

CITY & COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE: 21 OCTOBER 2014

REPORT OF THE MONITORING OFFICER AGENDA ITEM: 7

OFFICERS' PERSONAL INTERESTS & SECONDARY EMPLOYMENT POLICY

Reason for this Report

1. To enable the Committee to consider and give its views on a draft policy on officers' personal interests and secondary employment.

Background

2. All Council employees are obliged, under the Employees' Code of Conduct, to ensure that their private interests do not conflict with their public duties, and to comply with the Council's rules on the registration and declaration of financial and non-financial interests (paragraph 8(1) of the Code).
3. The Standards and Ethics Committee has responsibility to advise the Council on this issue, pursuant to paragraph (c) of its approved terms of reference:

 “(c) To advise the Council on the effective implementation of [its Ethical] Code including such matters as the training of Members and employees on the Code's application.”

Issues

4. Whilst the Council should not interfere unnecessarily with the private lives of its staff, it needs to have effective arrangements in place to ensure Council staff carry out their duties in a fair and unbiased way, without being influenced by their own personal interests.
5. The Council's arrangements for dealing with officers' personal interests and secondary employment have not been updated for several years and this has been identified as an area requiring attention. The Monitoring Officer has worked with officers from Internal Audit and Human Resources to prepare a new draft Policy on Officers' Personal Interests and Secondary Employment, which is appended as **Appendix A** to this report.
6. The draft Policy sets out the obligations imposed on staff by law; explains the types of situations where a conflict of interest will arise; outlines the respective

responsibilities of staff and managers; and provides a procedure for the disclosure and management of personal interests and secondary employment.

7. Members will note that the Policy, as drafted, applies to all Council staff, which includes employees, agency workers, interim staff etc, on the basis that the same principles of fairness, propriety and impartiality apply irrespective of employment status, and the Council has a responsibility to ensure its business is conducted properly and in accordance with principles of good governance.
8. Under the Policy, all staff are required to disclose any personal interest which actually or potentially conflicts with their duties to the Council (and all secondary employment); and their manager must then determine, in consultation with the staff member, whether an actual conflict exists, and if so, how that conflict should be managed (which includes the re-allocation of duties, if possible, and an appeals procedure).
9. The Policy, once approved and adopted, will need to be supported by a communication and training plan, to ensure that all staff and managers (both existing staff and new appointees) fully understand their responsibilities.
10. The draft Policy is also subject to consultation with Directors and their staff, and Trade Unions, and will be revised to reflect consultation responses, as appropriate.
11. The Committee is recommended to consider the draft Policy, make any appropriate comments and suggested amendments; and to recommend the draft Policy to the Cabinet for adoption, subject to any amendments suggested by the Committee or following staff and Trade Union consultation. Further, to instruct the Monitoring Officer to develop and implement a communications and training plan once the Policy is adopted.

Legal Implications

The relevant legal provisions and the implications of these are set out in **Appendix A**, paragraphs 5 to 11 (inclusive), 'The Law'.

Financial Implications

There are no direct financial implications arising from this report.

RECOMMENDATION

The Committee is recommended to:

1. Consider the draft Officers' Personal Interests & Secondary Employment Policy attached as **Appendix A**, and make any appropriate comments and suggested amendments;
2. Subject to any amendments suggested by the Committee or following staff and Trade Union consultation, to recommend the draft Officers' Personal Interests & Secondary Employment Policy attached as **Appendix A** to the Cabinet for adoption; and
3. Instruct the Monitoring Officer to develop and implement a communications and training plan once the Officers' Personal Interests & Secondary Employment Policy is adopted.

Marie Rosenthal
County Clerk and Monitoring Officer
14 October 2014

Appendices

Appendix A draft Officers' Personal Interests and Secondary Employment Policy

Background Papers

Cardiff Council Employees' Code of Conduct
Cardiff Council's Standard Employment Contracts
Code of Practice on Local Authority Accounting



OFFICERS' PERSONAL INTERESTS & SECONDARY EMPLOYMENT POLICY

DATE DOCUMENT PUBLISHED	
APPROVED BY	
APPROVAL DATE	
DOCUMENT OWNER	
DATE FOR REVIEW	

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INTRODUCTION

1. The Council is committed to undertaking its work in a fair and professional way. Whilst the Council does not wish to interfere unnecessarily with its staff's private lives or activities outside of their contracted hours, it is essential that staff do not allow any private or personal interests, including interests arising from any other employment or business outside of the Council, to conflict with their duties to the Council.

Aim of this Policy

2. The aim of this Policy is to provide rules and guidance that will help to protect the Council and its staff from criticism, misunderstanding and any allegations of impropriety.
3. The Policy aims to ensure that all conflicts of interest are managed transparently, and that an officer's secondary employment does not undermine the performance of their Council duties in any way.

Who is covered by this Policy?

4. This Policy applies to all Council staff (including agency workers, interim staff and school based employees other than teachers), irrespective of their employment status or grade. The Policy is also commended to School Governing Bodies.

The Law

5. All Council employees are required to comply with the statutory Code of Conduct for Local Government Employees, which is embedded within the Council's Constitution and published on the Council's website (except teachers, who have their own Code of Conduct).
6. Under paragraph 8 of the Employees Code of Conduct, employees are under a duty not to allow private interests to conflict with their public duties and to comply with the Council rules on declarations and registration of interests.

7. The Code of Conduct is incorporated by law into the employment contracts of all Council employees, and failure to comply with the Code may result in disciplinary action.
8. Employees' contracts of employment also impose legal obligations in respect of any other ('secondary') employment (see section xxx 'Private Work / Other Business or Employment' below).
9. Council officers have a statutory duty (under the Local Government Act 1972, section 117) to give written notice of any financial interest they may have in a Council contract (any contract which has been, or is to be, entered into by the Council). Failure to do so is a criminal offence.
10. The Council has a duty of care under the Working Time Regulations to monitor the number of hours worked by its staff.
11. Senior Officers (Chief Officers and above) are subject to additional disclosure obligations in respect of their outside business interests, to meet the legal requirements of the Council's annual Statement of Accounts (see paragraph xx below).

Key Requirements

12. All Council staff are required under this Policy to disclose:
 - any personal interest which conflicts, or may conflict, with their duties to the Council;
 - any secondary employment; and
 - any financial interest in a contract with the Council.

Guidance on these requirements is set out below.

Conflicts of Interest

13. You must not:
 - allow your private interests or beliefs to conflict with your professional duty; or

- misuse your official position or information acquired in the course of your employment to further your private and personal interest or the interests of others.
14. In order to protect the reputation of the Council and its employees, you are required to formally disclose all *potential* or *apparent* conflicts of interest (as well as *actual* conflicts) – this means you must disclose any interest which *may or may be seen to* conflict with your Council duties.
 15. Private and personal interests include those of your close family and friends (that is, anyone with whom you have a close personal association), as well as those arising through business and financial interests and membership of clubs, societies or other organisations.
 16. It is impossible to list every situation in which a conflict of interest may arise, as this will depend on the particular circumstances of each case, but guidance given below.
 17. If you are unsure about a possible conflict of interest, you should seek advice from your line manager.
 18. You must formally disclose any links you may have (including, but not limited to, as a director, company secretary, trustee, partner, shareholder, owner, contractor or employee) with an outside organisation which may:
 - receive (or be applying for) grants or other benefits from the Council, IF you are involved in the grant allocation process
 - work for the Council, or supply goods and services to it (or tendering for such work or preparing to do so)
 - campaign, lobby or seek to influence the Council's policies.
 19. You must formally disclose any regulatory applications made to the Council by yourself or any person or body with which you are associated, IF you have any connection or personal relationship with a member of staff within the relevant section dealing with the application.
 20. You must avoid:
 - Involvement in any appointment decision or other decision relating to discipline, promotion, pay and conditions for any other

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employee (or prospective employee) to whom you are related or with whom you have a close personal relationship outside work. This includes appointments to, and employees of, Cardiff Works. If you have any such relationship, you must disclose it to your manager and HR.

- Acting as a professional representative on behalf of a friend, partner or relative in their dealings with the Council, except in relation to disciplinary or grievance proceedings so long as this does not conflict with your normal duties to the Council.
21. You must ensure that if you enter into a personal relationship with an Officer, or a Councillor, who could be of influence to your benefit, you declare this to your line manager to avoid accusations of favouritism and bias.
22. It is a fundamental principle that no related people should be employed in Council jobs where one is involved in the ordering of goods and services and the other passes the invoices for payment.

Private Work / Other Business or Employment

23. You may undertake paid or unpaid work for yourself or other organisations, but there are some rules that you must follow to ensure that this does not conflict with the interests of the Council or affect your ability and credibility to do your job.
24. You must:
- Formally disclose any other employment (whether inside or outside the Council) – this is a requirement of your contract of employment with the Council. You should note that the Council reserves the right to advise you that you may not carry out any additional employment, IF this may create a conflict of interest or health and safety / duty of care implications.
 - Ensure that any private work is done in your own time and not:

During Council time

Use Council property (including information which belongs to the Council), premises or equipment

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When you are on sick leave (unless your manager has given written consent or you can demonstrate that this is reasonable)

When it may adversely affect performance of your Council duties

When it may be seen to be against the interests of the Council or reduce public confidence in the Council

- Ensure there is no conflict of interest
- Get formal written permission from your manager before you take up any (paid or unpaid) private work for any person or organisation that supplies, or is tendering to supply, goods or services to or from the Council or its contractors and suppliers.
- Declare in writing to your manager any fees paid to you from outside bodies for any work you do in the course of your job and on behalf of the Council (for example, fees for a lecture).

25. Senior officers (Chief Officers, Assistant Directors and above), must obtain consent from the Council before engaging in any other business or taking up any other appointment – This requirement is imposed in their contracts of employment.
26. Senior officers (Chief Officers, Assistant Directors and above) must also disclose *any* companies or other bodies in which they, or a close member of their family, have control or ownership – This is an audit requirement for the Council's annual Statement of Accounts (and further advice on these audit requirements is available from the Technical Accountancy Team in Financial Services).

ROLES and RESPONSIBILITIES

27. It is important that everyone clearly understands their roles and responsibilities within this process.

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Staff Responsibilities

28. All staff must:

Consider whether their private and personal interests conflict, or have the potential to conflict, with their official duties; and avoid such conflicts wherever possible.

Formally disclose all actual or potential conflicts of interest and secondary employment,

Disclose any relevant changes as and when they occur.

Management Responsibilities

29. Managers must:

Comply with the policy in respect of your own conflicts and potential conflicts of interest.

Facilitate compliance by your staff by being aware of the risks inherent in the type of work they do, recording receipt of disclosures of conflicts, monitoring the work of staff and the risks to which they are exposed.

Report breaches of this Policy to your Operational Manager or next level of management (if appropriate), HR People Services and external agencies where appropriate.

Operational Managers and above – You must:

- consider, determine and manage conflicts of interest of your staff
- ensure that records of disclosures under this Policy are regularly reviewed and kept up to date.

Monitoring Officer Responsibilities

30. The Monitoring Officer will:

Establish a system for managing conflicts of interest in the form of a clear policy for all staff to follow

Review the Policy, in consultation with the Standards and Ethics Committee, to ensure that it is effective

Advise on any specific queries regarding the implementation of the Policy, as necessary.

HR People Services Responsibilities

Advise on any employment or staffing issues arising from the operation of this Policy, for example, disciplinary action in the event of a breach.

PROCEDURE

What do I need to do?

31. All staff members must complete Form 1 to disclose any potential conflict of interest and or secondary employment, or any relevant changes which must be notified with 28 days of the change.
32. The Operational Manager (or next level of management, where appropriate), in consultation with the staff member, will determine whether:
 - a (direct or indirect) personal interest exists; and
 - the personal interest (if it exists) is such that there is a conflict with the staff member's duties,

And will notify the staff member of their decision within 10 working days from receipt of the Form ("the Decision Notification").

33. If it is determined that a conflict does exist, the Operational Manager (or next level of management, where appropriate) will need to assess whether there can be an adjustment of duties to avoid the conflict.
34. If it is not possible to adjust duties to avoid the conflict, the staff member will be notified within 10 working days from the Decision Notification ("the Conflict Notification") and given the opportunity to appeal against this decision – see Section xx – Appeal Rights.
35. Where a staff member declines to cease the activity pending the appeal, the Manager shall consider whether it is possible to agree a temporary reallocation of tasks to remove the conflict, failing which, the Manager may instigate a disciplinary investigation in accordance

with the Council's Disciplinary Policy, and will consider whether the staff member should be suspended from duty.

APPEALS

36. Where the Operational Manager (or next level of management, where appropriate) has confirmed that there is a conflict, the staff member shall have a right of appeal.
37. The staff member must indicate the grounds for their appeal e.g. that there is no personal interest or there is no conflict, and explain the reasons for their view.
38. The appeal must be submitted within 10 working days from the Conflict Notification (see paragraph xx above).
39. The appeal will be considered by the next level of management within the Directorate, or by another Director, as appropriate.
40. The staff member will be contacted with the outcome of the appeal within 10 working days from submission.
41. If the appeal is not upheld and the conflict is still considered to exist, then the staff member will have the option of immediate cessation of the activity or resignation from their post within the Council.
42. If the staff member chooses to remain employed by the Council and it is found that the activity has not ceased then a Disciplinary Investigation will be instigated in accordance with the Council's Disciplinary procedure.

Data Protection

43. Information held in relation to this Policy will be managed in accordance with data protection law.

RELATED DOCUMENTS

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Form 1 Declaration of Personal Interests and Secondary Employment

Employee Code of Conduct

Code of Guidance Working Time Regulations

Disciplinary Policy

Name:		Employee Number:	
Job Title		Service Area or School	

Secondary employment

Job Title / Position	
Name and Address of Employer / Company / Organisation	
Details of employment including duties, hours worked per week and times and place of work	

Other Personal interests

Business interests eg contracts with the Council , sponsorship etc	
Membership or management of any club, Trade Union, charity or other professional association	

Any land or property interests			
Any other financial interests			
Any other potentially conflicting personal interests			
Notification of Changes	I undertake to notify the Council in writing of any changes which may occur within 28 days from the date of the change, by submitting a new Form 1 to my Operational Manager (or next level of management, as appropriate).		
Signature:		Date:	

PART 1

Nature of Personal Interest / Secondary Employment:

Is there a Conflict of Interest

YES / NO

(please give details / reasons)

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PART 2

To be completed if there is a Conflict of Interest

Is it possible to re-adjust/reallocate duties to avoid the conflict?	YES / NO (please give details / reasons)

PART 3

MANAGER'S SIGNATURE

Signature:		Date:	
POSITION			

FLOWCHART

To be inserted (LD)

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