of conduct; or
- (b) compliance with the Code conflicts with any other lawful obligations to which that body may be subject. (You must draw such conflict to the attention of your council and to the other body as soon as it becomes apparent to you.)

2.8 In addition to the circumstances stipulated in paragraphs 2.6 and 2.7, you must observe the Code at all times in relation to:

- (a) conduct which could reasonably be regarded as bringing your position as councillor or your council into disrepute (including such conduct that relates to your appointment to another body, even if that appointment did not arise from your position as a councillor);
- (b) conduct relating to the procuring, advocating or encouraging of any action contrary to the Code;
- (c) conduct relating to the improper use, or attempted use, of your position to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage; and
- (d) conduct relating to the use, or the authorisation of the use by others, of the resources of your council.

Enforcement of the Code

- 2.9 The 2014 Act, as amended by the Public Services Ombudsman Act (Northern Ireland) 2016, places the responsibility for the operation of the enforcing mechanisms of this Code on the Northern Ireland Public Services Ombudsman in his/her role as the Northern Ireland Local Government Commissioner for Standards (the Commissioner). The 2014 Act extends the functions of the Commissioner's Office to include the investigation of, and adjudication on, alleged failure to comply with the Code.
- 2.10 The Commissioner may investigate written complaints from any person that a councillor (or former councillor) has failed, or may have failed, to comply with the Code. The Commissioner may also investigate cases of alleged failure to comply with the Code which come to his/her attention as a result of an investigation of a written complaint.
- 2.11 Where the Commissioner, following an investigation, determines that he/she should make an adjudication on the matters investigated, he/she will decide whether or not there has been a failure to comply with the Code. Where the Commissioner decides that there has been such a failure, he/she will decide whether no action should be taken or whether he/she should-
- (a) censure the person found to have failed to comply with the Code;
 - (b) suspend, or partially suspend, the person from being a councillor for a period of up to one year; or
 - (c) disqualify the person for being, or becoming, a councillor for a period of up to five years.

3. **PRINCIPLES OF CONDUCT**

3.1 This Code is based on 11 principles of conduct (the Principles), which are intended to promote the highest possible standards of behaviour for councillors. The Principles draw on the seven principles of conduct that the Committee on Standards in Public Life believed ought to underpin public life¹, and the four further principles of conduct that have been adopted by the Northern Ireland Assembly in their revised Code approved on 23 June 2015.

3.2 Councillors should observe the following principles of conduct. Whilst these principles will be taken into account when considering the investigation and determination of any potential breaches of the rules of conduct, the Principles are not themselves enforceable.

3.3 The 11 principles of conduct are:

Selflessness

You should act solely in terms of the public interest.

Integrity

You must avoid placing yourself under any obligation to people or organisations that might try inappropriately to influence you in the performance of your duties as a councillor. You should not act or take decisions in order to gain financial or other material benefits for yourself, your family, or your friends. You must declare and resolve any interests and relationships.

Objectivity

You must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.

¹ Committee on Standards in Public Life, Members of Parliament, ministers, civil servants and quangos (First Report) May 1995

Openness

You should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

You should be truthful.

Leadership

You should exhibit these principles in your own behaviour. You should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Equality

You should promote equality of opportunity and not discriminate against any person, treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependents.

Promoting Good Relations

You should act in a way that is conducive to promoting good relations by tackling prejudice, promoting understanding and respect and encouraging participation between people on the grounds of different religion, political opinion, race, gender, age, sexual orientation and disability.

Respect

You should show respect and consideration for others at all time.

Good Working Relationships

You should work responsibly with other members of the council for the benefit of the whole community. Your working relationship with council staff should at all times be professional, courteous and based on mutual respect.

4. **RULES OF GENERAL CONDUCT**

Your obligations as a councillor

- 4.1 You hold public office under the law and must act:
 - (a) in accordance with the Code; and
 - (b) in accordance with the standing orders of your council.
- 4.2 You shall uphold the criminal law. You fail to uphold the law only if you are convicted of, or admit formally, an offence committed when acting in your capacity as a councillor.
- 4.3 You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.
- 4.4 You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.
- 4.5 You must report, either through your council's own reporting procedure or directly to the proper authority, any conduct by any other person which you believe involves, or is likely to involve, criminal behaviour.
- 4.6 You must not, at any time, whether in the course of your duties as a councillor or in private, procure, advocate or encourage any action contrary to the Code.
- 4.7 You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.
- 4.8 You must not make vexatious, malicious or frivolous complaints against other councillors or anyone who works for, or on behalf of, your council.

