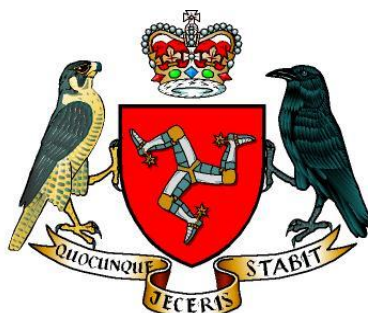


## **Part 5**

# **Codes and Protocols**

## **(A) Members' Code of Conduct / Officers' Code of Conduct**



# **Isle of Man Government**

*Reiltys Ellan Vannin*

**DEPARTMENT OF LOCAL GOVERNMENT AND THE  
ENVIRONMENT**

**CORPORATE GOVERNANCE PRINCIPLES AND  
CODE OF CONDUCT**

**LOCAL AUTHORITIES**

**July 2009**

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## **Introduction**

From 1<sup>st</sup> April 2006 onwards the Principles of Corporate Governance and a Code of Conduct (the Code) was rolled out to all Departments, Boards and Offices of Government. This defines the standards that Government expects of its officers and Members and also provides a statement to the public that the work of Government is undertaken with Openness; Integrity and Accountability. These principles are not new to Isle of Man Government and many procedures and processes are in place to support these guiding principles.

The fundamental role of local authorities on the island is to provide services for the communities they represent. Furthermore these services should be delivered in the best possible way and ratepayers should be assured that this is done properly. Therefore, it would seem appropriate that similar Corporate Governance Principles and Code of Conduct should apply to local authorities on the Island. These principles are consistent with internationally agreed principles of conduct which should underpin public life.

The main functionality of local authorities is legislated under the provisions of the Local Government Act 1985 and other specific enactments. A local authority is subject to general law as the owner and occupier of property, health and safety legislation and the supply of goods and services. Local authority finances are regulated primarily under The Audit Act 2006 and the Accounts and Audit Regulations 2007. All local authorities employ staff, even if for some it is one Clerk, and the Employment Act 2006 should be adhered to in this respect. The Law determines what a local authority *must* do (its duties), what it *can choose* to do (its powers), and what it *cannot* do. Amongst the duties a local authority *must* do is appoint a clerk, a Chairman and a Responsible Finance Officer, comply with employment law and hold a minimum of four meetings per annum, one of which must be the Annual General Meeting.

It is important to note that the Principles of Corporate Governance and the Code of Conduct are intended to complement all existing Local Authority legislation.

**The following is intended to provide a framework for local authorities to work within and is based on those Principles outlined by Government.**

**The Code of Conduct is not mandatory (unless there is a legislative requirement) and is for guidance only. However, it is based on recognised best practice and recommended for all Local Authorities on the Island.**

## **LOCAL AUTHORITIES**

### **PART 1**

#### **CORPORATE GOVERNANCE PRINCIPLES and CODE OF CONDUCT**

##### **1 Aims and Objectives**

###### **Corporate Governance in Local Authorities**

Corporate governance is the system which provides a framework for local authorities to direct and control their functions in relation to the Island's community. It is concerned with decision making within and at the highest levels of an organisation. Good corporate governance and the guidance that comes with it provides an organisation with clear accountabilities.

- 1.1 The effectiveness of a local authority relies on the credibility of, and ratepayers' and the whole communities' confidence in, elected Members and local authority staff. By clearly defining the high standards a local authority expects itself to meet, it can give confidence to ratepayers, service providers, contractors, and the public.
- 1.2 All local authorities should attempt to meet the highest standards and their governance arrangements should not only be sound, but be seen and proven to be sound. To ensure this, the governance arrangements need to be clear, effective and reviewed on a regular basis.
- 1.3 This Code defines the minimum standards of corporate governance to be applied by local authorities, but local authorities may wish to further develop the Code to take account of their individual circumstances and responsibilities.
- 1.4 The purpose of this Code is to:
  - Define the principles that must underpin the governance of local authorities;
  - Provide the framework within which each local authority can ensure confidence and credibility; minimise risk, and manage change, and;
  - Assist local authorities by clearly defining what is considered to be best practice.
- 1.5 Each local authority is recommended to:
  - Regularly review its corporate governance arrangements in line with the Code;
  - Establish arrangements for ensuring the Code is put into operation, and;
  - Report regularly, through Statements of Internal Control, on how the local authority is complying with the Code.
- 1.6 Statements of Internal Control will be required to be produced, by those local authorities who meet the requirements of the Accounts and Audit Regulations 2007, on an annual basis and will contain:
  - An explanation of the local authority's responsibility for financial probity which is supported by the Internal Audit requirement under the Audit Act 2006 and the Accounts and Audit Regulations 2007;

- It is recommended that confirmation is given that the local authority complies with the Code, along with;
- Evidence to support compliance with the Code.

1.7 The Chief Executive/Clerk should report corporately, on an annual basis, as part of the yearly accounting process, providing a Statement of Internal Control for the local authority as a whole, stating how it is applying and upholding the principles of corporate governance.

## **2 Principles of Corporate Governance**

2.1 The three fundamental principles of corporate governance are:

**Openness** An open approach is required to ensure all interested parties are confident in the local authority. Openness in the disclosure of information leads to effective and timely action and lends itself to necessary scrutiny.

