

Officers Interests Policy



Mae'r ddogfen yma hefyd ar gael yn Gymraeg.



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1. INTRODUCTION

- 1.1 The Statutory Code of Conduct for staff, which is part of each officer's work contract states:

“Personal Interest

Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- (1) *any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests...*”
- 1.2. This policy sets out the Council's rules on declaring and registering interests and offers guidance on how to conform to the basic principle quoted above.
- 1.3. Failure to adhere to the policy and the code of conduct could lead to disciplinary action.
- 1.4. The policy is relevant when an officer is involved in any way with a particular matter, which could lead to conflict. The policy also provides that some officers, due to the nature of their duties or their status, should register their association with a person or body.

2. PRINCIPLES

What is an interest?

- 2.1 An interest arises when an officer's personal or private interests conflict with his/her duty towards the Council and the public. Such conflict will be relevant if it affects the officer's ability to act in the Council and the public's best interests, or where it would be reasonable for a member of the public to think that to be the case.
- 2.2 Officers therefore must consider their situation carefully each time a private or personal association arises in connection with their work for the Council. Guidelines to assist officers to determine whether they have an interest and what they should do in such a situation can be found in the

Appendix to this policy.

- 2.3 Some situations that give rise to the possibility of conflict must be dealt with in accordance with additional rules, namely Outside Employment and Political Activity:

Outside Employment

- 2.4 The hours after work is a personal matter for each individual, but they should ensure that their duties are not inferior to the private interest or place themselves in a position where their private interests and duties interfere with their work. The conduct of outside work or business will not be permitted in the workplace, and the use of equipment and other facilities such as the phone, photocopier, fax etc for such purposes is prohibited. Correspondence or phone calls pertaining to outside work or business are also not permitted.
- 2.5 Additionally there are rules dealing specifically with outside employment, which mean that all outside employment must be registered and that officers above must also obtain permission to undertake such work. "Employment" is given the same meaning in this context as given by the Working Time Regulations 1998 i.e. in summary where someone has an additional to his/her work with the Council a contract of employment with somebody else or that he/she receives a regular wage or salary and works for another organization, business or individual.
- 2.6 The procedure for registering and authorising outside employment is to be found in part 3 of the Policy.
- 2.7 Although an outside employment has been registered, any specific situation that arises subsequently must be dealt with as an interest under the provisions of this policy.
- 2.8 If the outside employment causes a problem under the Working Time Regulations then it shall be dealt with under the Council's Working Time Policy.

Political Activities

- 2.9 The Staff Code of Conduct provides that officers should not allow their own personal or political opinion affect their work.
- 2.10 In addition to this, the Local Government and Housing Act 1989 places political restrictions on some posts within local government. This means that those post holders may not participate in specific political activities, and these restrictions have been included in the holder's employment contract by the Act.

- 2.11 The principle behind setting these restrictions is the need for local authorities to be able to receive unbiased advice from its officers, and that any political tendency should not influence its officers as they implement the authority's policies. It is also essential that members and constituents are able to trust Council officers to do this.
- 2.12 Details of the restricted posts, along with the nature of the restrictions are included in Part III of the Guidelines in the **Appendix**.

3. REGISTRATION OF INTERESTS AND ACTION

Registration of Interests

- 3.1 The need to register an interest could arise in one of three ways:

Compulsory Registration

- 3.2 Some officers, due to the nature of their posts, must register personal/private interests, which could conflict with their work for the Council. In order to ensure transparency in the Council's work, and to protect those officers from potential accusations of impropriety, they must complete an Advance Registration of Interests Form, declaring personal associations with persons or companies that they are, or could be, involved with by virtue of their posts. Officers have a responsibility to update the register.

Voluntary Registration

- 3.3 Any officer may register any association or interest at any time, by completing the same declaration form, (Advance Registration of Interests Form). Once again, this can ensure transparency in the Council's work and protect the officers from possible accusations of impropriety. An obvious example of such officers would be those involved with awarding contracts as part of their usual duties.

Registration when conflict occurs

- 3.4 When there is conflict between any officer's personal or private interests and his/her duties to the Council, the interest must be registered using the appropriate form (Declaration of Interest Form).
- 3.5 In such cases, if the officer believes that he/she has an interest, or believes that he/she could have an interest, then he/she should inform his/her Line Manager or the City Director.
- 3.6 The City Director will determine whether the officer has such an interest, by taking into account the principles and guidelines in this policy.