- 4.9 You must maintain and strengthen the public trust and confidence in the integrity of your council. You must promote and support the Code at all times and encourage other councillors to follow your example.
- 4.10 You must co-operate with your council with regard to providing the necessary information to be included in the annual accounts of the council.
- 4.11 You must assist your council to act, as far as possible, in the interests of the whole community. Although individuals are entitled to pursue their own personal concerns about local issues, you must not represent their views over the wider public interests.
- 4.12 You must ensure that you are aware of your council's responsibilities under equality legislation, and that you are familiar with the relevant legislative statutes and provisions, in particular, with the obligations set out in your council's equality scheme.

This will enable you to have due regard to the need to promote equality of opportunity on grounds of age, marital status, disability, political opinion, race, religious belief, sex, sexual orientation, and whether or not people have dependants; and to have regard to the desirability of promoting good relations between people of different racial groups, religious belief or political opinion.

- 4.13 You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Code.

Behaviour towards other people

- 4.14 You must:
- (a) show respect and consideration for others;
 - (b) not use bullying behaviour or harass any person; and
 - (c) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your council.

4.15 You must work responsibly and with respect, with others and with employees of councils. The Local Government Employee and Councillor Working Relationship Protocol (issued October 2014) which is included as Appendix 2 in the Code of Conduct for Local Government Employees, is available on the Local Government Staff Commission's website

<http://www.lgsc.org.uk/fs/doc/Section%206.1.pdf>

Disclosure of information

4.16 You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required to do so by law.

Use of your position

4.17 You must not:

- (a) use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person;
- (b) use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or
- (c) use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person.

These provisions apply both to your actions in your official capacity, including as a member of a body to which you are appointed by the council, and to any dealings you may have with the council on a personal level (for example, as a council ratepayer, tenant, or recipient of a council service or as an applicant for a licence or consent granted by the council).

4.18 You must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

Use of council resources

- 4.19 You must not use, or authorise others to use, the resources of your council:
- (a) imprudently;
 - (b) in breach of your council's requirements;
 - (c) unlawfully;
 - (d) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of your council or of the office to which you have been elected or appointed;
 - (e) improperly for political purposes; or
 - (f) improperly for private purposes.

Expenses and allowances

- 4.20 You must observe the law and your council's rules governing the claiming of expenses and allowances in connection with your duties as a councillor.

Acceptance and registration of gifts and hospitality

- 4.21 You must:
- (a) in accordance with any standing orders of your council and within 28 days of receipt of any gift, hospitality, material benefit or service, which is above a value specified in a resolution of your council, provide written notification to your chief executive of the existence and nature of that gift, hospitality, material benefit or service;
 - (b) not accept from anyone gifts, hospitality, material benefits or services for yourself or any other person, which might place you, or reasonably appear to place you, under an improper obligation; and
 - (c) discourage gifts and offers of hospitality to any family members which might place you, or reasonably appear to place you, under an improper obligation.

5. RULES RELATING TO THE REGISTRATION OF INTERESTS

The role of the Chief Executive

- 5.1 Section 62 of the 2014 Act requires every Chief Executive to ensure that their council has established and maintains a register of member's interests. The Code recommends that a register for gifts and hospitality should also be established and maintained and that procedures are in place for dealing with relevant declarations of interests.

Interests

- 5.2 Subject to paragraphs 5.4 and 5.6, you must, within 28 days of your election or appointment to office (if that is later), register your **personal interests (both financial and otherwise)** where they fall within a category mentioned below, in your council's register by providing written notification to your Chief Executive.

Categories of interests

- a) any employment or business carried on by you;
- b) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated or non-remunerated director;
- c) any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a councillor;
- d) any corporate body which has a place of business or land within your council's district, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- e) any contract for goods, services or works made between your council and you or a firm in which you are a partner, an unincorporated body (i.e. Industrial & Provident Society), a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;

- f) any land in which you have a beneficial interest and which is within your council's district;
- g) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (d) above;
- h) any body to which you have been elected, appointed or nominated by your council;
- i) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your council's district,

in which you have membership or hold a position of general control or management; and
- j) any land within your council's district in which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

Registration of financial and other interests and memberships and management positions

- 5.3 You must, within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your Chief Executive.

