

**North
Lincolnshire
Council**

www.northlincs.gov.uk

**CODE OF PRACTICE FOR EMPLOYEES RELATING
TO INTERESTS AND GIFTS
AND HOSPITALITY**

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Monitoring Officer**

1. INTRODUCTION TO THE CODE OF PRACTICE

1.1 Purpose of the Code

- 1.1.1 Employees are required by law to declare any pecuniary interests that they have in any contract or proposed contract to be entered into by the council, or which occurs during the exercise of their duties as an officer of the council.
- 1.1.2 From time to time, employees are also faced with the difficulty of deciding whether or not to accept 'gifts or hospitality' which arise during the course of business activities or where they consider their personal interests may conflict with their responsibilities as an officer of the council.
- 1.1.3 It is the purpose of the Code to provide employees of North Lincolnshire Council with a set of principles and procedures that should guide them in such circumstances and thereby maintain the actual and perceived integrity of the council in the way it conducts its affairs.

1.2 Scope of the Code

- 1.2.1 This code relates to the council's requirements in relation to interests/conflicts of interest and gifts and hospitality. The more general requirements in terms of employee conduct are contained in the local Code of Conduct which has been issued to all employees and now forms part of the terms and conditions of employment of all employees. In addition to this the Code also provides that a breach of this Code of Practice will constitute non – compliance for the purposes of that Code which may result in disciplinary action. The Code will only apply to schools based staff if adopted by the relevant board of governors.

1.3 National Guidelines

- 1.3.1 Paragraph 2 of Part 2 of the "Green Book" (National Joint Council National Agreement on Pay and Conditions of Service Handbook) states that:

"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.

Similar provisions are to be found in other conditions of service for Senior Officers and other employees on any other conditions of service as well as in professional Codes of Conduct.

- 1.3.2 A Code of Conduct for Local Government Employees, prepared in 1994 by the Local Government Management Board and the Local Authority Associations, lays down guidelines "which will help maintain and improve

standards and protect employees from misunderstanding and criticism". The Code includes a section on hospitality and is intended to cover all employees under a contract of employment within local government. Activities carried out by employees acting as members of companies or voluntary organisations are likewise covered. The advice in the Code is incorporated in the ensuing paragraphs.

- 1.3.3 The Audit Commission suggests that procedures be established specifically for the control of hospitality to officers.

2. **PECUNIARY INTEREST IN CONTRACTS/CONFLICT OF INTERESTS**

- 2.1 The Local Government Act 1972 S117 requires that "if it comes to the knowledge of an officer, employed under this Act or any other enactment that a contract in which he has a pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be entered into by the authority or any committee thereof he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein". The appropriate Form A should be completed.
- 2.2 Employees shall also comply with paragraph 4 of the council's Contract Procedure Rules when declaring any conflict of interest or potential conflict of interest, which arises during any contract or procurement exercise undertaken by the council. The appropriate Form C should be completed.
- 2.3 Employees shall comply with their service area protocol when declaring any conflict of interest or potential conflict of interest which arises during the exercise of their duties.*

3. **GIFTS AND HOSPITALITY**

- 3.1 S117 of the Local Government Act also requires that 'an officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. An officer who contravenes S117 shall be liable on summary conviction in criminal law, to a fine not exceeding £2500.

Examples of the kind of gifts or hospitality that might be made include:

(i) **Gifts**

Stationery items such as pens, notepads, calculators, or carrier bags; food or confectionery, particularly chocolates and biscuits; flowers or

**Footnote: For Planning, please refer to R(on the application of Piffs Elm Ltd) v Tewkesbury Council (2016) EWHC 3248 (Admin).*

plants, ornaments; wine and spirits; articles of clothing; jewellery or watches; tickets for cultural or sporting events; discounted rates for hire or purchase;

free publications; cash; and providing business where the employee concerned is engaged in some private business or commercial activity.

(ii) **Hospitality**

Free meals; drinks receptions; hospitality tents at shows; exhibitions or conferences; music and cultural events; sport and leisure events, particularly golf competitions; use of company facilities; hotel accommodation; and holidays.