Guidelines to assist line managers to reach a decision have been included in the **Appendix**.

3.7 The register is maintained by the City Director.

Contracts

3.8 Section 117 of the Local Government Act 1972 provides that should any officer be aware of a contract, which the Council has entered into or proposes to do so and in which he/she has a direct or indirect pecuniary interest, the officer must declare this fact in writing. The registration of interest form should be used to do this, by ticking the appropriate box.

What should be done after registration?

3.9 The City Director should then determine what the officer who has an interest should do. The main decision is whether or not the officer should continue to be involved with the matter in question, and guidelines are provided in the **Appendix**.

Outside employment

3.10 It is Officers responsibility to inform the City Director of any outside employment. For those officers that consider the Council as their main employer this includes declaring the number of hours worked in accordance with the Working Time Regulations 1998. The appropriate form should be used to register outside employment (Registration of Outside Employment Form) and request permission to undertake the work.

3.11 It is the responsibility of the City Director or his/her nominee to determine whether or not to grant consent on behalf of the Council in accordance with this Policy. If the City Director has any doubts regarding what should be done he/she can consult with the Council's Staffing Committee.

3.12 Where permission is granted or is not required, the matter must then be considered from the perspective of the Working Time Regulations 1998 in accordance with the Council's Policy on that subject.

3.13 If permission is refused an Officer can:

- (a) decide not to undertake the outside employment
- (b) resign from the Council's employment or
- (c) appeal against the decision.

The Officer must inform the City Director which option he/she intends to take within 10 working days of receiving the decision.

- 3.14 The process for appealing against the decision of the City Director contained in the Council's Grievance Policy will be used to consider any appeal under 3.13(c) above.

Political Restrictions

- 3.15 The political restrictions set out in the Local Government Act 1989 and the relevant regulations are included in the post holder's work contract, under the Act.
- 3.16 The Council maintains a register of politically restricted posts. The City Director is responsible for maintaining the register.

4. GIFTS AND HOSPITALITY.

- 4.1 The Council has a separate policy on gifts and hospitality for officers. A copy can be seen on the website or under the Council Terms and Conditions of Employment.

APPENDIX

GUIDELINES

Below are guidelines to assist officers to implement the requirements of this policy.

Part I - Interests

- First of all, consideration must be given to whether there is an interest.
- An interest arises when there is conflict between an officer's personal or private interests and his/her duties to the Council and the public, in a situation where it would affect the officer's ability to act in the best interests of the Council and the public, or if a member of the public could reasonably perceive this to be the case.
- Consideration must always be given to how the situation would appear to a member of the public. If it would be reasonable for a member of the public to think that there was a risk of conflict, then the matter should be considered as an interest.
- An interest could arise if an officer was involved with a decision or action on behalf of the Council, which would benefit or disadvantage, financially or non-financially, the officer, or anyone with whom he/she has a personal association, or a body with which he/she is involved.

What is a close personal association?

- It is not possible to offer a definitive interpretation of a close personal association.
- A close personal association includes, but is not restricted to members of the family. If the association is a close enough family association, it will mean that the officer has an interest. However, every relationship, in itself, will not necessarily create an interest.
- The following should be considered a close personal association, i.e. husband/wife/partner, brother/sister, children, children in law, stepchildren or the partner's children (i.e. a member of a couple who live together), parents, grandparents, parents and brothers/sisters-in law, grandchildren, uncles/aunts.
- It is not possible to draw a line where a family relationship goes 'too

remote to be considered as a close personal association in itself, but the presumption will weaken the farther it goes. However, how much contact the officer has with the relation must be taken into account in each case, i.e. consideration must be given to whether there is a close personal association apart from any family connection.

- The nature and intimacy of the relationship between the officer and person in question must be considered. If they have a social friendship outside work, this would be a close personal association. On the other hand, if the officer only knows the person through his/her work, then this would not usually be a close personal association.
- Each case must be considered on its facts, and public perception must always be taken into account.

Bodies

- An officer could be a member of a body that is involved with the Council, e.g. applying for a grant or planning application. In such cases, the officer would have a personal interest if it were relevant to the officer's work.

What steps should be taken?