Sensitive information

- 5.4 Where you consider that the information relating to any of your personal interests is sensitive information, and your Chief Executive agrees, you need not include that sensitive information when registering that interest or, as the case may be, a change to the interest.
- 5.5 In the Code, “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.
- 5.6 You must, within 28 days of becoming aware of any change of circumstances which means that sensitive information previously excluded from your council’s register of members interests due to it being sensitive is no longer sensitive, notify your Chief Executive asking that the information be included in the register.

6. RULES RELATING TO THE DISCLOSURE AND DECLARATION OF INTERESTS

Pecuniary interest

- 6.1 Section 28 of the 1972 Act requires you to declare any pecuniary interest, direct or indirect, that you may have in any matter coming before any meeting of your council. Such interests will be recorded in the register kept by your council for this purpose.
- 6.2 You must not speak or vote on a matter in which you have a pecuniary interest. If such a matter is to be discussed by your council, you must withdraw from the meeting whilst that matter is being discussed.

Private or personal non-pecuniary interest

- 6.3 You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.
- 6.4 You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.

Dispensations

- 6.5 In exceptional circumstances, you may be able to get a dispensation to speak and vote at a council meeting in spite of a pecuniary interest. The Department may grant such a dispensation under section 29 of the 1972 Act.

6.6 On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. Your council may have specific guidance on such matters. Subject to this, you may speak and vote on such a matter if **(but only if)**:

- at least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or
- your withdrawal, together with that of other councillors of the council or committee who are required to withdraw due to their personal interests in the matter, would leave the council or committee without a quorum.

6.7 In those circumstances outlined in the preceding paragraph, you should take advice on the matter from a relevant senior council employee. If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.

6.8 In the case of a sub-committee which is very small and where a large proportion of councillors declare a personal interest in the matter, it will usually be more appropriate for the matter to be referred to the parent committee.

6.9 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:

- a member of a public body; or
- a member or supporter of a charity, voluntary body or other organisation formed for a public purpose (i.e. not for the personal benefit of members).

However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the

organisation if you are a member of the organisation's management committee or governing body.

- 6.10 Section 30 of the 1972 Act requires you to disclose to the council, in writing, any relevant family relationship, as set out in paragraph (6) of that section, known to exist between you and any person you know either holds, or is a candidate for appointment to, any office in the council.
- 6.11 The requirement to make your relevant interests known on matters, in council and committee meetings, also applies in your dealings with council employees and in your unofficial relations with fellow councillors.

7. RULES RELATING TO LOBBYING AND ACCESS TO COUNCILLORS

- 7.1 In order for a council to fulfil its commitment to being open, accessible, and responsive to the needs of the public, it should encourage appropriate participation by organisations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the council conducts its business.
- 7.2 As a councillor you will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual councillors or council committees. The rules in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.
- 7.3 You may be lobbied by a wide range of people including individuals, organisations, companies and developers. As a general rule, it is an essential element of the democratic system that any individual should be able to lobby the council or a councillor.

Rules of Conduct regarding lobbying

- 7.4 If you are lobbied on matters such as applications made under regulatory powers or matters of a quasi-judicial nature, such as the determination of certain licence applications, and you will have a role in the council's decision on that matter, you must:
- (a) make it clear that you are not in a position to lend support for or against any such application; and
 - (b) direct any such representations, to the appropriate department of the council.

This does not prevent you from seeking factual information about the progress of the case.

- 7.5 If you are asked to decide on such matters, you must not:

- (a) organise support for, or opposition against, a particular recommendation on the matter;
- (b) lobby other councillors about the matter;
- (c) comply with political group decisions on the matter where these differ from your own views; or
- (d) act as an advocate to promote a particular recommendation in relation to the matter.

7.6 Paragraphs 7.4 and 7.5 also apply in relation to individual staffing matters such as the appointment or discipline of employees.

8. RULES RELATING TO DECISION-MAKING

8.1 It must be acknowledged that councillors fulfil different roles at different times.

For example, they can sit as a council member, committee chair, member of a committee or of their party political group, representing a district electoral area or their constituents or as a council-appointed member of an outside body.

Some of these roles can cause members to be in conflict. However, it is up to each individual member to decide which role they are carrying out at any time and observe the rules accordingly.