- 3.2 In the case of gifts, it is possible to make a distinction between those gifts that would have a use or value to the council and those that are clearly intended for personal use.
- 3.3 All offers of gifts and hospitality must be refused where they are made under the following circumstances:
- (i) by commercial companies, charities or voluntary bodies or individuals in the process of dealing with the council over legal, statutory or enforcement matters; or
 - (ii) by commercial companies or businesses formally requesting to be added to the council's list of tenderers for approved works.
- 3.4 Offers of any of the following must be refused under all circumstances:
- (i) cash;
 - (ii) paid holidays; and
 - (iii) use of company flats or facilities.
- 3.5 Offers of gifts must be treated with extreme caution at all times and, whilst only an offer of cash must automatically be refused, gifts exceeding a value of around £25 should be tactfully refused if they are intended for exclusively personal or private use, such as jewellery or clothing.
- 3.6 Offers of gifts which could be of value to the council or to an officer, in the course of council business, such as calculators, ornaments or books, may be accepted without any limit on the value. It should, however, be clear that the council would not wish to negotiate an agreement excluding acceptance of such items i.e., at a special discount. Also, unless otherwise agreed by the council, the item will pass into the ownership of the council.
- 3.7 Offers of hospitality made by individual members of the public must be refused at all times.
- 3.8 Offers of hospitality should usually be refused if the company making the offer is either not known to the person receiving the offer or had not given a clear reason why it is making the offer.

- 3.9 Offers of non-excluded gifts or hospitality made by other public bodies or local authorities, councillors and/or by professional or academic institutions may be accepted.
- 3.10 On occasions employees may receive offers of gifts they must refuse but for various reasons find it difficult or almost impossible to do so. (for example, gifts left for them in their absence). If this happens, then the employee must declare it and can donate it to the Mayor's charity (contacting Mayoral Services). This donation should be recorded on the appropriate Form B.
- 3.11 Offers to attend private, social or sporting functions should be accepted only when these are part of the life of the community or where the council should be seen to be represented.
- 3.12 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the council gives consent in advance and where the council is satisfied that any purchasing decisions are not compromised.
- 3.13 Where visits to inspect equipment etc. are required, employees should ensure that the council meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 3.14 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the council may be taking affecting those providing the hospitality.

4. RECORDS AND PROCEDURES

- 4.1 Employees wishing to declare a pecuniary interest, conflict of interest or the offer of gifts or hospitality should complete the prescribed forms in the Appendices to this policy. The relevant form should be returned to the Service Manager : Democracy, Governance & Partnerships, Church Square House, Scunthorpe.
- 4.2 In addition to the above, the council's Contract Procedure Rules require officers to declare any conflicts of interest they may have arising from any commercial or procurement related projects in which they are involved. The appropriate Form C is to be found in the Appendices together with specific guidance on completion. The completed form should also be retained by the council's Service Manager : Democracy.
- 4.3 The form for declaring gifts and hospitality, Form B, - requires the source of the offer; whether it was accepted; the approximate value; and, if accepted, the reasons to be specified. It will not be necessary to record "modest" offers of gifts. "Modest" items/mementoes are considered to be those valued at less

than £25. They would, as a rule, only be items of a promotional character e.g. calendars, diaries, articles for office use, or a token such as flowers presented during a courtesy visit. Likewise, it will not normally be considered necessary to record offers of hospitality made in the circumstances endorsed in paragraph 3.12 above.

5 THE BRIBERY ACT

- 5.1 An employee must not accept, offer or receive a bribe in any circumstances. A bribe is giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so.
- 5.2 The Bribery Act 2010 came into force on 1 July 2011 and it says that a person is guilty of an offence if they:
- Offer, promise or give a bribe to another person to induce or reward them to perform a relevant function improperly.
 - Request, receive or accept a bribe as a reward for performing a relevant function improperly.
 - Use a bribe to influence a foreign official.
- 5.3 A “relevant function” is an activity of a public nature which should be carried out in either good faith, impartially, or that the person performing it is in a position of trust.
- 5.4 Employees should be aware that the penalties for offences committed under the Bribery Act 2010 include up to 10 years’ imprisonment and an unlimited fine.
- 5.5 The council does not condone bribery of any form, in any circumstance.

6. LEGACIES AND BEQUESTS

- 6.1 Employees who work closely with service users and/or care for vulnerable people as part of their duties may, be offered a legacy or left a bequest in the will of the service user, financial or otherwise. As a rule, staff should not accept such legacies or bequests from service users. Where a service user offers to name a member of staff in their will it is important that this is discouraged. A charity could be suggested as an alternative. Any offer or conversation of this nature must be reported to your line-manager.
- 6.2 Where, without your prior knowledge, a service user has left a legacy or made bequest to you, this must be reported to your line-manager immediately. Your Director, following consultation with the council’s Monitoring Officer, will consider whether the legacy or bequest can be accepted in whole or part, or

whether it should be donated to charity or refused. Prior to any acceptance, you must receive written approval from your Director.

