

5.2 Officer' Code of Conduct

Set out below is the Code of Conduct approved by Council on 3 July 1995 for Officers as employees of the Council.

The Code identifies the areas that Officers are required to be aware of in order to discharge their duties effectively with the Council and will form part of an individual employee's Contract of Employment.

In addition, there is a statutory requirement for disclosure under Section 117 of the Local Government Act 1972, as amended, If it comes to the knowledge of any Officers that a contract in which they have a pecuniary interest, whether direct or indirect, but to which they are not a party, has been, or is proposed, to be entered into by the Council, they must as soon as practicable give notice in writing to the Council of the fact that they have an interest in the contract.

Officers have an indirect interest in a contract if:-

- (a) they or a nominee of theirs is a member of a company or other body with which the contract was, or is proposed to be made;*
- (b) they are a partner or in the employment of a person with whom the contract was made or is proposed to be made (i.e. employment other than with the Council).*

Officers do not have an indirect interest in such a contract if the membership or employment is with another public body as defined in the Act. If the Officers do not have a beneficial interest in the securities of the company or other body, their membership does not amount to an indirect interest.

In the case of persons living together, the interest of their spouse or partner, if known to the Officers, is the interest of the Officers for these purposes.

A book is kept by the Chief Executive to register pecuniary interests in accordance with Section 117 of the Act.

It is a criminal offence to fail to register an interest under Section 117 and will lead to disciplinary action whether or not a prosecution is brought.

Officers must not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration from the Council.

It is a serious criminal offence for Officers as employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made and disciplinary action has to be taken, it is for the particular employees to demonstrate that any such rewards have not been corruptly obtained.

A. Employees' Contractual Obligations

- (i) All Officers of Scarborough Borough Council will be required to undertake their duties and work to an acceptable standard of performance and conduct themselves as employees in accordance with the following Code of Conduct, which forms part of their Contract of Employment.*
- (ii) It is important that employees make themselves aware of the minimum standards of behaviour required by the Council, as failure to comply may result in disciplinary action being taken against them.*

B Standards

- (i) Local Government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Employees of the Council will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of Management any deficiency in the provision of service.
- (ii) It is a duty of each employee to report to the appropriate Business Unit Manager any impropriety or breach of procedure.

C Disclosure of Information

- (i) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any information received by an employee during the course of their employment, either from or affecting another employee, or from a Member, which is of a personal nature, should not be divulged by the employee without prior approval of that person, except where such disclosure is required or sanctioned by the law. In such circumstances, disclosure will be channelled through the appropriate Head of Service to the Chief Executive.

D Political Neutrality

- (i) Employees serve the Council as a whole. It follows that they must serve all Members and not just those of the controlling Political Group, and must ensure that the individual rights of all Elected and Co-opted Members are respected.
- (ii) Where employees are required to advise Political Groups, they must do so in ways that do not compromise their political neutrality.
- (iii) Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- (iv) Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act, 1989, are exempt from the standards, set out in paragraphs (i) to (iii) above.

E Relationships

(i) *Members*

Employees are responsible to the Council through the agreed Management structure. Some employees may be required to give advice to Management through the established structure and/or advice to Members. All employees are engaged to carry out their work reflecting Council policy and in accordance with agreed procedures and practices. Mutual respect between employees and Members is essential to good Local Government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees or Members and should, therefore, be avoided wherever practicable. In all circumstances, a commonsense approach should be adopted.

(ii) *The Local Community and Service Users*

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Council.

(iii) *Contractors*

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- (iv) Employees, who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate Manager.

F Appointment and other Employment Matters

- (i) Employees involved in appointments should ensure that these are made on the basis of merit in accordance with the provisions contained in the Council's Policy on Equal Opportunities. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are deemed to be related to an applicant, or have a close personal relationship outside work with him or her.
- (ii) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee, who is deemed to be related, in accordance with the provisions of Paragraph 1(a)(vi) of Part 4(8) of this Constitution.

