

South Ayrshire Council
Report by Head of Legal and Regulatory Services
to Cabinet
of 25 April 2023

Subject: Code of Conduct for Employees – Conflict of Interest

1. Purpose

1.1 The purpose of this report is to seek approval from Members for the revised Code of Conduct for Employees.

2. Recommendation

2.1 **It is recommended that the Cabinet approves the revised Code of Conduct for Employees (relevant extract contained in [Appendix 1](#)).**

3. Background

3.1 The Council's Anti-Fraud and Anti-Bribery Strategy provides that employees and elected members must declare any possible conflicts which they may have in contracts entered into by the Council, and that where such conflicts arise, they should be openly disclosed and recorded in a register of interests. It was noted that, while there is a Members' Register of Interests and a potential conflict question in the Procurement tendering process requesting officers to declare an interest, there is no separate register of interests for employees.

4. Proposals

4.1 In order to address the points at para 3.1 above, it is proposed that:

- A Conflict of Interest Declaration form, available on The Core, be forwarded to Chief Officers and Service Leads and cascaded as appropriate. It should be completed by employees who consider that they may be, or could be perceived to be, vulnerable to a conflict of interest which may affect their work. An annual reminder will be sent to relevant officers to ensure that the Register is current.
- The completed form will be uploaded to The Core and the employee's line manager will be automatically notified.
- The Council's Monitoring Officer and Chief Internal Audit Officer will have access to the Conflict of Interest Register for governance and audit purposes.

4.2 The updated Code of Conduct for Employees is submitted for Members' approval. The proposed amendments to paragraph 4 – Conflict of Interest and 6 – Work Outside the Council - are tracked and highlighted in yellow in the relevant extract from the revised Code (attached as [Appendix 1](#)).

4.3 Subject to approval, the revised Code will be published on The Core, and will also be notified to employees by way of the next available Communications bulletin.

5. Legal and Procurement Implications

5.1 The recommendations in this report are consistent with legal requirements.

5.2 There are no procurement implications arising from this report.

6. Financial Implications

6.1 Not applicable.

7. Human Resources Implications

7.1 Steps will be taken to ensure that related Policies and Procedures are updated to reflect the amended Code.

8. Risk

8.1 Risk Implications of Adopting the Recommendations

8.1.1 There are no risks associated with adopting the recommendations.

8.2 Risk Implications of Rejecting the Recommendations

8.2.1 The risks associated with rejecting the recommendations are that staff are not alert to instances where they may be, or could be perceived to be, vulnerable to a conflict of interest which may jeopardise their impartiality, integrity and reputation which may in turn, result in reputational damage to the Council and be subject to police investigation.

9. Equalities

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 2](#).

10. Sustainable Development Implications

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

- 12.1 The matters referred to in this report contribute to Priority 4 of the Council Plan: Efficient and effective enabling services.

13. Results of Consultation

- 13.1 Consultation has taken place with Councillor Ian Davis, Portfolio Holder for Finance, Human Resources and ICT, and the contents of this report reflect any feedback provided.
- 13.2 There has been consultation with the Trade Unions on the contents of this report.

14. Next Steps for Decision Tracking

- 14.1 If the recommendations above are approved by Members, the Head of Legal and Regulatory Services will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the 'Council and Cabinet Decision Log at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Amended Code published on The Core	28 April 2023	Service Lead – Democratic Governance

Background Papers None

Person to Contact Wynne Carlaw, Service Lead – Democratic Governance
County Buildings, Wellington Square, Ayr, KA7 1DR
Phone 01292 612192
E-mail WynneCarlaw@south-ayrshire.gov.uk

Date: 14 April 2023

South Ayrshire Council

Conflict of Interest

April 2023

4 Conflict of interest

Employees have an obligation to act in the best interests of the Council and to avoid situations where there may be a potential conflict of interest between the employee's employment responsibilities and his/her life out with that employment.

Employees must not:

- (a) Use their position to further their own interests or the interests of others who do not have a right to benefit under the Council's policies; or
- (b) Allow any private interest to influence decisions in the course of employment.

Any private interest employees have relating to the work of the Council must be declared to their line manager. This could be a financial interest, or one which a member of the public might reasonably think could influence an employee's judgement. It could also be a financial interest that close family members, or people living in the employee's household, might have in the work of the Council. For example, an employee who is involved in procuring services and whose partner works for an organisation that may bid for work or that has a contract with the Council.