- 6.3 Where employees work closely with vulnerable people they should never be involved in assisting these service users with the making of a will. If asked to assist by a service user, this should be refused politely and be reported to your line-manager immediately.

7. MANAGING THE CODE OF PRACTICE

- 7.1 The Monitoring Officer is responsible for taking steps to make all employees aware of the Code of Practice and its content and the procedure for recording offers of gifts and hospitality and interests. He also ensures that a register of these is maintained.
- 7.2 Directors will ensure that all new recruits to the council are informed of these requirements, and will organise any briefing sessions as appropriate.
- 7.3 Directors are responsible for ensuring compliance with this Code within their respective service areas and that appropriate action is taken against employees to be found in breach.

8. MONITORING AND REVIEW

- 8.1 The Code of Practice will be periodically reviewed by the Monitoring Officer. Any further clarification or interpretation of the Code that may be found necessary will be formally communicated to all employees. Any substantial amendments to the Code that are considered necessary will be formally reported through appropriate Democratic procedures.

**NORTH LINCOLNSHIRE COUNCIL
(Sn 117 Local Government Act 1972)
FORM A**

DECLARATION OF PECUNIARY INTEREST IN A CONTRACT

Name of Employee

Post

Service Area

Workplace

Workplace Telephone/Email

Does the pecuniary interest relate to a specific contract or proposed contract with the council?

Yes/No (if Yes, please state)

.....

What is the nature of the interest? *(Please include all information you think may be relevant)*

.....

.....

.....

Signed **Date**

(BLOCK CAPITALS)

Please return this form to the Service Manager : Democracy, Governance & Partnerships, Church Square House, Scunthorpe.

If you require any assistance in completing this form please contact Democratic Services on 01724 296230/6236

For office use only:

Date received by
Democratic Services *Signed*

Date Recorded/Entered on Register *Signed*

NORTH LINCOLNSHIRE COUNCIL
 (Sn 117 Local Government Act 1972)
DECLARATION OF OFFER/RECEIPT OF A GIFT
OR HOSPITALITY (EMPLOYEE)
FORM B

1. OFFER OR GIFT/HOSPITALITY

NATURE OF GIFT/HOSPITALITY AND ESTIMATED VALUE	BY WHOM GIFT WAS OFFERED	DATE OF OFFER

2. ACCEPTANCE OF GIFT/HOSPITALITY
Was the gift/hospitality accepted?

YES	NO
<i>Please tick appropriate box</i>	

3. REASON FOR ACCEPTANCE
(If the gift/hospitality was accepted, please give your reasons)

.....

.....

.....

Signed Employee **Date**

(BLOCK CAPITALS) **Service Area**

4. APPROVAL FROM LINE MANAGER

Signed Line Manager **Date**

(BLOCK CAPITALS)

Please return to the Service Manager : Democracy, Governance & Partnerships, Church Square House, Scunthorpe.

If you require any assistance in completing this form please contact Democratic Services on 01724 6230/6236.

For office use only:

Date received by Democratic Services *Signed*

Date Recorded *Signed*



**DECLARATION REGARDING ANY CONFLICT OF INTEREST
AND CONFIDENTIALITY UNDERTAKING
FORM C**

PROCUREMENT OF *[INSERT CONTRACT TITLE]*

Conflict of Interest refers to situations in which personal interests (which may include financial interests) may compromise, or have the appearance of, or potential for, compromising professional judgement and integrity and, in doing so, the best interests of North **[East]** Lincolnshire Borough Council (the Council).

Individuals must avoid placing themselves in a position where there is an actual, potential or perceived conflict between their personal and/or 'outside' interests and their duties to the Council. Those with a conflict of interest are expected to withdraw themselves from (i.e. abstain from) decisions where such a conflict exists.

Members of staff in material breach of the Council's code of ethics and/or conflict of interest policies and/or code of conduct may, in certain circumstances, be subject to disciplinary action.

The Council requires that any individual whether an officer or an external individual is involved in a project, who has an interest (financial or otherwise, either directly or through their employing organisation or members of their family or close friends) in any tendering exercise to declare such interest. This may result in that individual being excluded from participating in the design and development of any specification, evaluation of any Selection Questionnaire or Tender submissions, presentations by tenderers for exercises involving the interested party or is involved in any decision making process relating to the service itself.