**Integrity** This is described as both straightforward dealing and completeness. It should be reflected in the honesty of the local authority's annual accounts. Minutes of Meetings being made open and available to the public provide the portrayal of a balanced view. The integrity of the business conducted is a reflection of the professional standards within the local authority.

**Accountability** This is the process whereby individuals (or Boards) are responsible for their actions. It is achieved by all parties having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure.

2.2 These principles are relevant to both public service bodies and private sector entities. They apply equally to all public service bodies, irrespective of whether they are elected or appointed.

2.3 These principles are consistent with the following internationally agreed principles of conduct which should underpin public life:

**Duty** Members have a duty to uphold the law and act in accordance with the law and the public trust placed in them. They have a duty to act in the interest of the local authority as a whole and the community served by it and a duty to be accessible to all the people of the area for which they have been elected to serve, and to represent those interests conscientiously.

**Selflessness** Members should take decisions solely in terms of the public interest and should never improperly confer an advantage or disadvantage on any person. They should not take any decisions in order to gain financial or other

material benefits for themselves, their family, or their friends.

**Honesty/Integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour. Members 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. Members have a statutory duty to declare any pecuniary interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. **(The relevant legislation is currently detailed in the Local Government Act 1985 Sections 11-15)**

**Objectivity**

Members should make decisions on merit, including making appointments, awarding contracts, or recommending individuals for rewards and benefits.

**Accountability**

Members should be accountable to the public for their actions and decisions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their office.

**Openness**

Members should be as open as possible about their actions and those of their local authority and should be prepared to give reasons for those actions and decisions, and restrict information only when the wider public interest or the law (i.e. Data Protection Act) clearly demands it.

**Leadership**

Members should promote and support these principles by leadership and example, and should act in a way that secures and preserves public confidence.

**Personal Judgement**

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions taking into account the interest of the community as a whole.

**Respect for Others**

Members should promote equality by not discriminating against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.



**Stewardship** Members should do whatever they are able to do to ensure that their local authority uses its resources prudently and in accordance with the law.

### **3 Aspects of Corporate Governance**

3.1 The fundamental principles of corporate governance need to be reflected in the different aspects of a local authority's functions. These aspects are identified as:

- community focus;
- performance management;
- structures and processes;
- risk management and internal control;
- standards of conduct.

3.2 The next section considers how the principles of corporate governance can be reflected in the above "aspects" and what that means for local authorities in practice. Additional guidance on what each local authority will need to do to meet these principles is also outlined below.

### **4 Community Focus**

4.1 Through carrying out their general and specific duties and responsibilities, and their ability to exert wider influence, local authorities should work for and with the Island's community and, where appropriate, exercise leadership within the community by maintaining effective arrangements to:

- Communicate and engage with relevant members of the Island's community (including business) to encourage active participation;
- Demonstrate integrity in building effective relationships and partnerships with other public agencies in delivering services appropriate to local needs;
- Demonstrate openness through consulting with key stakeholders including individuals and service users;
- Develop and produce a clear and up to date vision and corporate strategy in response to community needs.

4.2 To meet these principles, a local authority will need to:

- Put in place arrangements and channels of communications, where appropriate, to encourage individuals and groups from the community to engage with, contribute to and participate in the work of the local authority, and have processes in place to ensure that these arrangements continue to work in practice;
- Make an explicit commitment to openness in all of their dealings, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so, and by their actions and communications, deliver against that commitment.

## **5 Performance Management**

5.1 A local authority should ensure that agreed policies are implemented and decisions are carried out by maintaining arrangements which:

- Demonstrate proper accountability for the local authority's performance and effectiveness in the delivery of services and the use of resources;
- Ensure effectiveness through setting targets and measuring performance;
- Are flexible so that procedures and policies are up to date and can be adapted to accommodate change;
- Enable work across local authority boundaries in pursuit of the principles above.

5.2 To meet these principles, a local authority will need to:

- draw up, as part of the Business Planning process, an objective and understandable assessment of its :
  - activities and achievements, and;
  - financial position and performance
- ensure that this assessment includes details of the local authority's current performance in respect of service delivery and plan to maintain and/or improve service quality;
- set performance standards and targets for service delivery that are consistent with any criteria set by the Department of Local Government and the Environment and other relevant bodies;
- put in place systems for producing management information for performance reporting purposes;
- monitor individual and organisational performance and report against agreed standards and targets, and;
- establish systems that support collaborative working between local authorities in common areas of service delivery.

## **6 Structures and Processes**

6.1 A local authority needs to establish effective political and administrative structures and processes to govern decision-making and the exercise of authority within the organisation. A local authority should maintain arrangements to:

- define roles and responsibilities of Members and officers to ensure accountability;
- demonstrate integrity in the decision making process;

- document clearly such structures and processes and ensure that they are communicated and understood to demonstrate openness;
- ensure such structure and processes are flexible so that they can be adapted to accommodate change and be kept up to date.