- If there is an interest the officer should register it by completing the relevant form (Declaration of interests Form). Consideration must then be given to what the officer should do as a result of this interest.

The City Director may decide:

- That declaring and registering was sufficient (e.g. if the officer merely has an administrative role in the matter)
- That the officer should not be involved with the specific matter at all.
- That the officer should be involved with the matter in a restricted way only.

Factors, which must be considered when making the decision:

- When deciding what action to take, the role of the officer in relation to the matter should be considered carefully. Consideration should be given to how much influence he/she has and how a member of the public would regard the situation. If he/she has some influence over the way in which the Council acts, by making a decision or offering information or advice to enable a decision to be made, then the officer should not be involved with the matter at all. If the officer only has an administrative role, then it is possible that he/she could continue to work, but consideration should be given to how this would be perceived.

- Should any officer have any questions about any aspect of the policy, they should seek the opinion of the City Director.

Committees

- An officer may become aware of an interest in an item on the agenda prior to, or during a committee meeting. If he/she is aware in advance, the normal procedure should be followed as with any interest. If he/she becomes aware during the meeting, the officer should seek the advice of the City Director or his representative at the meeting (or the Chairman if the City Director is not represented at the meeting).
- The officer must declare the interest at the meeting and register it during or at the end of the meeting. Forms will be available from the committee officer.
- In deciding whether the officer should be present at the meeting for the item in question, the essential principle is avoiding the impression that the officer influences the committee inappropriately. Should the officer's attendance lead to such an impression, the officer should register his/her interest and withdraw from the meeting for that particular item, unless it is essential for that particular officer to be present to enable the committee to reach a decision.

Part II – Outside Employment

- When making a decision, the City Director or Staffing Committee will need to look in particular at whether the proposed work:
 - Overlaps official duty in any way;
 - Creates conflict in terms of interests;
 - Uses material and information to which the employee has access by virtue of his post;
 - Endangers the Council's reputation
- Examples of work that would not create difficulties for the Council are working in a café, shop or pub on weekends.
- Examples of work that could create conflict in terms of interest are: an employee dealing with particular clients by virtue of his post on the one hand, and selling goods to the same group outside of the post on the other hand. Permission will not be granted in these circumstances.

Part III – Political Restrictions

Below is a summary only of the provisions of the Local Government and Housing Act 1989 and the relevant regulations, and they do not replace those provisions.

What are politically restricted posts?

The act states two general categories of posts that are politically restricted:

(1) The Head of the Council's paid service,

This post is politically restricted, and no other conditions need to be considered.

In addition to this, the authority must prepare a list of other officers whose posts are politically restricted, namely:

(2) officers whose duties include or mean that they:

- Provide advice on a regular basis to the Council itself, to any committee or sub-committee of the Council, or any joint committee on which the Council is represented, or
- Speak on behalf of the Council on a regular basis to journalists or broadcasters.

The City Director will maintain the above-mentioned list.

What are the restrictions?

The regulations provide:

- That the post holder should not announce his/her intention to stand for election in a National Assembly of Wales, House of Commons, European Parliament or local authority election;
- Where an officer announces that he is resigning because of his intention of standing for election in an Assembly or House of Commons election, his appointment ends;
- The post holder should not operate as an election agent or deputy agent;
- The post holder should not be an officer in a political party, or a councillor or a member of a sub-committee of any party, if this means that he is involved with the general management or acts on behalf of the party or

branch;

- The post holder should not canvass on behalf of a political party, or on behalf of an applicant in an election.

Additional restrictions:

Holders of politically restricted posts, other than political assistants, are also prohibited from:

- Speaking publicly with the intention, to all intents and purposes, of gaining support for a political party;
- Publicising or causing any written or artistic work to be published with the intention, to all intents and purposes, of gaining support for a political party rather than, for example, displaying a poster on private property.
- Political assistants may not:
 - Speak publicly in a way that is likely to give the impression that he is speaking as an authorised representative of a political party, and they should not publish any written or artistic work, which is likely to give the impression that they have been authorised by a political party.

Exemptions

It is possible for officers whose posts fall into category (2) above, to apply to the Independent Adjudicator for Local Authorities in Wales, to be excluded from political restrictions in relation to their posts in making the application.

In making the application he/she must provide a copy of a verified job description, along with a certificate of opinion, stating whether the duties of the post, in the opinion of the authority, come under the definitions of the act.