



## Guidance On Ethical Standards In Procurement

### Introduction

During the procurement process we rightly expect high ethical standards from our suppliers and potential suppliers. In turn, we must exhibit the highest ethical standards ourselves. We must be fair and above board in our business dealings, and avoid any conduct that is capable of having an adverse interpretation put on it.

Outright corruption is fortunately rare in public life in this country, but it does occur. We must ensure that this Council and its employees are trusted and respected, not only for doing business efficiently, but also with honesty and integrity.

This Guidance is intended to assist staff involved in procurement to achieve the high standards we have set ourselves. The Guidance is split into two parts:

Part A – sets out the principles of ethical procurement

Part B – gives specific guidance

### A. Our Principles

We expect staff involved in procurement to abide by the principles set out in the Professional Code of Ethics of the Chartered Institute of Purchasing & Supply. These principles reflect well-established good practice and provide a useful framework for ethical procurement.

The Professional Code requires that staff involved in procurement will:

- maintain the highest standard of integrity in their business relationships
- reject any business practice that might reasonably be deemed improper
- never use their authority or position for their personal gain
- declare any personal interest that might effect or be seen by others to affect their impartiality or decision making
- not accept gifts or inducements, other than items of small value such as business cards and diaries

- always declare the offer or acceptance of hospitality and never allow hospitality to influence a business decision
- remain impartial and not be influenced by those with vested interests
- respect the confidentiality of information they receive and never use it for personal gain
- strive for genuine, fair and transparent competition
- comply with the letter and intent of the law
- optimise the use of resources for the benefit of the organisation
- ensure that the information they give to others is accurate
- foster the highest levels of competence amongst those for whom they are responsible

## **B. Specific Guidance**

Many of the specific issues dealt with below are covered, in whole or part, by the Council's Employee Code of Conduct and the Code is referred to where relevant. Staff involved in procurement must comply with the Council's Employee Code of Conduct, which forms part of their contract of employment. Failure to comply with the requirements of the Code would be treated as a disciplinary matter.

### **1. Gifts, Hospitality and Inducements**

The Council maintains a Register of Gifts and Hospitality and details of all gifts and hospitality accepted by officers should be properly recorded in it. The Register is kept in Member Services and is inspected monthly by the Executive Director (Legal & Democratic Services).

Paragraph 10 of the Council's Employee Code of Conduct states the following:

#### **“GIFTS AND HOSPITALITY**

- It is a criminal offence for you 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 your official capacity. It is for you to demonstrate that any such rewards have not been corruptly obtained.
- The central test to apply in any situation is “What would the man or woman in the street think?” Ask yourself whether they would think that you might be influenced in your future conduct by the gift or hospitality offered. Would they think that your past conduct might have been influenced by the hope of, or

designed to encourage, such a gift of hospitality? If the answer to either of this is “yes”, you should refuse the offer.

- The following notes are intended to act as guidance only. It is impossible to prepare guidance to cover all situations, and you should always consult your Head of Service or the Executive Director (Legal & Democratic Services) if in doubt or when complex or potentially contentious situations occur.

### Gifts

- (i) A gift offered to you may be accepted if:
  - it is offered during official authorised hospitality, and/or
  - it is of nominal value (below £10), and (in either case)
  - no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or company tendering for work)
- (ii) Gifts outside of the scope of (i) above should normally be refused. They may, however, be accepted if refusal would give offence. In that case, the gift could be accepted and donated to the Mayoral Charity Fund with a suitable explanation. They should always be refused if an ulterior motive is apparent.
- (iii) In any event, you should refuse and offer and avoid situations where you are likely to be offered a gift from a person engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and where you are directly responsible for formulating recommendations to the Council or for monitoring the service received from the person concerned.
- (iv) Gifts over £10, which are accepted, must be entered in the Register of Gifts and Hospitality.

### Hospitality

- (v) Hospitality from other individuals or bodies can be a perfectly respectable way of doing business, of making contact and of representing and promoting the interests of the Council. In all cases, however, ask yourself what impression would be created by the particular example.
- (vi) For example, is the scale of hospitality in reasonable proportion to the declared objectives, or might there be a hidden motive?