6.2 To meet these principles, a local authority will need to:

- develop and maintain an up to date scheme of delegated or reserved powers, which should include a formal schedule of those matters specifically reserved for the decision of the local authority;
- put in place arrangements to ensure that Members are properly briefed and assisted about their roles and have access to all such relevant information, advice and resources as is necessary to enable them to carry out their role effectively;
- define clearly the roles and responsibilities of all elected Members;
- ensure the Chief Executive/Clerk is responsible for all aspects of executive management. He or she is accountable for the ultimate performance and implementation of policy;
- under the Audit Act 2006 and Accounts and Audit Regulations 2007 ensure the Responsible Financial Officer is made responsible to the Chief Executive/Clerk for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control;
- ensure the Chief Executive/Clerk has clear delegated responsibility for ensuring that agreed procedures are followed and that all applicable legislation and other relevant statements of good practice are complied with;
- define clearly the roles and responsibility of all employed staff in writing (i.e. job descriptions).

## **7 Risk Management and Internal Control**

7.1 A local authority needs to establish and maintain a systematic strategy, framework and process for managing risk. Together these arrangements should:

- allow for public scrutiny of the local authority's risk management strategy, process and framework to demonstrate accountability;
- demonstrate integrity by being based on robust systems;
- include mechanisms for monitoring and review;
- display openness by involving all those associated with planning and delivering services.

7.2 To meet these principles effectively, a local authority will need to:

- develop and maintain sound systems for identifying, evaluating, controlling and monitoring all significant strategic and operational opportunities and risks;
- ensure the systems are developed and implemented in consultation with interested parties, and that they are clearly stated and disseminated;
- ensure the systems are in compliance with all applicable legislation and other relevant statements of best practice;
- ensure that public funds are properly safeguarded, used economically, efficiently and effectively, and in accordance with statutory and other authorities that govern their use i.e. Department of Local Government and Environment;
- ensure that services are delivered by trained and competent people;
- assess the risk of emergencies occurring and use this to inform contingency planning (identify weaknesses and potential points of failure in service delivery);
- put in place arrangements to allocate resources according to priorities;
- put in place effective arrangements for objective review and monitoring of risk management and internal control systems, including internal audit, to ensure effectiveness in practice;
- maintain professional and objective standards with their internal auditors, external auditors;
- provide an objective, balanced and understandable statement and assessment of the local authority's risk management and internal control mechanisms and their effectiveness in practice.

## **8 Standards of Conduct**

8.1 The openness, integrity and accountability of individuals within a local authority is the cornerstone of effective corporate governance. The reputation of the local authority depends on the standards of behaviour of everyone in it, including agents contracted to it.

Therefore the elected Members, Chief Executive/Clerk and senior officers within the local authority will need to:

- exercise leadership by conducting themselves as role models for others within the local authority to follow;
- ensure compliance with relevant professional and corporate standards of personal behaviour and codes of ethics.

8.2 To meet these principles, local authorities need to:

- put in place arrangements to ensure:

- accountability and effectiveness through establishing and monitoring systems for discipline and grievance;
  - that objectivity and impartiality are maintained in all relationships to demonstrate integrity;
  - that agreed complaints procedures are fully complied with.
- comply with the Code of Conduct defining the standards of personal behaviour to which individual elected Members, officers, consultants, contractors or agents of the local authority should be required to subscribe and put in place arrangements to ensure that they are complied with in practice;
  - put in place arrangements to ensure that elected Members and all staff of the local authority are not influenced by prejudice, bias, or conflicts of interest in dealing with different interested parties and ensure that these arrangements continue to operate in practice;
  - put in place arrangements to ensure that their procedures and operations are designed and monitored in conformity with:
    - any relevant legislative requirement;
    - any Code of Practice applicable;
    - any general framework guidance for financial management;
    - appropriate ethical standards.

## LOCAL AUTHORITIES

### PART 2

#### CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND OFFICERS

##### 9 General Provisions for Elected Members

The Code defines the minimum standards of corporate governance for local authorities and should be read in conjunction with the Corporate Governance Principles which accompany this document and which should be applied by local authorities. However local authorities may wish to further develop the Code to take account of their individual circumstances and responsibilities.

This Code of Conduct is linked to the provisions of Isle of Man Government Corporate Governance Principles and Code of Conduct – Standards of Conduct Aspect 5 (Appendix 1) and has been adapted for the purposes of local authorities to state that:

*The openness, integrity and accountability of individuals within a local authority is the cornerstone of effective corporate governance. The reputation of the local authority depends on the standards of behaviour of everyone in it, including agents contracted to it.*

*Therefore the elected Members, Chief Executive/Clerk and senior officers within the local authority will need to:*

- *exercise leadership by conducting themselves as role models for others within the local authority to follow; and*
- *ensure compliance with relevant professional and corporate standards of personal behaviour and codes of ethics.*

This Code applies to **YOU** as a member of an authority. You should read this Code together with any general principles prescribed by your local authority.

It is expected that you will comply with this Code whenever you conduct the business of your authority to which you are elected. This also should be the case when you are appointed and act, claim to act or give the impression you are acting as a representative of your authority and references to your official capacity are construed accordingly.