G Outside Commitments

- (i) Employees should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of their position. It is irrelevant whether or not the work is paid employment.
- (ii) Although employees' off duty hours are their own personal concern, they should not subordinate their duty to a private interest where it may put them in a position whereby their duty and private interest conflict. Additional employment should not in any way conflict with or react detrimentally to the Council's interest or in any way weaken public confidence in the conduct of the Council's business. Employees are required to notify their Head of Service of any additional employment which they would wish to undertake, prior to commencing it.
- (iii) No outside work of any sort should be undertaken in the office and the use of facilities, e.g. telephones or access to typists, is not permitted. Unless arising out of an emergency situation or by special arrangement agreed with the appropriate Head of Service, incoming correspondence and/or private telephone calls received in the office environment are not allowed.
- (iv) The law relating to ownership of intellectual property or copyright created during employment is complex. The following are general guidelines, although each case will be considered on its individual merits:-

(a) Intellectual Property : Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer.

(b) Inventions and Patents : Inventions made before 1st June, 1978, are the property of the employer if made in the course of that employer's employment. However, the Patents Act, 1977, states that after 1st June, 1978, inventions are only the property of the employer if:

- they have been made in the course of the employee's normal duties; or

- they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

To avoid any doubt whatsoever with regard to future claims of copyright, intellectual rights, ownership of inventions and patents etc, employees are required to notify their Head of Service or Strategic Director in writing giving full details of your involvement so that a ruling can be made on ownership.

(c) *Copyright* : Copyright covers artistic and literary works, and even industrial drawings if drawn before 1st August, 1989. The Copyright Designs and Patents Act, 1988, changed and updated the law in this area. The employer will be the owner of copyright for all works if they are produced in the course of employment. If the work was commissioned to be performed during an employee's own time or outside the course of their employment, the employee is the owner of the copyright.

The 1988 Act instituted what are known as moral rights for an employee even when the employee does not own the copyright. The employee has a right to be identified in any publication as the author in certain circumstances. Some of the exceptions to this right are the production of computer programmes, computer generated work and copy for newspapers and magazines.

If employees are affected in any way by the Copyright Act for artistic and literary work and a specific clause is not included in their contract of employment, they should seek clarification from the Council as to their position.

(d) *Designs* : This can include industrial design rights in "any aspect of shape or configuration of the whole or part of an article".

If specifically commissioned, the right to design belongs to the person commissioning the design. If the design is created in the course of employment, the design belongs to the employer.

H Personal Interests

- (i) Employees must declare in writing to the Chief Executive any non-financial interests that they consider could bring about conflict with the Council's interests, e.g. involvement with, say, an organisation or pressure group, which may seek to influence the Council's policies or which may receive Council assistance.
- (ii) Employees must declare any financial interests, which could conflict with the Council's interests.
- (iii) Employees should declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- (iv) In order to encourage open local government free of discrimination and bias, etc., membership of a secret society/association can be defined as follows:-

"Any lodge, chapter, society, trust or regular gathering or meeting, which:

- (a) is not open to members of the public who are not members of that lodge, chapter, society or trust;
- (b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and

- (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering, or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above, should not be regarded as a secret society, if it forms part of the activity of a generally recognised religion.”

I Equality Issues

- (i) All employees should ensure that policies relating to equality issues, as agreed by the Council, are complied with, in addition to the requirements of the law, i.e. Sex Discrimination Act 1975, as amended, Race Relations (Amendment) Act 2000, and the Disability Discrimination Act 1995.
- (ii) This Council, as a major employer within the area, is committed to the principle and achievement of providing equality of opportunity in employment at the workplace to existing and prospective employees. The Council’s Policy on Equal Opportunities identifies good practice and the steps necessary to ensure a working environment free of discrimination and Service provision accessible to all.
- (iii) It is in the interests of each employee to be aware of the Council’s Equal Opportunities Policy. All members of the community, customers and other employees have a right to be treated with dignity, fairness and equity.

J Separation of Roles during Tendering

- (i) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Chief and Senior Officers, who have both a client and contractor responsibility, must be aware of the need for accountability and openness.
- (ii) Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (iii) Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- (iv) Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate Manager and withdraw from the contract awarding processes.
- (v) Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

K Use of Financial Resources

- (i) Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure Best Value for the local community and to avoid legal challenge to the Council.

