

CONFLICTS OF INTEREST POLICY FOR COUNCILLORS

Belfast City Council

Contents

1.0	Introduction and Background	2
2.0	General Principles for Dealing with Conflicts of Interest	5
3.0	Registration of Interests	7
4.0	Declaration of Interests	9
5.0	Nominations to Outside Bodies	12

Annex

	The Nolan Principles	14
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1. INTRODUCTION AND BACKGROUND

Background

1.1 The public has high expectations of Councillors and officers and the way in which they should conduct themselves in undertaking their duties. Belfast City Council expects the conduct of its Councillors and officers to be above reproach.

1.2 In the 1990s, the Committee on Standards in Public Life (the Nolan Committee) set out seven principles of conduct which underpin public life. These seven principles (which are defined in the Annex to this Policy) are as follows:

Selflessness
Integrity
Objectivity
Accountability and stewardship
Openness
Honesty and
Leadership

1.3 The handling of conflicts of interest is a particularly important and sensitive issue and is specifically referred to in the Nolan Principle on Honesty:

"You must act with honesty at all times. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest."

1.4 Belfast City Council has adopted the *Northern Ireland Code of Local Government Conduct* which is a *Code of Recommended Practice for the Guidance of Councillors*. The Code contains various references to the duty of Councillors to handle conflicts of interest appropriately including:

"You should act in the public interest at all times. In particular, you should not, either officially or otherwise, use your position to gain advantage (financial or other) for yourself, a family member or a friend or business associate" (Section 17)

"If you have a pecuniary, or private or personal non-pecuniary, interest in a matter being considered by your council, you should exclude yourself from discussions and decisions on that matter" (Section 22)

"You should not speak or vote on a matter in which you have a pecuniary interest...you must withdraw from the meeting while that matter is being discussed" (Section 26)

"You should also declare any significant private or personal non-pecuniary interest in a matter private or personal interest extends to your membership of, or association with, any business, club, society, voluntary body or other organisation" (Section 27)

Why do we need a Conflicts of Interest Policy?

1.5 While all Councillors have a personal responsibility to observe the Code of Conduct, it is also incumbent on Belfast City Council to provide advice and guidance to its Councillors to ensure that, in discharging their roles, they comply with the law and fulfil their obligations under the Code of Conduct. In addition, the Council has a duty to avoid placing Councillors in positions where they may face a serious conflict of interest.

1.6 As part of Belfast City Council's corporate governance arrangements, this document sets out the Council's Conflicts of Interest Policy and the procedures to be followed by Councillors when a conflict arises.

1.7 The key purposes of this Conflict of Interest Policy are as follows:

- To help Councillors comply with the Code of Conduct

In particular, this Policy aims to avoid self-dealing and any perception of self-dealing which may adversely affect the Council and/or its Councillors

- To ensure effective governance and maintain the public's trust in the Council and its Councillors

Effective governance depends on decision making by Councillors that is unbiased and that appears to be unbiased. The perception of a conflict of interest could potentially damage Belfast City Council's credibility and reputation, and compromise its ability to fulfil its mission and goals

- To facilitate the involvement of Councillors with voluntary and other not-for-profit groups in their communities as well as on other Boards as a nominee of the Council

Many Councillors play an active role with voluntary and community groups in their locality. However, conflicts of interest can arise when these groups are current or potential recipients of grants (or other funding) from the Council.

Who does the Policy cover?

1.8 This policy applies to all Councillors in Belfast City Council and any member of a Council Committee or Working Group or Panel who is not a Councillor.

What does the Policy cover?

1.9 This policy covers four main areas:

- The general principles for dealing with conflicts of interest within Belfast City Council
- Formal registration of interests by Councillors
- Procedures for declaring and managing conflicts of interest
 - Determining whether or not a conflict of interest exists and is material
 - Approving a 'transaction' where a conflict of interest is involved
 - Documentation of disclosures and decisions
- Appointments to outside organisations.

1.10 If you have any queries in respect of this Policy or need advice in relation to a specific case, please contact the Assistant Chief Executive on 028 9027 0239.