In this Code –

*"local authority" or "authority" means in relation to the borough, the corporation, and, in relation to any other district, the commissioners of the district; it also includes a "joint board" or a "joint committee"*

*"the Department" means the Department of Local Government and the Environment*

*"officer" means an officer, or officers of the authority as described in the Local Government Act 1985 – for the purposes of the Code those employed by the local authority are referred to as employees and this also includes a manual worker or workers*

"*meeting*" means any meeting of –

- (a) the authority
- (b) the executive of the authority
- (c) any of the authority's or its executive committees, sub-committees, joint committees, joint sub-committees

"*remuneration*" includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind

"*a person*" means a single individual or legal person and includes a group of companies

"*Spouse*" does not include former spouse or a spouse who is living separately and apart from you

"*Cohabitee*" includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

## **10 General Obligations**

**You must treat others with respect.**

**You must not**

- (a) do anything which may cause your authority to breach any of the equality enactments ( i.e. Employment (Sex Discrimination Act) 2000; Employment Act 2006; Human Rights 1998 or any other relevant legislation)
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is likely to be –
  - (i) a complainant
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his/her authority's code of conduct or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority

**You must respect all local authority employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.**

**Whilst both Members and local authority employees are servants of the public, you have separate responsibilities: You are responsible to the electorate but the employee is responsible to the local authority as his or her employer. You must also respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the authority's services; that is the responsibility of the local authority's employees. It is also the responsibility of the Chief Executive/Clerk and senior employees to help ensure that the policies of the authority are implemented.**

## **11 Conduct in a Board meeting**

It is expected that you respect the Chair, your colleagues, local authority employees and any members of the public present within your meeting room during local authority meetings or other formal proceedings of the authority. You must comply with rulings from the Chair in the conduct of the business of your local authority.

Note: (Under the provisions of Section 27 of the Local Government Act 1985, local authorities **must** make Standing Orders for the regulation of the proceedings and business of the authority and of any Committees of the authority.)

## **12 Disclosure of Information**

Local authority proceedings and printed material are generally open to the public. This should be the basis on which you normally work but there may be times when you will be required to treat discussions, documents or other information relating to the local authority in a confidential manner, in which case you must observe such requirements for confidentiality.

You will often receive information of a private nature which is not yet public or which perhaps would not be intended to be public and it will be expected that the information will be treated appropriately.

### **You must not**

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - reasonable and in the public interest, and
    - made in good faith and in compliance with the reasonable requirements of the authority.
- (b) prevent another person from gaining access to information to which that person is entitled by law.

Note: (Section 65 of the Local Government Act 1985 – *Disclosure of Information – Any member or former member of a local authority who, without the consent of the authority, divulges any information communicated to him in confidence as such member shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.*)

You must not conduct yourself in a manner which could reasonably be regarded as bringing your authority into disrepute.

You must not attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and must, when authorising the use by others of the resources of your authority –



- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

When reaching decisions on any matter you should have regard to any relevant advice provided to you by –

- (a) your authority's chief finance officer; or
- (b) your authority's chief executive officer/clerk

where that officer is acting pursuant to his or her statutory duties.

You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

### **13 Pecuniary (Financial) Interests**

The current legislation on pecuniary interests is as follows:-

Sections 11 and 12 of the Local Government Act 1985 imposes restrictions on local authority Members from voting (and taking part in any discussion) on matters on which they have a pecuniary (financial) interest whether direct or indirect.

Section 13 enables a Member of a local authority, if he so wishes, to make a general disclosure of pecuniary interest by entering it in a book which is open to inspection by any Member of the Authority. Such a general disclosure is deemed to be sufficient notice for the purposes of Section 11 so that there is no need for the Member to then make a formal disclosure on every subsequent occasion on which that interest arises.

This provides a more convenient means for a Member to declare an interest which may frequently occur. For example, where a Member is a partner or major shareholder in a firm which often tenders for the provision of goods or services to his own authority, it is possible for him to make a general disclosure of this interest, rather than having to make a formal disclosure on every single occasion on which a matter involving the firm is raised. It should be stressed, however, that making a general disclosure in no way releases a member from the requirement not to take part in the discussion or consideration of any matter in which that interest arises. It is only the need to make a declaration which is affected.

Section 14 provides that the Department may remove a disability which is affecting so many members that an authority is unable to transact its business. It also clarifies that a Member desiring a dispensation is not precluded from voting on a motion to apply for dispensation. This is necessary to ensure that in cases where the disability affects many Members, there will be a quorum to allow the authority to apply for a dispensation.

Section 14 also provides that a member does not have a pecuniary interest simply because he is a ratepayer of the district, because he is a tenant of a local authority house or because, in a question of on what terms of service should be offered to the general public, he is a member of the public.

Section 14 also states that where a member's interest is so remote or insignificant that it is unlikely to affect his judgment it may be ignored, as may a shareholding of less than 1%.

Section 27 of the 1985 Act also provides that a local authority must make Standing Orders for the regulation of the proceedings and business of the authority (subsection 1) and also to cover tenders and contracts for the supply of goods or the execution of works (subsection 3). All local authorities should already have established procedures to deal with these matters and these must be codified by means of Standing Orders. The Department has previously recommended the use of draft copies of Standing Orders, which have been circulated to all local authorities.

These Standing Orders make it clear to local authorities that if any member of the authority has any pecuniary interest direct or indirect within the meaning of Sections 11 and 12 of the 1985 Act in any contract, proposed contract, or other matter, that the member shall withdraw from the meeting while the contract, proposed contract, or other matter, is under consideration by the authority unless – the disability to discuss the matter imposed upon him by the section has been removed by the Department under section 14(1), or the contract, proposed contract, or other matter is under consideration by the authority as part of the report of a committee and is not itself the subject of debate, or the authority has invited him to leave.