It is the responsibility of Directors and Heads of Function to ensure that for their areas the development of any specification, any tender evaluation process is above suspicion of conflict of interest or the perception of bias at any stage of the procurement process. Any connections between individuals involved in the above processes and a tenderer or incumbent supplier must be disclosed in writing to the Project Manager, at the earliest opportunity.

Individuals involved in the procurement should not accept gifts or hospitality from any tenderers or incumbent suppliers.

Any possible conflict of interest or issue of bias should be discussed with the Project Manager as soon as it arises. If individuals are not sure whether an interest should be declared they should err on the side of caution. If individuals fail to declare an interest that is known to others involved in the procurement process and/or contract management area,

then these other people should report the interest to the Project Manager. The Monitoring Officer in consultation with the Project Manager will decide on the appropriate course of action to ensure there is no distortion of competition (to avoid a poor Value for Money decision) or potential for fraud and record the outcome accordingly.

Anybody involved in procurement is required to complete a Declaration, declaring any interests (which includes a "nil" return) by submitting the following forms to the Project Manager. This acts as an acknowledgement of their understanding of the policy and a declaration of their specific interests, if any.

All staff involved in procurement activity will make a declaration at the time they are appointed to their role within the Council (e.g. at the start of a particular procurement project that they are involved in before any specifications are issued or tenders issued to potential tenderers). This includes temporary/interim staff, specialist external contractors and individuals from other public sector bodies engaged to support specific procurement projects.

All parts should be duly completed. All relevant pages should be signed and dated as instructed. If the document is completed by hand please ensure that the required information is clearly presented.

PART 1: DECLARATION REGARDING ANY CONFLICT OF INTEREST

Examples of conflicts of interest may include, but are not limited to:

- Having a financial interest (e.g. holding shares or options) in a potential tenderer or any entity involved in any tendering consortium, or an existing supplier to the Council;
- Having a financial or any other personal interest in the outcome of the evaluation of any tender evaluation process or the success of any existing supplier relationship;
- Being employed by (as staff member or volunteer) or providing services to any potential tenderer or existing supplier;
- Being a member of a potential tenderer's or existing supplier's management/executive board;
- Receiving any kind of monetary payment or non-monetary give or incentive (including hospitality) from any tenderer or existing supplier or its representatives;
- Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above;
- Having a close member of your family (which term includes unmarried partners) or personal friends who falls into any of the categories outlined above and
- Having any other close relationship (current or historical) with any potential tenderer.

The above is a non-exhaustive list of examples, and it is **your** responsibility to ensure that any and all potential conflicts – whether or not of the type listed out above – are disclosed to the Council in writing **prior** to you being involved in any drafting of specification, evaluation of any Selection Questionnaire or tender.

Any disclosure will be assessed by the Council on a case-by case basis. Individuals will be excluded from the procurement process or on-going contract management where the identified conflict is, in the Council's opinion, material and cannot be mitigated.

Instruction: either state in the box below 'I do not have any conflicts of interest that prevent my full and unprejudiced participation in any procurement process ' or provide full detail of the nature of the conflict. With whom, in what capacity and how that generates a situation which could be considered externally as a conflict.

I also declare that I will inform the Council as soon as is practicable, should my circumstances change in any way that effects this declaration.”

Signed: _____

Print Name: _____

Position/Organisation: _____

Date: _____

Part 2: CONFIDENTIALITY UNDERTAKING

Please note the Council has overriding responsibilities with regards to the Data Protection Act, the Freedom of Information Act and other laws.

I understand that I may be invited to participate either directly or indirectly in the procurement process or contract management and agree:

1. To treat all information and documents under conditions of strict confidentiality;
2. Not to disclose, make copies of, or discuss any received information with any person who is not directly involved in the procurement process or contract management;
3. Not to use (or authorise any other person to use) information and documents other than for the purpose of my work in connection with the procurement process or contract management; and
4. To dispose of documents as confidential material as soon as I have no further use of them.

This undertaking applies until project Information becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.

Signed: _____

Print Name: _____

Position/Organisation: _____

Date: _____

Part 3: DECISION RECORD BY THE MONITORING OFFICER

With respect to the above declaration of a potential Conflict of Interest, the Monitoring Officer made the following decision:

[] should **refrain** from undertaking any involvement in the project, including but not limited to specification development, award criteria development, method statement question development, the management of clarifications or the evaluation of bids received, until such time as a contract has been awarded.

[] may **continue** to handle the work/duty as described in the above declaration, provided that there is no change in the information declared above.

Reasons for decision, steps taken

[Monitoring Officer]:

Signature:

Date: