

REPORT TO: Cabinet

MEETING DATE: 10 March 2020

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Revised Code of Conduct Policy

1 PURPOSE

- 1.1 To seek approval from Cabinet on amendments to the Code of Conduct Policy which outlines arrangements for all council employees including teachers, craft workers and Chief Officials.

2 RECOMMENDATIONS

- 2.1 That Cabinet approve the revised Policy, attached at Appendix A, which will be introduced from the date of approval by Cabinet, allowing time for communication of the revised Policy to be issued to all staff.

3 BACKGROUND

- 3.1 In January 2019, Internal Audit, identified that there were a number of areas for improvement within the current Code of Conduct Policy to ensure clear approaches in identifying, monitoring and managing potential employee conflicts of interest.
- 3.2 Audit recommendations also outlined the need to establish consistent and clear processes where employees are required to make annual declarations regarding potential breach of conflicts and are made aware of consequences regarding any breach of the policy.
- 3.3 The revised Code of Conduct policy has been benchmarked against seven other Councils, including Edinburgh and Midlothian and expanded to include the COSLA Code of Conduct for Local Government Employees, which outlines conflict of interests. Furthermore, the policy now subsumes the council's current Gifts and Hospitality (2014) policy.

Current Position

- 3.4 Following engagement with Trade Union colleagues and employee consultation, between 16 December 2019 and 15 January 2020, a range of feedback was received including the following which has been incorporated into the attached policy (Appendix A).

- 3.5 Minor changes to wording and grammar to address typos and outdated terminology (e.g. point 6.4 re “public servant” and point 19.1 re “Community Charge”).
- 3.6 In response to collective feedback relating to proposals to have employees seek written permission to undertake voluntary work, section 5 of the policy has been updated to make distinctions in notification procedures for paid secondary employment versus volunteering activities.
- 3.7 The Introduction section has been expanded to clarify employee responsibilities and to outline the need for employees to declare any new potential conflicts of interests as soon as reasonably practicable.
- 3.8 Inclusion of a section relating to competitions and prizes that employees may have the opportunity to enter and receive in the course of their work (see section 12).
- 3.9 Clarifications in relation to reference to the Whistleblowing processes (see points 22.4 & 22.5).
- 3.10 Inclusion at point 6.3 re pupils & young people, outlining boundaries for teachers, support staff, instructors and youth workers in relation to use and retention of personal contact details.
- 3.11 Point 16.4 has been amended to reflect that as an organisation we would not pursue a defamation claim by way of legal action, as this is only open to individuals.
- 3.12 Additional feedback which has not been incorporated specifically into the policy at this time includes the following:
 - 3.13 That the council considers future publication of HR policies on the Internet.
 - 3.14 A suggestion to consider reference to employees who are in arrears or have outstanding debts to the council was not included as this is already covered in the council’s Disciplinary Code.
 - 3.15 Appendices within the policy have been updated to include forms in relation to secondary employment, conflict of interests and gifts and hospitality.
 - 3.16 Generally, the policy has been well received by Trade Union colleagues, employees and managers and has received a higher volume of feedback to date. No further significant revisions have been highlighted during consultation.

4 POLICY IMPLICATIONS

- 4.1 If approved by Cabinet, the revised policy will be implemented through publication on the Intranet, provision of guidance and briefings for managers as required, supported with all employee communications via Inform and MyHR.
- 4.2 A communication plan will be developed for managers and employees to ensure consistency of application of the policy, awareness of individual

responsibilities under the policy and the implications of wilful non-disclosure which could lead to disciplinary action being taken.

- 4.3 Further development of the HR and Payroll iTrent systems will be required to enable fuller recording, monitoring and reporting of employee conflicts of interest going forward.

5 INTEGRATED IMPACT ASSESSMENT (IIA)

- 5.1 The subject of this report has been through the Council's Integrated Impact Assessment process, which has not highlighted any significant negative impacts.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – no significant costs have been identified as a result of introduction of this policy. However, it is anticipated that this policy will provide a robust framework for financial and corporate governance via the identification, monitoring and managing potential employee conflicts of interest.
- 6.2 Human Resources – HR will implement the policy once formally approved and provide communications, briefings and training and as required. Systems and processes via iTrent will be developed to record and report annually on secondary employment, conflict of interests and gifts & hospitality declared by employees. This will be done within existing resources.
- 6.3 Other - n/a

7 BACKGROUND PAPERS

- 7.1 **Appendix A** contains the Code of Conduct Policy.

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DATE	25 February 2020



Code of Conduct

This policy applies to all Local Government Employees, Casual Workers, Teachers, Craft Workers and Chief Officials

*Date Approved:

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review of amendment by the council will be following consultation with the Trades Unions.

Policy Title	Code of Conduct
Policy Section	HR Policies
Prepared By /Policy Author	Human Resources
Version Number	V Draft 1.0
Equality Impact Assessment	
Links to other Council Policies/ processes	Disciplinary Policy and Disciplinary Code Grievance Policy Whistleblowing Policy
Approved By	
Date Approved	
Review Date	December 2019
Date of next Review	
Policy Lead	HR Business Partner, HR & Payroll

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1 INTRODUCTION

- 1.1 East Lothian Council expects all employees to maintain official and professional conduct of the highest standard such that public confidence in their integrity is sustained. The council and all employees are expected to promote and adhere to all professional codes of practice.
- 1.2 Council employees should comply with this policy in the performance of their duties to ensure that these principles are upheld and that the public can have confidence that actions and decisions by council employees have been taken on merit in the best interests of the council and of the public. Your conduct must not foster the suspicion of any conflict between your official role and your private interest.
- 1.3 Additionally, the council has adopted the 'Seven Principles of Public Life' identified by the Nolan Committee on Standards in Public Life. These are listed below in the Local Government context:

Selflessness - You should not take decisions which will result in any financial or other benefit to yourself, your family or your friends. Decisions should be based solely on the council's best interests.

Integrity - You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the council.

Objectivity - Any decisions which you make in the course of your work with the council, including making appointments, awarding contracts or recommending individuals for rewards or benefits must be based solely on merit.

Accountability - You are accountable to your council as your employer. Your council, in turn, is accountable to the public.

Openness - You should be as open as possible in all the decisions and actions that you take. You should give reasons for your decisions and should not restrict information unless this is clearly required by council policy or by the law.

Honesty - You have a duty to declare any private interests which might affect your work with the council.

Leadership - If you are a manager, you should promote and support these principles by your leadership and example. The Local Government Ombudsman will use the National Code as a benchmark of good practice where a complaint of maladministration has been made.

- 1.4 In the course of employment with the council, employees should not take decisions which will result in any financial or other benefit to themselves,

their family or friends, nor place themselves under any financial or other obligation to individuals or organisations which might influence their work with the council.

- 1.5 The Policy requires all new employees (regardless of grade or post) to declare any potential conflict of interest in line with this policy.
- 1.6 Employees are responsible for ensuring that any new conflicts of interest are declared as soon as it is reasonably practicable, following recognition of the conflict of interest arising.
- 1.7 Employees will be reminded annually of the responsibility to ensure declaration of interests' information is up to date.
- 1.8 Employees who fail to disclose conflicts of interest may be subject to proceedings under the council's Disciplinary procedure.

2 EAST LoTHIAN COUNCIL VISION, VALUES & BEHAVIOURS

- 2.1 Our vision is for a prosperous, safe and sustainable East Lothian, with a dynamic and thriving economy that enables our people and communities to flourish.
- 2.2 Our values, and the behaviours which support them are outlined in the 'The East Lothian Way', which can be found [here](#) and help us meet the objectives of the council.

2.3 East Lothian Way Values:

- **Enabling** and encouraging everyone we work with to be able to achieve their full potential
- **Leading** by example and taking responsibility to improve ourselves and our services
- **Caring** for each other, our community and the work that we do

2.4 East Lothian Way Employee Behaviours:

- **Work Together**; we collaborate with our partners, customers and colleagues to build strong and lasting relationships based on understanding, compassion, trust, integrity and mutual respect.
- **Be the Best We Can Be**; we take responsibility and use our initiative to deliver the highest quality of services as efficiently and effectively as possible.
- **Initiate & Embrace Change**; we embrace the need for change and initiate new ways of working to improve ourselves and our services.
- **Make Things Happen**; we plan and deliver our work effectively, making sure we understand needs and priorities.

- **Customer Focused;** customers are everyone we provide a service to or support. We put our customers at the heart of everything we do and take responsibility to uphold our Customer Charter.

3 SCOPE OF POLICY

- 3.1 This policy applies to all Local Government Employees, Casual Workers (undertaking work) Craft Workers, Teaching & school-based employees and Chief Officials. However, Chief Officials have additional obligations in line with the Chief Officials – Registration of Interest Policy which can be found [here](#) .
- 3.2 All employees are required to declare conflicts of interests in a timely manner, all of which will be dealt with sensitively, and to notify their manager or HR of any actual or suspected breaches.
- 3.3. Any wilful breach of conduct or undeclared conflict of interest by an employee could result in action being taken under the council's Disciplinary Procedure.

4 POLITICAL AND PROFESSIONAL ACTIVITIES

- 4.1 Employees who are not in a politically restricted post will have the right to engage in political or professional activities but must ensure that these do not result in an actual or what could be reasonably perceived as a conflict of interest with their official duties with the council.

5 SECONDARY EMPLOYMENT AND VOLUNTEERING

- 5.1 Employees must not undertake any form of additional paid employment, in any capacity, which is potentially in conflict with their official duties, or is of such a nature, timing or duration, that it is liable to have an adverse effect on the performance of their council duties or bring the council into disrepute.
- 5.2 Prior to undertaking additional paid employment in any capacity, or when considering doing so, the employee must discuss proposals with their line manager in the first instance to ensure there are no potential conflicts as outlined in 5.1 or in line with the Working Time Regulations (1998) and Health and Safety legislation then record this on the Secondary Employment Notification Form in Appendix 1.
- 5.3 Employees who have not already done so, must confirm any secondary paid employment to their line manager and record this on the Secondary Employment Notification Form in Appendix 1.
- 5.4 The council recognises that our employees may wish to undertake volunteering activities within or outwith employment with the council. In these circumstances, employees should confirm their volunteering activities with their line manager to ensure there are no conflicts of interests relating to the nature of their official council duties, impact on their performance at work or on the council's reputation.

6 RELATIONSHIPS

6.1 Personal Relationships at Work

- 6.1.1 Any employee who is involved in a close personal relationship with a colleague, contractor, client, customer or supplier must not allow that relationship to influence their conduct while at work.
- 6.1.2 If the relationship is between a manager and an employee whom they supervise, the relationship should be declared to a senior manager using the Conflict of Interest Declaration form in Appendix 2, which will be held confidentially on HR personal files of both employees.

6.2 The Public and Service Users

- 6.2.1 Employees may have contact with members of the public as users of services, clients or citizens. Employees should always be courteous and helpful. Employees should deal fairly, equitably and consistently with each member of the public, and must follow the council's Equal Employment Opportunities Policy.

6.3 Children & Young People

- 6.3.1 Employees of the council who undertake work with children and young people e.g. teachers, Instructors, Support Assistants in schools, Social Workers, Youth Workers etc. must avoid inappropriate contact or relationships, maintaining appropriate professional boundaries at all times.
- 6.3.2 Where there is a legitimate need to hold contact details for children and young people, these details should be stored and used appropriately and solely for legitimate professional purposes.
- 6.3.3 Where a private tutoring arrangement exists, this must be declared in line with the secondary employment provisions using the form in Appendix 1.
- 6.3.4 It is inappropriate to hold children and young people's mobile phone numbers and/or e-mail addresses on work devices where there is no professional or business need, and no inappropriate direct contact outwith work, school or group time should be made.
- 6.3.5 In line with the council's Acceptable Use of the Councils Information & I.T. Infrastructure Policy, information as outlined in 6.3.4, should never be stored on personal devices including mobile phones, laptops, PCs etc.

6.4 Elected Members

- 6.4.1 Both Councillors and employees are local government appointees and therefore a professional relationship exists between the two roles, albeit with separate responsibilities. Employees are responsible to the council as their employer and they provide support and advice to the elected members and carry out the council's work under the direction and control of the council, their Committees and Sub-committees. Elected members' are responsible to the electorate and their role is to determine policy and

to participate in decisions on matters placed before them, but not to engage in direct operational management of Council Services.

- 6.4.2 Mutual respect between Councillors and employees in their respective roles is essential. Where close personal familiarity or relationships exist between individual Councillors and employees, both should ensure that the governance of the council is not in any way compromised by this relationship.

6.5 Contractors and Suppliers

- 6.5.1 Employees must be fair and impartial in any dealings with contractors, sub-contractors and suppliers. If an employee is involved in any procurement process they must follow the council's procedures and rules about tenders and contracts. If an employee is involved in a procurement process which involves a relative, friend or previous employer or has a financial interest in any contract to be entered into by the council that they may influence, they must notify their Head of Service in writing in order to safeguard themselves from allegations.
- 6.5.2 If an employee has access to confidential information on tenders or costs for either internal or external contractors they must not disclose that information to any unauthorised individual or organisation.

7 OPENNESS AND DISCLOSURE OF INFORMATION

- 7.1 The council's decision making process must be transparent and open. The council must provide the public with clear and accessible information about how it operates. It must also ensure that there is an effective complaints procedure in place for the public to use when things go wrong.
- 7.2 There are however, exceptions to the principle of openness where confidentiality is involved, and information may be withheld if, for example, it would compromise a right of personal or commercial confidentiality. This does not apply where there is a legal duty to provide information. You must follow the council's policy on making information available to the public and you must not break the law in this area.

8 CONFLICTS OF INTEREST

- 8.1 Council employees must not allow any private interest to influence their decisions at work and employees must not 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.
- 8.2 An employee may have a private interest which relates to the work of the council. That interest may be a financial one or one which a member of the public might reasonably think could influence the employee's judgment. In addition, close family members or people living in the employee's household may have financial interests in the work of the council. All such interests must be declared to the employee's line manager.

- 8.3 If an employee is a member of an organisation or a club, with the exclusion of political activities (see section 4), and membership might result in a conflict of interest in relation to any aspect of his/her work with the council, the employee must declare this membership to their Line Manager. This applies equally to membership of organisations or clubs which are not open to the public.

9 PREVENTION OF FRAUD AND CORRUPTION

- 9.1 It is important that employees are aware that it is a serious criminal offence for them to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything, or for showing favour or disfavour to any person, in the course of work with the council.
- 9.2 The council is committed to the prevention and detection of fraud and the protection of public funds. This includes carrying out data matching exercises both within the council and with partner agencies.
- 9.3 Employees who have responsibility for council monies or materials must strictly adhere to the council's Financial Regulations, Corporate Procurement Procedures and Codes of Financial Practice.
- 9.4 It is essential that employees observe the council's rules for claiming allowances for performing approved duties and claim only for the repayment of those expenses incurred for travel and subsistence in connection with business on the council's behalf.
- 9.5 In addition, employees who claim statutory allowances, benefits, reductions, discounts, reliefs, grants or other payments are to ensure it is only for those to which they are entitled. It should be noted that it is the council's policy that where a fraudulent claim is proven, e.g. where it is found that an employee has provided false or misleading information to obtain public services, allowances, benefits, reductions, discounts, reliefs, grants, or other payments for themselves or others, that services provided, monies paid, monies outstanding or materials missing will be recovered by the council. Disciplinary investigation and action may also be taken in line with the council's Disciplinary procedure. The council may also refer the fraud to the Council's Internal Audit Team, the police or other agencies as appropriate.

10 GIFTS AND HOSPITALITY

- 10.1 As a general rule it is usually appropriate to refuse offers of gifts other than where the gift is inexpensive or of a trivial nature for example calendars, mugs, etc. It is recognised that refusal may cause misunderstanding or offence, however acceptance could involve criminal liability or otherwise give rise to questions of impropriety, obligation or conflict of interest.
- 10.2 Notwithstanding the detail of this policy, if your role within the council involves making procurement decisions, awarding contracts or making regulatory decisions, you should be particularly aware of the perception of

bias or favour and should err on the side of caution when deciding whether or not to accept any gift or hospitality.

- 10.3 Accordingly, when offered a gift or hospitality employees must consider whether accepting it could give rise to real or substantive personal gain or a reasonable suspicion of influence on their part to show favour or disadvantage to any individual or organisation. Employees should also consider whether there may be any reasonable perception that any gift received by a member of their family can or would influence the employee's judgement. The term 'gift' includes benefits such as provision of services at a cost below that generally charged to members of the public.
- 10.4 You are personally responsible for all decisions connected with the acceptance of gifts or hospitality and if you are in any doubt about whether or not to accept a gift or an item of hospitality you must consult the Head of Council Resources.
- 10.5 As a guide, gifts that have a value of more than £20 should generally be refused. All gifts that have been accepted and that have an estimated or actual value of more than £20 should be recorded in accordance with Section 11 of this policy.
- 10.6 When council employees are aware that a client/service user intends to leave them a legacy in a will, they should decline such a legacy by reference to this policy. Should a council employee become aware of a legacy after the death of a client/service user, they should seek advice from their Head of Service before accepting this. The Head of Service should take account of the value of the legacy relative the value of the whole estate and the context in which the legacy was left when advising the employee whether or not to accept the legacy.
- 10.7 Taking account of the Nolan Principles (see 1.3) and the law, as a general rule, hospitality should normally be refused other than in the following situations: -
 - 10.7.1 Incidental hospitality associated with another event, e.g. refreshments at an event, conference or seminar.
 - 10.7.2 Normal hospitality associated with your role in the council and which would reasonably be regarded appropriate, e.g. attending an event where your role makes your attendance appropriate. You should exercise particular caution when the hospitality is being offered by a private sector organisation.
 - 10.7.3 Civic hospitality where you are representing the council and there is a legitimate interest in attending the event in question.
- 10.8 Should an employee wish to accept hospitality that does not fall into one of the above categories, he or she must seek prior approval from their Head of Service before accepting and this should be recorded in accordance with Section 11 of this policy.

- 10.9 In deciding whether it is appropriate for the employee to accept such hospitality, the Head of Service will have regard to the whole circumstances of the offer, including, but not limited to, the role the employee plays in the council, the particular status of the party offering the hospitality, the perception of influence, conflict of interest or bias that might arise from acceptance of the hospitality and the context in which the offer is being made.
- 10.10 It is an offence under the Prevention of Corruption Act 1906 for a council employee in their official capacity to corruptly accept any gift or consideration as an inducement or reward for doing or refraining from doing anything or showing disfavour or favour to any person.
- 10.11 In terms of the Bribery Act 2010, an offence will be committed if any person offers a council employee a financial or other advantage where the gift is offered with the intention of persuading the employee to perform his or her function in an improper or impartial manner or in bad faith.

11 RECORDING GIFTS AND HOSPITALITY

- 11.1 Employees must record any: -
- gifts received that are valued at more than £20;
 - civic gifts received on behalf of the council; and
 - hospitality that they accept that does not fall into one of the three categories identified in point 10.7 above.
- 11.2 The gift or hospitality in question must be recorded on the form attached to this policy, countersigned by the employee's Head of Service and submitted to the Service Manager People & Governance.
- 11.3 The council will retain a Register of Gifts and Hospitality and will update this regularly with the information submitted by officers in accordance with this Section. The contents of this Register will be regularly reported through the Members Library Service.

12 COMPETITIONS AND PRIZES

- 12.1 Council employees are encouraged not to enter competitions and prize draws made available to them during the course of their work as an employee of the council, particularly where these require entrants to provide information specific to the council as an employer.
- 12.2 Employees who have entered competitions and prize draws made available during the course of their work, and not requiring the provision of information specific to the council, must declare any prize won that is worth more than £20. Such competitions must not be entered into where the prize is or includes free or time limited access to costly premium subscriptions e.g. web based applications and resources or where the terms and conditions of the subscription could put other employees or the council at risk of breach of this policy.

13 USE OF COUNCIL RESOURCES

- 13.1 You should only use facilities, services and equipment, provided by the council for the purpose of your duties as an employee. The unauthorised use of council facilities or equipment for your own personal benefit, or for the personal benefit of others, is not permissible and would amount to improper conduct.
- 13.2 An example of permitted use, requiring written permission, would be the use of resources for personal development or study associated with the employee's role in the council, which should be recorded out and returned in accordance with service-specific inventory procedures. Council resources must not be used in connection with any other outside work undertaken by the employee.
- 13.3 Whilst the council permits some personal use of IT equipment at their workplace e.g. access to internet this should not affect their work and should only be used in accordance with the council's Acceptable Use of the Councils Information & I.T. Infrastructure Policy when the employee is on an unpaid break. Employees should be aware that telephone, email and internet usage can be monitored.

14 EMPLOYEE APPOINTMENTS

- 14.1 The council has a Recruitment and Selection Policy and employees are expected to follow this policy.
- 14.2 If an employee is involved in the recruitment and selection process and has any kind of relationship which might affect his/her ability to be impartial, or could be perceived by others as bias, that relationship must be declared to the appropriate line manager and must not be part of the recruitment & selection decision making process. The same procedure must be followed in other council Policies and Procedures such as grievance, disciplinary or job evaluation.
- 14.3 Employees must not canvass a Councillor or another colleague, either directly or indirectly, to secure their own appointment or promotion, or the appointment or promotion of another person. If an employee has been approached by an applicant, another colleague, a Councillor or any other person, they must report the matter to their line manager or HR Adviser.

15 CONTACT WITH THE MEDIA

- 15.1 The policy of the council is that all contact with the media should only take place where this has been authorised by the council. The Communications Team deals with all contact with press and media and any approaches or enquiries should be directed there in the first instance.
- 15.2 Any exception to this policy must be discussed and agreed with the appropriate Head of Service.
- 15.3 This section does not apply to where an accredited Trade Union officer is contacted by or makes contact with the media in their Trade Union

capacity, or as part of a formal Trade Union Campaign, and not as a council employee.

16 SOCIAL MEDIA

- 16.1 The council's Social Media Acceptable Use policy, which can be found [here](#) outlines employee's responsibilities in relation to use of social networking sites and other internet forums at work and outside of work.
- 16.2 Usage is restricted during working hours for most council employees, but there is no restriction on what employees can do in their own time on their own equipment.
- 16.3 The council has a duty of care towards its employees and service users and would therefore treat any comments or messages posted on social media which cause offence, breach confidentiality or could be considered as bullying or harassment of a colleague, under the council's Disciplinary procedures. This includes any messages and comments posted in an employee's own time that relate to fellow colleagues, service users or the workplace.
- 16.4 Posting of defamatory or potentially damaging comments about the council would be a breach of contract and would be investigated under the council's disciplinary procedures. The council may also consider legal proceedings against an employee where deemed appropriate.
- 16.5 Some websites allow the posting of images and videos. Care should be taken to ensure that there is nothing posted that could bring the council into disrepute or would be potentially dangerous. Examples could include wearing council uniforms in photos or videos showing behaviour which would be considered dangerous, violent, inappropriate or illegal. The council will investigate any such behaviour under the council's Disciplinary procedures as required.
- 16.6 Employees with caring responsibilities including teachers, other school based staff, Instructors, Social Workers and Youth Workers should consider the appropriateness of adding clients, children and young people as friends on social networking sites. This is potentially a breach of confidence and trust as well as unprofessional. Any inappropriate relationships within social networking sites that are brought to the council's attention will be fully investigated. Teachers should follow the General Teaching Council for Scotland Guidance contained in the Code of Professionalism and Conduct relating to the use of Social Networking Sites. Employees registered with Scottish Social Services Council (SSSC) e.g. Social Workers should refer to SSSC guidance in relation to social media and networking sites.

17 POLITICAL NEUTRALITY

- 17.1 The public expects East Lothian Council employees to carry out their duties in a politically neutral way, and this must be respected by Councillors. The political activities of a small number of employees are

“politically restricted” under the Local Government and Housing Act 1989 and they will have been advised of this restriction.

- 17.2 Employees must serve the council and all Councillors, regardless of their political outlook. The Chief Executive and senior officers have ultimate responsibility to ensure that the policies of the council are implemented.
- 17.3 Employees must implement the policies of the council irrespective of their personal views. If an employee is asked by a Councillor to provide assistance with a matter which is clearly party political or which does not have a clear link with the work of the council, the employee should politely refuse and inform the councillor that they are referring the matter to their line manager.
- 17.4 Some employees will have a close working relationship with Councillors of the majority political group (or groups) which form the administration of the council. Political groups may sometimes seek advice from council employees and in such circumstances the following procedure should be followed: -
 - a) The office bearers (of the group) must first approach the Chief Executive;
 - b) The office bearers must advise the Chief Executive what type of advice they are seeking;
 - c) The Chief Executive will decide whether attendance at a meeting is appropriate and which employee or employees should attend;
 - d) Once the employee has given the advice to the group, the employee must leave the meeting before any decision is made.
- 17.5 Strict confidentiality must be observed by the employee. The discussion in one political group should not be disclosed to another political group or to any member of such a group.

18 RIGHTS AS A CITIZEN

- 18.1 As a citizen, an employee is entitled to express their views about the council, provided they do not make use of any private information gained through their work with the council.
- 18.2 An employee should not however, in their work capacity, criticise the council either through the Internet, media, including social media or at a public meeting, or in any written communication with members of the public. Occurrences of this nature may be considered under the Disciplinary Procedure. You should refer to the Social Media Policy for further information in this respect.
- 18.3 Employees in a politically restricted post should be careful not to speak in public in support of a particular political party.
- 18.4 As a citizen, an employee is also entitled to raise with their Councillor any complaint which they have about the services of the council. However, if

the employee's complaint concerns any aspect of their employment with the council, the employee must make use of the council's policies and procedures, for example the Grievance Procedure or raise the matter through their Trade Union.

19 PERSONAL DEALINGS WITH THE COUNCIL

- 19.1 Employees may have dealings with the council on a personal level, for instance as a ratepayer or Council Tax payer, as a tenant, or as an applicant for a grant or planning permission. Employees should never seek or accept preferential treatment in those dealings because of their position as an employee.
- 19.2 Employees should also avoid placing themselves in a position that could lead the public to think that they or friends or family are receiving preferential treatment.

20 REPORTING CRIMINAL CONVICTIONS, CHARGES AND/OR POLICE INVOLVEMENT

- 20.1 Where an employee is charged by the police or is subject to a report to the Procurator Fiscal and/or a registered agency which is connected to their employment or is convicted in a Court of Law on any matter that occurs during or outside of their work and which has a bearing on their employment with the council, they must report this immediately to their Head of Service or line manager.
- 20.2 A charge or conviction for any offence may result in disciplinary proceedings being taken against the employee. For example, where, in the opinion of the council, the charge or conviction is such that it affects, or is likely to affect, the suitability of the employee for the position in which they are employed, or brings the council into disrepute, or could otherwise seriously undermine the trust and confidence that the council has in the employee.
- 20.3 Where an employee is charged or convicted specifically in connection with offences outside working hours relating to illegal drugs, dishonesty, and violence or of a sexual nature, such criminal charges or convictions may result in disciplinary proceedings being taken against the employee, up to and including summary dismissal. In making any decision, the council will reasonably consider the circumstances of each case as well as any employment implications that the employee's actions may have for the council.

21 TRADE UNION ACTIVITIES

- 21.1 Employees who are Trade Union representatives must ensure that any public comment is made on behalf of the Trade Union represented and not the council.

22 FAIR AND REASONABLE TREATMENT AT WORK

- 22.1 Employees are entitled to expect fair and reasonable treatment from their colleagues, managers and from Councillors. If an employee feels that they have been unfairly treated or have been discriminated against, they are entitled to make use of the appropriate council policies and procedures, including Grievance and Whistleblowing.
- 22.2 There may be rare occasions when an employee feels that they have been required by a colleague, a Councillor or a member of the public, or by an organisation, to act in a way which might be illegal, improper or unethical, or which is otherwise in conflict with the principles of this Code of Conduct. The concerns should be raised with their line manager in the first instance.
- 22.3 In other instances an employee may have information leading them to believe that an employee, Councillor or other person associated with the council is behaving unlawfully or in some other improper manner. The Public Interest Disclosure Act 1998 provides a process for employees to raise these concerns, for example in relation to:
- a criminal offence;
 - failure to comply with any legal obligation;
 - a miscarriage of justice;
 - danger to the health and safety of any individual;
 - damage to the environment; and
 - deliberate concealment of information about any of the above matters.
- 22.4 Employees may report the matter to their line manager, a more senior manager or their Head of Service. If an employee feels they cannot raise the matter within their Directorate, it may be raised via the council's dedicated Whistleblowing hotline on 01620 827878 or e-mail whistleblowing@eastlothian.gov.uk .
- 22.5 Concerns raised by employees via the whistleblowing process will be dealt with in line with the council's Whistleblowing policy.
- 22.6 Once the matter is reported via the line manager or Head of Service, and following consultations, as appropriate, with the Chief Executive or other senior officers of the council, the employee will be advised, if appropriate, what action will be taken, providing this does not infringe upon the council's duty of confidence.
- 22.7 The council recognises that employees may wish to raise their concerns confidentially. The employee's initial contact will always be dealt with in the strictest confidence and discussed only with other relevant persons for the purposes of seeking advice.

- 22.8 Employees must understand, however that, the information or concerns they express may lead to them becoming involved in a number of processes, including evidence relating to a criminal investigation and/or the council's Disciplinary Procedure. In these circumstances, it may not be possible to guarantee anonymity to employees. The employee will, however be given as much support as possible throughout such processes.
- 22.9 Any employee considering making a disclosure outwith the council, e.g. to the press should be aware that they may not automatically be protected by the Public Interest Disclosure Act. Before doing so they should seek advice from their Trades Union or a legal adviser.

23 REVIEW

- 23.1 This policy will be kept under review and may be amended from time to time. Appropriate measures will be taken to bring any amendments to the attention employees.

Head of Council Resources
Updated February 2020

APPENDIX 1



SECONDARY EMPLOYMENT NOTIFICATION FORM

To be completed by all employees undertaking secondary employment either within or outwith East Lothian Council (including self-employment, casual work, and unpaid work)

Name:

Employee No:

Post Title:

Division:

Secondary Employment - Date of Commencement:

Secondary Employment – Name of Employer:

Description of Work Undertaken (Including specific nature of work, where it takes place, times/days worked, and number of hours worked:

Supporting Statement (Is there any conflict of interest in relation to the work you already undertake for East Lothian Council?)

Declaration

I declare that my secondary employment (if not with ELC) does not involve any use of Council resources.

I declare that my secondary employment will not result in me exceeding 48 hours of work within any 7 day period*, under the terms of the Working Time Regulations (1998).

I recognise that I am entitled to an uninterrupted rest break (a period of no work) of not less than 11 consecutive hours in each 24-hour period, and of either two uninterrupted rest breaks of not less than 24 hours or one uninterrupted rest break of not less than 48 hours in each 14-day period, under the terms of the Working Time Regulations (1998). **I declare that** if my secondary employment does not allow me to achieve these periods of rest, it is of my own choosing and at my own risk.

I declare that the undertaking of this secondary employment will have no detrimental impact on my ability to undertake the work I am contracted to do by East Lothian Council.

I am aware that paid work outside the Council may put me in a position where I have a tax liability and that the Council will only account for the tax on my earnings in the employment of East Lothian Council.

I am aware that I may be subject to investigation under the appropriate Disciplinary Procedure, and may be subject to disciplinary action, should I work for financial gain whilst receiving sick pay from East Lothian Council.

Signed: **(Employee)**

Print Name:

Date:

** Average hours per week calculated over a 17 week period.*

TO BE COMPLETED BY MANAGER:

Summary of discussion with employee:

Is there any conflict of interest in relation to the work already undertaken for East Lothian Council?

Reasons for rejection (if applicable):

(PLEASE DELETE AS APPROPRIATE)

I reject this application for secondary employment (outline reasons above)

OR

I approve this application for secondary employment and do not foresee any conflict of interest.

Signed: **(Manager)**

Print Name:

Date:

Please submit a scanned copy of this completed form to the HR Mailbox, hr@eastlothian.gov.uk, and retain the original for your records

APPENDIX 2

CONFLICT OF INTEREST DECLARATION FORM (All Employees including Casual Workers)

As an employee of East Lothian Council you are required to complete this form to confirm whether you may have a private interest which may relate to your work with the council and could result in a conflict or apparent conflict of interest. For further information, please refer to the Code of Conduct Policy.

1. PERSONAL DETAILS	
Employee Name:	
Department:	
Business Unit & Work Location:	
Job Title:	
Head of Service:	
2. TYPE OF INTEREST (Please tick as appropriate)	
In the course of employment with the council, employees should not take decisions which will result in any financial or other benefit to themselves, their family or friends, nor place themselves under any financial or other obligation to individuals or organisation which might influence your work with the council.	
Financial (you)	
Financial (Close family member/friend)	
Secondary Employment and Voluntary Work	
Relationships (Personal or Family & Friends)	
Membership of Organisation/Club	
Payments/grants given to bodies or individual e.g. grants	
Other (please outline)	
3. EXPLANATION OF POTENTIAL CONFLICT	
Please provide as much detail as possible and explain why you consider this is or could be interpreted as a conflict of interest (continue on separate page, if necessary)	

Annual Declaration	
One-off/ad-hoc Declaration	
4. EMPLOYEE SIGNED DECLARATION	
<p>I declare that I have read and understood the Code of Conduct policy, and all documents referred to therein and the above conditions and agree to comply with them.</p> <p>I understand that failure to make a declaration or not to provide full disclosure could be regarded as a disciplinary offence and dealt with under the council's disciplinary process.</p>	
Signed:	Print Name:
Designation:	Date:
5. FOR COMPLETION BY HEAD OF SERVICE	
Please outline the action you have taken in light of the information being provided.	
<p style="text-align: center; font-size: 48px; opacity: 0.3; transform: rotate(-30deg);">DRAFT</p>	
I confirm that the above information is accurate and contains all relevant details. I also confirm I have discussed with the employee concerned of further action he/she must undertake (where appropriate)	
Signed:	Print Name:
Designation:	Date:

Please submit a scanned copy of this completed form to the HR Mailbox, hr@eastlothian.gov.uk , and retain the original for your records

APPENDIX 3

**FORM FOR RECORDING GIFTS AND HOSPITALITY
(All Local Government Employees)**

Employee Name:	
Department:	
Business Unit:	
Job Title:	
Head of Service:	
DECLARATION OF GIFT	
Are you declaring a gift with a value of more than £20?	YES/NO*
Details of Gift (including description of gift, identity of party offering gift, circumstances of offer, relationship with giver of gift.	
Estimated Value of Gift	
DECLARATION OF HOSPITALITY	
Are you declaring hospitality that does not fall into the categories set out in the Policy?	YES/NO*
Details of Hospitality (including description of event/hospitality offered, identity of party offering hospitality, circumstances of offer, relationship with host.	

Signed:	Print Name:
Designation:	Date:
FOR COMPLETION BY HEAD OF SERVICE	
Reason for approving acceptance of gift/hospitality as set out above.	
Signed:	Print Name:
Designation:	Date:

Please submit a scanned copy of this completed form to the HR Mailbox, hr@eastlothian.gov.uk, and retain the original for your records