## **14 Register of Members Interests**

Your authority **SHALL** Section 13(2) Local Government Act 1985 maintain a book i.e. "Register of Member's Interests" which is to be made available for inspection by any Member of the local authority on demand.

In addition to complying with the legislative requirements under Section 13(2), the Department also recommends that local authorities, as a matter of policy, implement the following recommendations from the Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners dated June 2009 that :-

***'each local authority maintains a Register of Interests, in respect of each elected members and each member of staff, to include property ownership in the parish and business interests in the parish of the elected member, staff members and their families, to be -***

- a) completed at the time of appointment,***
- b) reviewed and updated annually at the time of the annual general meeting,***
- c) modified from time to time as individual circumstances change, and***
- d) made available for public inspection '***

### **14.1 Declaration of interests generally**

The declaration of interest should be by written representation (letter, facsimile or some other form of electronic communication) to the Chief Executive/Clerk (or Chairman), and should include details of that interest in the written communication. It is recommended that you tell your Clerk or relevant monitoring officer within 28 days of taking office, or within 28 days of any change to your register of interests, of any relevant interests.

You should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest. Some Local

Authorities may wish to request that Members confirm the declaration of interest details recorded in minutes of meetings within 2 weeks of that meeting.

## **14.2 Ethical Principles**

The Department has regularly offered advice and guidance to all local authorities on this matter. The booklet issued to all local authority Members entitled "General Information for Members and Officers of Local Authorities", includes a specific section on declarations of interest as well as advice on the following ethical principles that local authority members must comply with:

- (i) Members hold office by virtue of the law, and must at all times act within the law. A Member should make sure they are familiar with the rules of personal conduct required by the law and the standing orders of the authority.
- (ii) A Member has an overall duty to the whole community and a special duty to his or her constituents, including those who did not vote for them.
- (iii) A Member should never do anything which could not be justified to the public, and which could affect the reputation of the local authority.
- (iv) Members must not act in any circumstances in which there is a conflict between their personal interests and their public duties. This must also be borne in mind with any organization they may be a member of.
- (v) They should regularly review their personal circumstances and, if in doubt, seek advice from an appropriate senior officer or legal adviser.

Specifically, Section 16 of the 1985 Act also provides that a local authority shall have power to do anything (whether or not involving expenditure, borrowing or lending of money or the acquisition or disposal of any property) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

## **15 Gifts and Hospitality**

Under this code of conduct it is recommended that you must never ask for gifts or hospitality.

You must not be seen to be offered any hospitality or gifts which may be seen as an inducement or reward for anything you do as a Member.

You are personally responsible for all decisions connected with the acceptance of gifts or hospitality offered to you and it is a matter of judgement for you to avoid the risk of damage to public confidence in your local authority. You must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

As a general guide, it is usually appropriate to refuse offers except:

- (a) isolated gifts of a trivial character or inexpensive seasonal gifts such as a calendar or diary;
- (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- (c) civic gifts received on behalf of the local authority.

It is recommended also that you do not accept any offer by way of gift or hospitality which could give rise to a reasonable suspicion of influence on your part to show favour or disadvantage to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse/partner or any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provisions of services at a cost below that generally charged to members of the public.

You may consider not accepting any offer of a gift or hospitality from any individual or organisation who is an applicant awaiting a decision from the local authority or who is seeking to do business or to continue to do business with the local authority. If you are making a visit to inspect equipment, vehicles, land or property, then as a general rule you should ensure that the local authority pays for the cost of these visits, if it is agreed that such is an "approved duty". (Schedule 2 – 7 Local Government Act 1985)

You should consider only accepting offers to attend social events where these are clearly part of the life of the community or where the local authority would be expected to be represented.

It would be advisable to not accept repeated hospitality from the same source.

Your local authority may keep a register of gifts or hospitality received. It would then be your responsibility to record with the Chief Executive/Clerk the details of any gifts or hospitality received.

## **16 Use of local authority facilities**

The local authority will normally provide facilities to assist Members in carrying out their duties. This may involve access to secretarial assistance, stationery and equipment such as telephones, fax machines and computers. Such facilities must only be used in carrying out local authority duties and must never be used for party political or campaigning activities.

## **17 Appointments to Joint Boards / Partner Organisations**

You may be appointed or nominated by your local authority as a member of another body. If so, you will be bound by the rules of conduct of these Joint Boards/ organisations and your responsibility for any actions taken by you as a member of such a Joint Board/organisation will be to the Joint Board/ organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

## **18 Dealings with the local authority**

It is highly possible that you will have dealings on a personal level with the local authority of which you are a Member – for example as a ratepayer, tenant or recipient of a local authority service. You must not seek preferential treatment for yourself, your family, friends, colleagues or employees because of your position as an elected Member and you must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

## **19 Lobbying and Access to Councillors/Commissioners**

In order for the local authority to fulfil its commitment to being open, accessible and responsive to the needs of the public, it needs to encourage appropriate participation by organisations and individuals in the decision-making process. The desire to involve the public and other interest groups in the decision-making process must clearly take into account the need to ensure transparency and probity in the way in which the local authority conducts its business.

You will need to be able to consider evidence and arguments put forward by organisations and individuals in order to carry out your duties effectively. Some of these individuals and organisations will make their views known directly to individual members or Boards/Committees. The rules and standards in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.