2. GENERAL PRINCIPLES FOR DEALING WITH CONFLICTS OF INTEREST

The Nine Principles

- 2.1 Although this Policy provides advice and guidance to Councillors on how to handle conflicts of interest, it cannot cover every conceivable situation that may arise. Belfast City Council has identified nine general principles which underlie and underpin its procedures to handle conflicts of interest appropriately.
- 2.2 In following these principles, Belfast City Council and its Councillors are demonstrating their commitment to openness, transparency and propriety in the conduct of Council business and adherence to the Nolan Principles as reflected in the Northern Ireland Code of Local Government Conduct.
- 2.3 The nine principles are as follows:
1. It is the personal responsibility of each Councillor to ensure that he or she complies with this Conflicts of Interest Policy (Section 4.11)
 2. Councillors should only play a role in the decision making process if they can demonstrate objectivity (Section 4.1)
 3. In considering whether an interest is material, a Councillor must consider not only whether he or she will be influenced but also whether a member of the public, acting reasonably, might think that he or she might be influenced (the public perception test) (Section 4.2)
 4. Where a material interest exists, either direct or indirect, objectivity will always be assumed to be impaired. This will be the case irrespective of the category of the organisation that the Councillor has the interest in (e.g. private sector, public sector, voluntary sector or community organisation) (Section 4.3)
 5. Where a Councillor is deemed to have a material interest (direct or indirect) in an applicant organisation, he or she should declare this interest and take no part in the decision making process (Section 4.4)
 6. If in doubt, even after discussing the matter with colleagues or the Assistant Chief Executive, a Councillor should err on the side of caution. A Councillor cannot be accused of behaving improperly by declaring an interest which does not exist. However, Councillors do run the risk of serious criticism and possible sanction if they do not declare an interest and act appropriately in respect of an interest that does exist (Section 4.12)

7. Where a Councillor has a material interest in another organisation (including as a result of being nominated or appointed by the Council), the Councillor should not participate in any Council discussion or decision relating to (1) an application to the Council for grant (or other) funding from that organisation or (2) any other commercial dealing of that organisation with the Council (Section 5.10)
8. Once a Councillor is appointed by the Council to sit on a third party body, he or she does so as a representative of the public interest, not to formally represent the Council (Section 5.5)
9. Belfast City Council should normally only appoint a Councillor to the Board of an outside organisation where it is likely to further the corporate objectives of the Council or is in the wider public interest. All appointments require the prior approval of the Council (Sections 5.1 to 5.4).

3. REGISTRATION OF INTERESTS

What is the difference between registration and declaration of interests?

- 3.1 Registration is the formal process of recording all the direct interests of Councillors on an annual basis whereas a declaration is made as and when interests arise during the day-to-day duties of Councillors.

Maintaining and updating the Register of Interests

- 3.2 All Councillors are required to formally register their own direct (personal) interests annually.
- 3.3 A Register of Interests will be maintained for Councillors which should be formally updated at least annually and published on the Council's website. The Assistant Chief Executive will issue guidance annually on what is to be registered as part of the Council's Publication Scheme.
- 3.4 Councillors must inform the Council of any changes to their interests which occur during the year. Any new interests or changes to interests should normally be brought to the attention of the Assistant Chief Executive within one month of the new interest/change.
- 3.5 The Assistant Chief Executive will maintain (and update) the Register of Interests for Councillors and ensure that the website is regularly updated. The Assistant Chief Executive will be the key contact for Councillors for notification purposes.

What has to be registered?

- 3.6 The following six categories of interests should be registered.

- **Remuneration**

You have a registrable interest where you receive remuneration by virtue of being employed, self-employed, the holder of an office, a director of an undertaking, a partner in a firm, or undertaking a trade or profession

- **Related undertakings**

Any directorships of a parent or subsidiary undertaking which are unremunerated

- **Contracts**

Where an undertaking (i.e. you, a corporate body, partnership or unincorporated association), has a contract with Belfast City Council

- **Houses, Land and Buildings**

Houses, land or buildings within the Council area which may be significant to the work and operation of the Council

- **Shares and Securities**

Shares or securities held in a company or organisation which may be significant to the work and operation of the Council

- **Non-financial interests**

Any non-financial interests that may be significant to the work and operation of the Council (see Sections 3.8 and 3.9 below).

3.7 Councillors do not have to register the value of any interest but rather the name and nature of the organisation in which the interest is held.

3.8 Councillors may have significant non-financial interests and it is equally important that relevant interests such as membership or holding office in public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

3.9 In this context, non-financial interests are those which members of the public might reasonably think could influence your actions, speeches or votes in the Council.

What about the interests of family members?

3.10 Councillors are only required to register direct (personal) interests but may also voluntarily register indirect interests. The most common category of indirect interests is likely to be the financial interests of close family members.

3.11 Close family has been defined by the Accounting Standards Board in Financial Reporting Standard 8 as "*those family members, or members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with the [Council].*" It is intended to include at least those relatives identified as 'immediate family', i.e. spouse, live-in partner, parent, child, brother, sister and the spouses of any of these.

3.12 Even if indirect interests are not registered, they should be declared as and when they arise.

4. DECLARATION OF INTERESTS

Declaring a conflict of interest

- 4.1 Public confidence in the Council depends on it being clearly understood that decisions are taken in the public interest and not for any other reason. Councillors should only play a role in any decision making process if they can demonstrate objectivity.
- 4.2 In considering whether an interest is material (significant), a Councillor must consider not only whether he or she will be influenced but also whether any reasonable person would think that he or she might be influenced. The test is whether a member of the public, acting reasonably, might think that a particular interest could influence the decision made (the public perception test).
- 4.3 Where a material interest exists, either direct or indirect, objectivity will always be assumed to be impaired. This will be the case irrespective of the category of the organisation that the Councillor has the interest in (e.g. private sector, public sector, voluntary sector or community organisation).
- 4.4 Where a Councillor is deemed to have a material interest in an application or other matter, he or she should declare this interest and take no part in the decision making process. This includes not being present at the relevant part of a Committee or other meeting and not participating in discussions or having any kind of involvement or influence.
- 4.5 Where a Councillor has declared an interest at a Committee meeting and absented himself/herself in line with this Policy, the Councillor may be present at any full Council meeting where this decision is being ratified. However, the Councillor should not raise any point relating to the conflicted matter during the Council meeting and if the conflicted matter becomes the subject of a debate or discussion, the Councillor should again declare the interest and absent himself/herself from the meeting.
- 4.6 Interests may be financial or non-financial but there is a particular risk in respect of financial interests. In the case of a financial interest, there should be a presumption that the interest is material and that the conflicted Councillor should withdraw from playing any part in the process.
- 4.7 Councillors should also be aware of situations when it would be appropriate to declare significant interests of close family or friends (indirect interests). Some examples of indirect interests are:

- Your sister is a senior manager in a PR/Marketing company and the Council is entering into a procurement exercise for a major marketing contract
- The Council is meeting to discuss the possible closure of a facility where a member of your family is employed
- A close friend is a manager in a voluntary body that has submitted a grant application to the Council and it is due to be considered by a Council Committee that you are a member of.

4.8. Where a Councillor is unsure as to whether an interest should be declared, or what action to take in a given situation, he or she should seek the advice of the Assistant Chief Executive. However, ultimately, it is for each Councillor to make his or her own decision and to take personal responsibility for that decision.

When do you declare an interest?

- 4.9 Where a Councillor is attending a meeting and he or she has a material interest in one or more items on the agenda, declaration of the interest should be made as early as possible and certainly well before the particular item on the agenda is discussed. Ideally, the declaration should be made at the beginning of the meeting and provide enough information to allow those present to understand the nature of the interest. The person should then withdraw from the meeting for the relevant part of the meeting.
- 4.10 Declarations of interest and any action taken as a result (e.g. leaving the room) should be recorded in the minutes or other appropriate record of the meeting.
- 4.11 It is the personal responsibility of each Councillor to ensure that he or she complies with this Conflicts of Interest Policy. However, if the Chair of a Committee (or other) meeting is aware that a Councillor has not declared a material interest or has declared it but not acted in accordance with this Policy, the Chair should remind the Councillor of his/her responsibilities under this Policy.
- 4.12 If a Councillor is in doubt as to whether or not to declare a material interest, even after discussing the matter with colleagues or the Assistant Chief Executive, he or she should err on the side of caution. A Councillor cannot be accused of behaving improperly by declaring an interest which does not exist or by leaving the meeting upon declaring a material interest which a reasonable person would not have considered material. However, Councillors do run the risk of serious criticism and possible sanction if they do not declare an interest and act appropriately in respect of an interest that does exist.

- 4.13 A conflicted Councillor should not use his/her position to try and improperly influence a decision by, for example, asking or directing another person to represent his/her interests or views at the meeting. Likewise, the Councillor should not comment about the situation at any time, inside or outside meetings (including to the Press).
- 4.14 A Councillor should not seek or accept membership of any Committee (or Working Group, Panel etc.) if it would involve declaring a material interest so often that he or she would be of little value to that Committee or if it would damage public confidence in the Committee.
- 4.15 Councillors should also exercise extreme care when gifts, gratuities, entertainment, hospitality or honoraria are offered from current or potential suppliers or grantees or any individual or organisation which stands to gain or benefit from a decision of the Council. Such offers of gifts / hospitality should be recorded in the appropriate register maintained by the Democratic Services Section.