L Contact with the Press and Media

- (i) Unless specifically nominated and authorised by the appropriate Strategic Director or Head of Service or the appropriate Director, Officers are not permitted to give reports or speak to the press and media on matters relating to employment with the Council, Council business or decisions of the Council. Officers with this responsibility should guard themselves against declaring a view which is contrary to a position taken by the Council and which may be

deemed to be critical of that decision. The Chief Executive, Strategic Directors and Heads of Service are charged with making factual statements to the news media and, when necessary, explaining Council policy. Press releases in the name of the Council will normally be issued through the Press Office maintained for that purpose by the Chief Executive.

- (ii) In the event of an industrial dispute involving an employee's Trade Union organisation, an elected representative of that Trade Union may be called upon by the press or media to comment on the dispute. Where a decision is taken by that Trade Union organisation to respond, the Officer should exercise great care in presenting the facts of the case and should avoid personal opinions which may be damaging to the Council.
- (iii) In all circumstances, Officers are under a general duty of care to avoid, wherever practicable, a conflict of interests situation arising and should not undertake to criticise, damage or act in any way against the best interests of the Council. Should this occur, the Officer will be subject to disciplinary action in accordance with the agreed Procedures.

M Hospitality

- (i) Employees should only accept offers of hospitality, if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely 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. They should be properly authorised and recorded.
- (ii) When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- (iii) Employees should not accept significant personal gifts from contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. Should employees be in receipt of hospitality and be unsure of its significance, they should report this to their Head of Service, who will decide whether it is appropriate, having discussed the matter with the relevant Strategic Director.
- (iv) 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.
- (v) 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. Where visits to inspect equipment, etc. are required, employees should ensure that the cost of such visits are met by the Council to avoid jeopardising the integrity of subsequent purchasing decisions.

N Sponsorship - Giving and Receiving

- (i) Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- (ii) Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Head of Service or Chief Executive of such an interest. Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

O Whistleblowing

- (i) The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, the Council encourages employees and others with serious concerns about malpractices in the form of irregularity, wrongdoing or a serious failing in standards at work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a highly confidential basis and the Council wishes to make it clear that employees can do so without fear of reprisal. The "Whistleblowing" Policy is intended to provide a framework to encourage and enable employees to raise serious concerns within the Council. The overriding consideration should be that it would be in the public interest for the malpractices to be corrected and for any necessary sanctions to be applied. The Policy has been discussed with the relevant Trade Unions and professional organisations and has their support.

AIMS AND SCOPE OF THE POLICY

- (ii) The Policy aims to:-
- (a) provide avenues for any employee to raise concerns and receive feedback on any action taken;
 - (b) allow any employee to take the matter further if they are dissatisfied with the Council's response; and
 - (c) reassure any employee that they will be protected from reprisals or victimisation for "Whistleblowing" in good faith.
- (iii) There are existing Procedures in place to enable any employee to lodge a grievance relating to their own employment. The "Whistleblowing" Policy is intended to cover concerns that fall outside the scope of other Procedures.
- (iv) The "Whistleblowing" Policy will cover issues which:-
- (a) are believed to be unlawful; or
 - (b) are against the Council's Constitution or Policy; or
 - (c) fall below established standards of practice; or
 - (d) amount to improper conduct.

SAFEGUARDS

- (v) Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect an employee, when a concern is raised in good faith.

- (vi) This does not mean, however, that, if the particular employee is already the subject of Disciplinary or Redundancy Procedures, those Procedures will be halted as a result of their "Whistleblowing".

- (vii) Confidentiality

The Council will do its best to protect an employee's identity, when a concern is raised and there is a desire for their name not to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement may be required later from the employee as part of the evidence.

(viii) Anonymous Allegations

The Policy encourages employees to put their name to an allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising the discretion, the factors to be taken into account would include:-

- (a) the seriousness of the issue raised;
- (b) the credibility of the concern; and
- (c) the likelihood of confirming the allegation from attributable sources.

(ix) Untrue Allegations

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the employee concerned. If, however, malicious or vexatious allegations are made, possibly out of spite or in order to pursue a private vendetta or retribution, disciplinary action may be taken against the employee.

HOW TO RAISE A CONCERN

- (x) As a first step, employees should normally raise concerns with their immediate Manager or their Supervisor. This depends, however, on the seriousness and sensitivity of the issues involved, and who is thought to be involved in the malpractice. For example, if it is believed that Management is involved, an approach should be made to the Head of Human Resources.
- (xi) Employees will be required to record in writing the background and history of their concerns, giving names, dates and places, where possible, and to state the reasons why there are particular concerns about the situation. If employees do not feel able to put their concerns in writing, they can telephone or meet the appropriate Officer. Such a meeting can take place away from the workplace, if that is what is preferred.
- (xii) The earlier the concern is expressed, the easier it is to take action.
- (xiii) Although employees are not expected to prove the truth of the allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern.
- (xiv) Advice and guidance on how matters of concern may be pursued can be obtained from the Head of Human Resources.
- (xv) A Trade Union Organisation or Professional Association may be invited to raise a matter on behalf of a particular employee.

HOW WILL THE COUNCIL RESPOND?

- (xvi) The action taken by the Council will depend on the nature of the concern. The matters raised may:-
 - (a) be investigated internally; and/or
 - (b) be referred to the Police;
 - (c) be referred to the External Auditor; and/or
 - (d) form the subject of an Independent Inquiry.
- (xvii) In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific Procedures (for example discrimination issues), will normally be referred for consideration under those separate Procedures.
- (xviii) Some concerns may be resolved by agreed action without the need for investigation.
- (xix) Within ten working days of a concern being received, the Council will write to the employee:-

- (a) acknowledging that the concern has been received;
 - (b) indicating how it proposes to deal with the matter;
 - (c) giving an estimate on how long it will take to provide a final response;
 - (d) stating whether any initial enquiries have been made; and
 - (e) indicating whether further investigations will take place, and if not, why not.
- (xx) The amount of contact between Officers considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the employee.
 - (xxi) When any meeting is arranged, employees have the right, if they wish, to be accompanied by a Trade Union Representative, Professional Association Representative, or a work colleague who is not involved in the area of work to which the concern relates. Where appropriate, meetings can be arranged and held "off site" to safeguard confidentiality.
 - (xxii) The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern and they will be protected, as far as possible, from reprisals and victimisation. For instance, if employees are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure and offer guidance and, where appropriate, counselling.
 - (xxiii) The Head of Human Resources, or some other nominated Officer, will investigate the nature of the complaint in the first instance, and will make a recommendation to the Chief Executive (or the Strategic Director of Corporate Services if the complaint concerns the Chief Executive) without disclosing the employee's identity, so far as possible.
 - (xxiv) The Council accepts that employees will need to be assured that the matter has been properly addressed and, where appropriate, subject to any legal constraints, they will receive information about the outcome of any investigation.
 - (xxv) Managers and/or employees, who are shown to exercise undue pressure on other employees to deter them from raising a concern about abuse or malpractice, will be subject to the Council's Disciplinary Procedure.
 - (xxvi) The Council reserves the right to initiate disciplinary proceedings against employees who raise matters under the "Whistleblowing" Procedure in bad faith and are deemed to have acted maliciously or vexatiously.

HOW THE MATTER CAN BE TAKEN FURTHER?

- (xxvii) The "Whistleblowing" Policy is intended to provide an employee with an avenue to raise concerns within the Council. If there are concerns relating to anonymity, these should be discussed with the Head of Human Resources. Should this be an employee's preferred choice, special arrangements will be implemented, as far as it is reasonably practicable, to ensure that any information they are able to give in order to resolve a serious malpractice will not affect their employment with the Council. Employees are requested to pursue any area of concern through the appropriate internal Procedures, in the first instance. The rights under the Policy are in addition to any other rights which might already exist.
- (xxviii) If any employee does decide to take the matter outside the Council, they need to ensure that they do not disclose confidential or privileged information.

THE RESPONSIBLE OFFICER

(xxix) The Chief Executive, as Head of Paid Service, has overall responsibility for the maintenance and operation of the Policy. The Chief Executive, through the Head of Human Resources, will maintain a record of concerns raised and their outcomes, in a form which does not endanger an employee's confidentiality, and will report to the Council as and when appropriate.