It should be an essential rule of the democratic system that any individual should be able to lobby the local authority member. However, particular considerations apply when you are dealing with applications under regulatory powers such as refuse collection or agreed criteria like housing allocation, or actions against the Corporate Body.

## **20 Taking Decisions on Individual Planning Applications**

As an elected member you will be asked to consider planning applications in your area and contribute to the views submitted by your authority to the Department's Planning Directorate.

If you have substantial property or other interests which would prevent you from considering applications on a regular basis then you should abstain from giving any views. Note: Members should have declared details of property ownership with their authority (including details of their families' properties) in a Register of Interests.

When making a planning application for your own property, you must declare an interest when that particular application is considered.

It would be advisable under this Code that you do not seek to pressure planning officers to provide a particular recommendation on any planning application, planning agreement or taking enforcement action.

If you have a pecuniary interest in the outcome of a decision on a planning application, or a planning agreement, or on taking enforcement action, you must declare that interest and refrain from taking part in the consideration of the application.

## **21 Protocol for Relations between elected Members and Employees**

### **21.1 Principles**

This protocol sets out the manner in which elected Members and employees of local authorities should behave towards one another. It does not cover all the variety of circumstances which can arise, but the approach which it adopts will serve as a guide to dealing with other issues as they occur. Both elected Members and employees are

servants of the public, and they are also essential to one another. **BUT** their responsibilities are distinct.

Elected members and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

## **21.2 Scope**

The most common contact is between elected members and the Chief Executive/Clerk and this protocol is largely about those contacts. There are also contacts between Members and other employees in their daily business and the principles of this protocol also apply to them.

## **21.3 Members' and employees' roles**

Within the local authority, Members have a number of different roles, all of which call for separate consideration. Some Members are Chair of Committees and all have a local district or area to represent.

Legally, employees are employed by the local authority and are accountable to it. They serve the local authority as a whole and not any combination of groups or any individual members. Chief Executives/Clerks have ultimate responsibility to ensure that the local authorities' responsibilities are implemented.

## **22 Relationship between Leader and Members and Employees**

### **22.1 Office bearers**

It is clearly important that there should be a close professional working relationship between the Chairman and Chief Executive/Clerk. However, such relationship should never be allowed to become so close, or appear to be so close, as to bring into question an employee's ability to deal impartially with other members, nor the ability of the Chairman to deal impartially with other employees.

The Chairman will often be consulted on the preparation of Agendas and Reports. Employees will always be fully responsible for the contents of any report submitted in their name and be expected to submit reports to Members on their areas of professional competence.

Committee Chairs are recognised as the elected spokesperson on their Committees' areas of responsibility. Where authority is delegated to employees they will often wish to consult Chairs of Committees about the action which they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Chairs should bear this in mind when discussing proposed action with employees.

Members represent a local authority but also their local community. All employees must treat all Members fairly and openly in their role as local representatives. When performing their role, Members will be seen by the public as representing the local authority and should act in accordance with the principles of the Code of Conduct for Members and this protocol.

### **23 Relationship between Chairs and Board/Committee Members and employees**

Chairs should treat each Board/Committee Member as equal. They should ensure that every Member has the right to be heard. Chairs should encourage those Members who do not so readily participate in discussions to speak out.

Employees must ensure that Boards/Committees are provided with sufficient information upon which to come to a reasoned decision.

If there are any differences of opinion between employees, they should attempt to resolve these through the Chief Executive/Clerk and present an agreed position to the Board/Committee.

Employees must ensure that the information they provide to a Board/Committee is, to the best of their knowledge, complete, up to date and accurate.

### **24 Members in their authority role and employees**

All elected Members are first and foremost representatives of their local community. Employees should do all that they can to assist elected Members to fulfil this role. In particular, employees should do their utmost to respond to elected Members enquiries within any corporately agreed procedures.

Elected Members should also endeavour to deal expeditiously with correspondence from their ratepayers. They should keep records of correspondence and notes of any advice given to ratepayers for a reasonable length of time.

Elected Members should ensure they understand the local authority's agreed policies so that they do not falsely raise ratepayers' expectations that their problem can be easily resolved, when in fact the resolution may contravene existing policy.

Elected Members should not place employees under undue pressure in attempting to achieve a particular outcome on behalf of one of their ratepayers.

### **25 Complaints by employees regarding elected Members conduct**

If any employee feels they have reasonable cause to complain about the conduct of an elected Member, in the first instance they should bring it to the attention of their line manager or Clerk. If, for any reason, the employee does not wish to raise the matter initially with their line manager then they should make a direct approach to their Chief Executive/Clerk or the Department.

The line manager/Chief Executive/Clerk will address the issue either directly with the Member concerned or via their Chief Executive/Board Chairman, whoever is the most appropriate. If the alleged conduct is sufficiently serious, the employee may be advised to make a complaint to the Industrial Relations Officer.

## **26 Complaints by elected Members regarding employee conduct**

All issues relating to the conduct of employees must be dealt with through the normal line management processes and, in the case of serious allegations of misconduct, through the local authority's normal disciplinary procedures.

If any elected Member feels they have reasonable cause to complain about the conduct of an employee, they should put their complaint in writing to the Chief Executive/Clerk (or if it is about the Clerk and there is no other chain of command, through the Chairman).