Breaching this Conflicts of Interest Policy

- 4.16 Where a Councillor has a direct or indirect pecuniary (financial) interest in a contract or other matter and takes any part in discussions or decisions on that matter, then under Section 28 of the Local Government Act (Northern Ireland) 1972, the Councillor "shall be guilty of an offence and shall be liable:
- (a) on conviction on indictment, to imprisonment for a term not exceeding one year or to a fine or to both or
 - (b) on summary conviction, to a fine not exceeding level 3 on the standard scale [currently up to £1,000]".
- 4.17 Where Councillors otherwise commit a breach of any of the provisions of this Policy, they may be exposing themselves and/or their Party Grouping to criticism.

Related Party Accounts Disclosure

- 4.18 As part of its annual accounts, the Council has to publish a list of what are called 'related party transactions'. These are transactions conducted between the Council and bodies that it may have a relationship with, for example where a Councillor is on the Board of an arm's length company. While such transactions are legal, they have to be disclosed in the annual accounts and are subject to review by external audit. The registration of Councillors' interests will help the Council to capture information on related party transactions but Councillors should be aware that they may be asked by Local Government Audit, as part of the annual audit, to provide further information or clarification on related party transactions.

5. NOMINATIONS TO OUTSIDE BODIES

When should appointments to outside bodies be made?

- 5.1 Belfast City Council should normally only appoint a Councillor to the Board of an outside organisation where it is likely to further the corporate objectives of the Council or is in the wider public interest. All appointments require the prior approval of the Council.
- 5.2 Appointments will normally be for a maximum period of four years - any exception to this should be justified and approved by the Council.
- 5.3 Any appointment to a Board made by Belfast City Council should be reviewed periodically, to determine if this remains appropriate.
- 5.4 In deciding whether an appointment is appropriate, the Council should consider the following questions:
- 'Public Interest' Justification

Is the appointment likely to further the corporate objectives of Belfast City Council or is it in the wider public interest?

Could the Council be compromised or disadvantaged by not being represented on this organisation?
 - Financial Risk

Are there any financial risks of taking a role in the organisation? Is it possible that the organisation will look to the Council for substantial funding in the future?

Will a subsidiary relationship be created now or is it likely to arise inadvertently at some time in the future by virtue of the control and direction exercised by the Council?

Does the organisation have debts currently or is it likely to in the future which Belfast City Council may become responsible for (legally or morally) by virtue of its involvement.
 - Reputational Risk

Will the organisation undertake any activity which may expose Belfast City Council to reputational risk?

Will there be external criticism of Belfast City Council being represented or not being represented?

The position of Councillors on the Boards of outside bodies

- 5.5 The fundamental principle is that once Councillors are appointed to the Board of an outside body, they cannot be directed or controlled by the Council. They are not there to represent the Council and they are personally liable for their decisions and actions.
- 5.6 Councillors who are appointed to the Board of an outside body should familiarise themselves with the Council's Protocol for Partnership Arrangements (February 2004) which provides guidance on the position of Councillors and officers who serve on the Board of an outside company or other organisation.
- 5.7 Councillors who become directors of companies as nominees of the Council will assume personal responsibilities under the Companies Orders (similarly, responsibilities as trustees, if it is a charity). In these cases, it is possible that conflicts of interest will arise between the company and the Council.
- 5.8 It is the responsibility of all Councillors to take legal and other advice on their responsibilities to the Council and to the company. This will include questions of declarations of interest. The Council will provide appropriate training and support to all Councillors nominated to serve on the Boards of outside bodies.
- 5.9 Where Councillors are appointed to the Boards or Management Committees of other organisations by Belfast City Council, they should never assume an executive role. Under no circumstances should they act as a cheque signatory, prepare applicant claims, sign applicant legal documentation, or set up or operate a bank account. With the exception of statutory bodies (such as Education and Library Boards etc), they should generally avoid assuming positions of authority (such as Chair or Treasurer) in such organisations.
- 5.10 Where a Councillor has a material interest in another organisation as a result of being nominated or appointed by the Council, that Councillor should not participate in any Council discussion or decision relating to (1) an application to the Council for grant (or other) funding from that organisation or (2) any other commercial dealing of that organisation with the Council.

ANNEX: THE NOLAN PRINCIPLES

The seven Nolan Principles are as follows:

Selflessness: Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or other friends.

Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.