Employees whose membership of a private club, society or organisation might result in a conflict of interest, or could reasonably be perceived by a member of the public as creating a possible conflict of interest in relation to their Council employment, must declare this membership to their line manager.

Employees should also be aware of the potential for actual or perceived conflict of interest in situations where a close personal relationship exists or develops between employees working in the same team or section, and particularly where one of the employees has a supervisory/line management responsibility for the other. In such a situation, advice should be sought as appropriate from a senior manager.

It is the personal responsibility of every employee to formally declare, and take steps to avoid, any conflict of interest or potential conflict of interest. If an employee is in any doubt as to what may constitute a conflict, they should discuss the matter with their line manager.

4.1 Contracts

Employees must comply with the Council's Standing Orders Relating to Contracts, the Council's Financial Regulations and other appropriate local procedures.

In entering into contracts for, or on behalf of, the Council, employees are obliged to seek best value for the Council and be able to demonstrate openness, fairness and non-discrimination in the process of awarding contracts.

Employees who have a potential conflict of interest, or a direct or indirect financial interest, in any tender or contract cannot be involved in any aspect of the process and must make their line manager aware of that interest in writing immediately they become aware of the tender or contract. Employees must not disclose confidential information on either internal or external contractors to any individual or organisation unless authorised to do so.

6.0 Work Outside the Council

With the exception of Chief Officers, where separate arrangements apply requiring them to obtain the express consent of the Chief Executive if they wish to undertake paid work out with the Council, there is no restriction on employees undertaking other work of a paid or unpaid nature out with normal working hours, providing the additional work:

- Does not interfere with or impair the employees' ability for the efficient execution of duties within the Council's service
- Is not carried out during the employees normal working hours with the Council
- Does not involve the employee using Council vehicles, plant, premises, equipment, materials or any other council resource (either on or off Council premises)
- Is not undertaken while the employee is in a South Ayrshire Council uniform or where the employee can be identified clearly as being an employee of the Council
- Does not involve the employee, on behalf of a person or organisation, in return for payment or fee, preparing an application, drawing, report or other documentation which will be submitted to the Council for the purpose of obtaining any licence, consent, warrant or other form of statutory permission on behalf of the client

Any employee wishing to undertake paid work of any kind outside the Council, must advise their line manager. Where there is deemed to be a potential conflict of interest then the Conflict of Interest Declaration form ([link](#)) must be completed by the employee.

This procedure is in the interests of employees and is intended to protect them and to ensure compliance with health and safety requirements and the working time regulations.

South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: <https://www.south-ayrshire.gov.uk/equalities/impact-assessment.aspx>

Further guidance is available here: <https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities/>

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. [FSD Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018 and revised in October 2021. See information here: <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>

1. Policy details

Policy Title	Code of Conduct for Employees – Conflict of Interest
Lead Officer (Name/Position/Email)	Catriona Caves, Head of Legal and Regulatory Services – catriona.caves@south-ayrshire.gov.uk

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	No	No
Disability	No	No
Gender Reassignment (Trans/Transgender Identity)	No	No
Marriage or Civil Partnership	No	No
Pregnancy and Maternity	No	No
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	No	No
Religion or Belief (including lack of belief)	No	No
Sex – (issues specific to women & men or girls & boys)	No	No
Sexual Orientation – person's sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	No	No
Thematic Groups: Health, Human Rights & Children's Rights	No	No

3. What likely impact will this policy have on people experiencing different kinds of social disadvantage i.e. The Fairer Scotland Duty (This section to be completed for any Strategic Decisions). Consideration must be given particularly to children and families.

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	No	No
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	No	No
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	No	No
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	No	No
Socio-economic Background – social class i.e. parent’s education, employment and income	No	No

4. Do you have evidence or reason to believe that the policy will support the Council to:

General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low
Increase participation of particular communities or groups in public life	Low
Improve the health and wellbeing of particular communities or groups	Low
Promote the human rights of particular communities or groups	Low
Tackle deprivation faced by particular communities or groups	Low

5. Summary Assessment

Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out if impacts identified as Medium and/or High)	YES
	NO
Rationale for decision:	

Impact of policy is low

Signed : Catriona Caves

Head of Service

Date: 14 March 2023