The decision by a Member to complain about an employee should not be taken lightly. It is harmful to Member/employee relations for such complaints to be made, unless they can be fully justified. Therefore any complaint must be supported by factual evidence.

Once a complaint has been made the Chief Executive/Clerk/Chairman, as the case may be, will be responsible for deciding what action, if any, should be taken in relation to the complaint and also inform that Member of their conclusions.

If following investigation of the complaint the Chief Executive/Clerk/Chairman finds the complaint to be unfounded and believes it to be vexatious or malicious, then consideration should be given as to what action may be taken following consultation with the Chief Executive/Chairman.

## **27 Elected Members access to documents and information**

Elected Members have rights of access to information over and above those they would have as a ratepayer. However they do not have open access to all documents in the possession of the local authority. The elected member must demonstrate the need to know to the Chief Executive/Clerk.

If the elected Member has a genuine need to know in order to carry out their duties then they should be provided with the information they are seeking. Any cases of dispute should be referred to the Chief Executive/Clerk/Department of Local Government and the Environment for arbitration. It is the responsibility of elected Members to ensure that the information provided to them on a confidential basis is **not** disclosed to a third party.

Co-opted Members of Committees are under the same obligations as elected Members in relation to access to information and the need to respect the confidentiality of certain information they are in possession of in connection with their role.

## **28 Press Releases**

Press Releases may be issued via the Chief Executive/Clerk in the same way as all media enquiries should be dealt or through the Chairman depending on the system employed in the particular local authority.



## **29 Media Releases**

Elected Members may be asked to speak on the radio or television or other form of media. It is important to remember that when speaking as individuals a member should make it clear when they are expressing personal opinions and when they are expressing the views of the whole Board. If the latter, then prior board approval should be gained.

## **30 Correspondence**

Correspondence between elected Members and employees should be business like and may take the form either of a letter, memorandum or an email message.

## **31 Recruitment**

Where Members are involved in the appointment of employees they must act fairly and openly and judge candidates solely on merit. (Guidance on Recruitment is provided in the General Information for Members and Officers of Local Authorities Handbook).

## **32 Social Relationships**

The relationship between Members and employees depends upon trust and this will be enhanced by the development of positive, friendly relationships. Members and employees will often represent the local authority in social situations within the community and they have a responsibility to project a positive image of the local authority. Any close personal familiarity between individual employees and Members can damage the relationship of mutual respect and the belief that employees give objective and professional advice and commitment to the local authority. Members and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

## **33 Public comment**

Members should not raise matters relating to the conduct or capability of employees in public. Employees must accord to Members the respect and courtesy due to them in their various roles. There is provision in the Code of Conduct for Employees about speaking in public and employees should observe them.

## **DEPARTMENT OF LOCAL GOVERNMENT AND THE ENVIRONMENT**

### **EMPLOYEES CODE OF CONDUCT**

#### **Introduction**

Ratepayers are entitled to expect the highest standards of conduct from all employees who work for local authorities. This Code outlines the effect of existing legislation, conditions of service and provides further guidance for employees and gives guidelines which will help maintain and improve standards and protect employees from misunderstanding or criticism.

#### **34 Who the Code is aimed at**

The Code covers all local authority employees, whether full-time, part-time, temporary, casual or agency workers, but inevitably some of the issues covered by it will affect senior, managerial and professional employees more than it will others.

#### **35 Standards**

Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to elected members and fellow employees with impartiality. Decisions should be taken in line with any established policies and procedures and taking into account any expert and professional advice. Similarly, ratepayers are entitled to demand of them conduct of a high standard. Public confidence in an employee's integrity would be shaken if the least suspicion were to arise that he or she could be influenced by improper motives. Local authority employees should comply with the law and treat everyone with courtesy and respect.

#### **36 Disclosure of Information**

Employees should not, either during their employment or after it has terminated, use confidential or commercially sensitive information obtained in the course of their employment for personal gain or benefit. Nor should they pass such information on to others who might use it in this way.

#### **37 Relationships**

**37.1 Elected Members** – Employees are responsible to the local authority (in some cases through the Chief Executive/Clerk). For some, their role is to give advice to elected Members and senior managers and all are there to carry out the local authority's work. Mutual respect between employees and elected members is essential to good local government. Close personal familiarity between employees and individual members can damage the relationship and prove embarrassing to other employees and elected members, and should therefore be avoided.

**37.2 Local community and service users** – Employees should always remember their responsibilities to the local community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community. Employees who engage or supervise contractors or have any official relationship with contractors and have previously had, or currently have a relationship in a private or

domestic capacity with contractors, should, under the provisions of Section 23 of the Local Government Act 1985, declare that relationship to the Chief Executive/Clerk. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by friends, partners or relatives etc in the tendering process. No part of the local community should be discriminated against.

### **38 Appointments and Other Employment Matters**

Employees involved in appointments should ensure such decisions are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with him or her. Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

### **39 Employees using local authority services**

Some employees may be users of local authority services.

For routine transactions this creates no difficulties. However, in any areas where discretion is involved such as the allocation of a tenancy or the granting of benefits, it is vital to be able to demonstrate that the cases have been dealt with impartially. Staff employed in these work areas must refer cases involving other staff members to senior officers.

Employees of a local authority making applications or claims to the local authority or in other ways dealing with their own situation will be expected to display the highest standards of integrity.