General Rules – Applicable when making all decisions

When participating in meetings or reaching decisions regarding the business of your council:

- (a) you must do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) you must have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;
- (c) you must take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) you must give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- (e) you must act in accordance with any relevant statutory criteria;
- (f) you must act fairly and be seen to act fairly;

- (g) you must ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) you must not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision.

Additional Rules – Applicable when making decisions regarding quasi-judicial issues, making appointments and awarding contracts.

In addition to the general rules which relate to all decisions, the following additional rules apply to decisions in relation to quasi-judicial issues, making appointments and awarding contracts:

- (i) you must not organise support for, or opposition against, a particular recommendation on the matter being considered;
- (j) you must not lobby other councillors on the matter being considered;
- (k) you must not comply with political group decisions on the matter being considered, where these differ from your own views; and
- (l) you must not act as an advocate to promote a particular recommendation in relation to the matter being considered.

9. **APPLICATION OF THE CODE OF CONDUCT WITH REGARD TO PLANNING MATTERS**

- 9.1 The following section relates to the application of the Code of Conduct in relation to planning matters. This section should be applied in conjunction with the Principles and Rules of the Code.
- 9.2 Care must be taken when dealing with planning matters. All councillors will have contact with planning issues, either as advocates for or against planning applications, as members of the planning committee, or as members of the full council. Your specific role will vary depending on whether you are on a planning committee or not.
- 9.3 Your role as a councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.

Development management

- 9.4 As a councillor your involvement in the development management process is crucial. Whether you sit on a planning committee or not, you can encourage developers and others to engage with the council and residents in the planning process. It is important that you represent the needs of your community in discussions with developers. Lobbying is therefore a normal and perfectly proper part of the political process.

- 9.5 However, particular considerations apply if you are a member of the decision-making planning committee, as lobbying can lead to the impartiality and integrity of a councillor being called into question. Given that a decision on a planning application cannot be made before the planning committee meeting has been held, when all relevant information relating to the application is available and has been considered, you must not make public statements about a pending decision or state your intention to vote in a particular way before the committee meeting has taken place. However, other councillors who are not part of the decision-making process can make representations and address the relevant committee
- 9.6 It is entirely appropriate for councillors, including those who will have a decision-making responsibility, to make known to planning officers what representations from constituents and prospective developers they have received on a planning application, to attend public meetings/events and to assist constituents in making their views known to the relevant planning officer. While planning committee members are free to attend public meetings/events they must not express a 'for' or 'against' view by advocating a position in advance of the decision-making meeting.
- 9.7 If you are a member of the planning committee and an approach is made to you by an applicant, agent or other interested party in relation to an existing or proposed planning application, you should restrict yourself to either giving procedural advice (e.g. advising those who are lobbying that they should contact the relevant planning officer so their opinions can be included in the officer's report to the committee) or advise them to write or speak to a member who is not on the planning committee. This does not mean that members who are on planning committees should not listen to the views the lobbyist wishes to express.
- 9.8 If, however, as a planning committee member, you decide you cannot remain impartial and wish to make representations on behalf of constituents or other parties, you may attend a committee meeting and make representations, after which you must leave the room while the members consider it and not take part in the voting.

Decisions contrary to officer recommendation

- 9.9 You must not seek to apply undue pressure towards planning officers to provide a particular recommendation on any planning decision. If you propose, second or support a decision contrary to an officer's recommendation, you must only do so on the basis of sound planning considerations which must fairly and reasonably relate to the application concerned. These considerations include planning policy, landscaping, impact on the neighbourhood, planning history, etc.

Decisions contrary to the local development plan

- 9.10 If you propose, second or support a decision contrary to the development plan, you must only do so on the basis of sound planning considerations, which must fairly and reasonably relate to the application concerned, *and you must clearly demonstrate how these considerations justify overruling the development plan.*

Policy and strategic issues

- 9.11 Councillors have a vital role in facilitating engagement with their communities in the production of planning policy by encouraging them to express their views on the plan-making process. In your key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the council.
- 9.12 Planning legislation requires councillors of a council to determine all planning applications in accordance with the development plan, unless material considerations indicate otherwise. You must undertake this responsibility without undue influence or personal interest.

Other interests

- 9.13 If you have substantial land, property or other interests which would prevent you from voting on a regular basis, you must not sit on a decision-making committee that deals with planning applications.