With regard to planning applications, if an employee intends to submit, or have submitted on his/her behalf, an application for planning permission, certificate of lawful use of development or for consent to display advertisement, then they should notify the Chief Executive/Clerk.

### **40 Outside Commitments**

Employees' off-duty hours are their personal concern, but it is essential they should not use their position within their private interests or put themselves in a position where their duties and private interests conflict.

In general, additional employment should not be precluded, but such should not conflict with, or act detrimentally to the local authority's business. It may be that senior officials should not take on any additional appointment without the express consent of the local authority.

All employees are advised that they should not, in a private capacity, either directly or indirectly become involved, on behalf of a third party, in matters which require consideration by the local authority or which could lead in any way to a conflict of interests. Employees must also refrain from using officers' time, accommodation, stationery or equipment for

matters not connected with their official duties. Any such cases would be dealt with in accordance with the local authority's disciplinary procedure.

#### **41 Pecuniary Interests**

Employees must declare any pecuniary interests and should declare (in accordance with the Braddan Select Committee Recommendations) interests relating to property ownership and business interests within the Authority's district which they or close relatives have which they consider could bring about conflict with the local authority's interests.

Any interests declared under Section 23 Local Government Act 1985 should be recorded in a Register of Interests books which is available for public inspection.

#### **42 Separation of Roles during Tendering**

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the local authority. Employees who have both a client and contractor responsibility, must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates, in awarding contract to businesses run by them or employing them in a senior or relevant managerial capacity.

#### **43 Offences**

S23 of the Local Government Act 1985 (Disclosure by officers of interests in contracts) states

- (1) *If it comes to the knowledge of an officer appointed or employed, whether under this or any other enactment, by a local authority that –*
  - (a) *a contract in which the officer has any pecuniary interest, whether direct or indirect (not being a contract to which he or she is himself or herself a party) has been, or is proposed to be, entered into by the authority, or*
  - (b) *any other matter in which the officer has such an interest is under consideration by the authority.*

*The officer shall as soon as practicable give notice in writing to the authority of the fact that he or she has an interest in it.*

- (2) *For the purpose of this section an officer shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter if he or she would have been so treated by virtue of Section 12, Local Government Act 1985 had he or she been a member of the authority.*
- (3) *An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.*

*(4) Any person who contravenes the provision of subsection (1) or (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.*

#### **44 Corruption**

Employees must be aware that it is a serious offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that such rewards have not been corruptly obtained.

#### **45 Use of Financial Resources**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the local authority.

#### **46 Hospitality**

It is clearly a matter of judgement when to accept hospitality but it is important to avoid any suggestion of improper influence or of giving the opportunity for questions of improper influence to be raised.

Acceptable –

- Insignificant gifts of token value for business use.
- A working lunch of a modest standard provided to allow the parties to discuss business or following or prior to such discussion.
- An invitation to a professional society, dinner or function.

Whilst the above are permissible arising out of occasional invitations, employees should bear in mind that accepting frequent invitations from the same source could lead to criticism and render the otherwise acceptable, unacceptable.

#### **47 Breaches of Conduct**

Breaches of this Code of Conduct will be treated very seriously and be dealt with under the local authority's Disciplinary Procedure.

## **APPENDIX 1**

### **Isle of Man Government Corporate Governance Principles and Code of Conduct**

#### **Aspect 5 – Standards of Conduct**

The openness, integrity and accountability of individuals within a Department is the cornerstone of effective corporate governance. The reputation of the Department depends on the standards of behaviour of everyone in it, including agents contracted to it.

Therefore the Minister, members, and senior officers of a Department will need to:

Exercise leadership by conducting themselves as role models for others within the Department to follow;

Ensure compliance with relevant professional and corporate standards of personal behaviour and codes of ethics.

### **Guidance for Members on use of Council Resources**

Resources and facilities provided by the Council to assist Members in their role as Councillors should not be used for any other purpose. Members' role as Councillors includes correspondence with constituents on matters affecting the Ward the Member represents, with other representatives such as fellow Councillors and Members of the House of Keys, with Officers of the Council and with Government Departments.

"Correspondence" includes telephone, e-mail and written communication.

Resources provided to Members include:

- Tablet computer and connection to the Intranet and Internet;
- Councillors' individual e-mail accounts;
- Members' Room and other facilities including computers and telephones in them;
- Letterhead paper;
- Members' Queries system for dealing with issues Members raise;
- Transport in certain circumstances.

Council resources should never be used by Members for:

- Political purposes;
- Personal purposes not directly attributable to their Council role;
- Any form of campaign, whether politically motivated or otherwise;
- Promoting the interests of any individual or company;
- Sending multiple copies of letters or e-mails to a number of addressees;
- Gaming;

and to use them for any of those purposes, even unintentionally, may leave the Member open to action under the Code of Conduct embodied in the Constitution (Part 5, Section A); the Standards Committee has established procedures for investigating and dealing with any such incident, as set out in the Standards Committee Handbook.

But they may be used, as they are intended, for:

- Viewing Council files and documents via the Intranet and e-mail;
- Research on subjects related to the Member's role or the Ward they represent;
- Correspondence related to the Member's role or the Ward they represent;
- Communication with Officers as necessary;
- Submission of motions and questions to the Chief Executive for any Council Meeting.

If any Member requires further clarification advice is readily available from the Chief Executive and the Assistant Town Clerk.