- 9.14 You must not act on behalf of, or as an agent for, an applicant for planning permission with the council other than in the course of your professional role which you have registered.
- 9.15 You must not take any further part in the development management process following submission of an application for yourself or for a family member, friend or close personal associate. You have the same rights to explain your proposal to an officer but you must not seek to improperly influence the decision.
- 9.16 If you work as a lobbyist for a developer, you must declare this as an interest and you should not then be involved in any decision-making process relating to or potentially affecting that developer.

Unauthorised development

- 9.17 If you are made aware of an unauthorised development and you refer the matter to the council for possible enforcement action, you must advise all subsequent inquirers to deal directly with the relevant department/officer, and you should not lobby for a particular outcome. This does not prevent you from seeking factual information about the progress of the case.
- 9.18 Where you have an interest in the outcome of a planning committee decision on enforcement action, you must disclose that interest and not take part in, or seek to influence, the decision.

SOURCES OF GUIDANCE RELATING TO THE CODE

<u>The Northern Ireland Local Government Commissioner for Standards</u>	<u>Equality Commission for Northern Ireland</u>
<p>Telephone : 028 902 33821</p> <p>OR</p> <p>Text phone : 028 908 97789</p> <p>OR</p> <p>Email : nipso@nipso.org.uk</p> <p>OR</p> <p>Via Post</p> <p>Freepost NILGCS</p> <p>OR</p> <p>The Northern Ireland Local Government Commissioner for Standards 33 Wellington Place Belfast BT1 6HN</p> <p>Website: www.nipso.org.uk</p>	<p>Equality House 7 - 9 Shaftesbury Square Belfast BT2 7DP</p> <p>Telephone : 028 90 500 600 Textphone : 028 90 500 589 Fax : 028 90 248 687 Email : information@equalityni.org</p> <p>Website: www.equalityni.org</p>

The Department for Communities

Local Government Policy Division

Level 4

Causeway Exchange

1-7 Bedford Street

Town Parks

Belfast, BT2 7EG.

Website: www.communities-ni.gov.uk

E-mail: lgpdconsultations@communities-ni.gov.uk

Textphone 028 905 40642

The Department for Infrastructure

Planning Division

Clarence Court

Adelaide Street

Belfast

Tel:

GLOSSARY

In this Code:

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972;

“the 2014 Act” means the Local Government Act (Northern Ireland) 2014;

“Councillor” for the purposes of this Code means-

- (a) any person who is elected to office within a council,
- (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
- (c) any person treated as a non-voting member by section 21 of the 2014 Act, and
- (d) any person who is not an elected representative as mentioned in section 32(4) of the 2014 Act;

“council” means the district council of a local government district established under section 1(1) of the Local Government Act (Northern Ireland) 1972;

“Chief Executive”, means a person appointed as clerk of a council; and

“meeting” means any meeting—

- (a) of the relevant council or of a committee or sub-committee of the relevant council,
- (b) of the executive of the relevant council or of a committee or sub-committee of the executive of the relevant council,
- (c) of a joint committee or sub-committee of a joint committee which includes the relevant council, or
- (d) where members or officers of the relevant council are present, including circumstances where a member of an executive or officer of the council, acting alone exercises a function of the council.

SANCTIONS APPLIED BY THE COMMISSIONER

Under section 62(3) of the Local Government Act (Northern Ireland) 2014, where the Commissioner decides that a person has failed to comply with the Code, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should-

- a. censure the person in such terms as the Commissioner thinks appropriate;
- b. suspend or partially suspend the person from being a councillor for such a period, and in the way, as the Commissioner thinks appropriate. However, that period shall not exceed one year or, if shorter, the remainder of the person's term of office; or
- c. disqualify the person for being, or becoming (whether by election or otherwise) a councillor, for such a period as the Commissioner thinks appropriate but not exceeding five years.

ALTERNATIVE ACTION

Under section 55(2) of the 2014, the Commissioner may take action instead of, or in addition to, conducting an investigation in dealing with a written allegation that there has or may have been a breach of the Code.

The Commissioner has published the "Northern Ireland Code of Conduct for Councillors: Alternative Action Policy" which may be accessed at-

<https://nipso.org.uk/site/wp-content/uploads/2016/02/FINAL-Alternative-Actions-Policy-launched-on-21-June-2016.pdf>