- (vii) Has the hospitality been offered to you personally, or in your official capacity? Has it been offered to others as well? Are those offering the hospitality, negotiating or discussing with the Council some matter of importance to them, and are you directly involved or responsible for those discussions on behalf of the Council?
- (viii) In all cases, it is better to err on the side of caution. If you have doubts, seek advice. What matters above all else, are the reputations of the Council and local government generally.
- (ix) Acceptance of hospitality at conferences and courses is acceptable where it is clear that it is corporate not personal, where consent is given in advance and where the Authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, the Authority must meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.”

## **2. Declarations of Interest**

The Employee Code of Conduct states the following:

### Paragraph 4.3

“All personal relationships with contractors or potential contractors should be made known to the appropriate Head of Service. To do otherwise contravenes the law. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by for example friends, partners or relatives. No part of the community should be discriminated against. If you engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity, you should declare that relationship to your Head of Service”.

### Paragraph 7.2

“You must declare any financial interests which could conflict with the Authority’s interests”.

Any personal interest (for example share-holding; family or private relationship; or friendship) which may affect or be construed to affect on an employee’s ability to be impartial in exercising his/her duty in the Council’s interests must be declared in writing immediately to their Head of Service before any procurement activity is commenced. The Head of Service will decide on appropriate action in order to best protect the Council’s interests.

### **3. Conflicts of Interest**

When dealing with suppliers, potential conflicts of interest can sometimes arise. Spouses or other relatives may be employed by the supplier or company and personal friendships may grow up over time. Such potential conflicts should be reported to the employee's Head of Service as soon as they are identified. They will not normally prevent our trading with the company concerned, but it may be in everybody's interests to arrange for the procurement to be handled by someone else.

Sometimes, former employees may be potential suppliers – indeed their knowledge of our operations may make them particularly suitable. It is important that they do not receive, or expect to receive, special consideration, and that fair competition among all suppliers is not compromised.

Employees should avoid as far as possible dealing with our suppliers in their private affairs, particularly if this is likely to put them under some obligation to the supplier. Where such arrangements are unavoidable, it is essential that they ensure that the supplier does not offer them any sort of deal which is not commonly available, and which could be construed as a reward for actions taken in the course of their employment.

### **4. Private Transactions**

Employees involved in the procurement function, who wish to enter into any private transaction with any Council contractor (or employee of any contractor) otherwise than by way of normal retail trade where they are on the same footing as members of the public at large, must seek permission to do so from their Head of Service.

This does not apply where a professional association or trade union to which an employee belongs has negotiated special terms for private business with the supplier/contractor, and the employee seeks only to act on the same footing as all other members of the association or union.

### **5. Fraud, Theft and Corruption**

Employees involved in procurement must be aware of, and comply with, the Council's Anti-Fraud and Corruption Policy.

Fraud, theft and corruption (which includes conspiracy to defraud, bribery, forgery, etc.) are criminal offences which in this context can be defined as:

*Fraud* – the false representation of facts with an intention to deceive or enable some person or organization to gain unfair advantage. It includes the falsification of documents and the certification as true of facts known to be wrong.

*Theft* – stealing or dishonest misappropriation of money or property.

*Corruption* – acceptance of any gift or consideration as an inducement or reward.

Any improper approaches to employees by contractors or potential contractors, whether in the form of inducements or threats, must be reported, even if the approach is sufficiently ambiguous to allow of an innocent construction. The report should be made to the employee's Head of Service and also to the Executive Director (Legal & Democratic Services).

## **6. Anti-Competitive Behaviour**

From time to time, employees may become aware of supplier organisations apparently acting in concert to fix prices or divide up markets. More rarely, there may be arrangements between buyers from different organisations designed to put pressure on suppliers. Any such arrangement is illegal unless specifically cleared by the Restrictive Practices Court. Employees with suspicions that any such activity is taking place should report the matter (with any supporting evidence) to their Head of Service and to the Executive Director (Legal & Democratic Services).

## **7. Fair Dealing**

Be honest, fair and even-handed with suppliers/contractors. Do not engage in "Dutch Auctions" (i.e. giving supplier A supplier B's price to meet or beat) and do not unfairly pressurize a supplier in any way. The aim must be to show to suppliers, and others, that Council employees are impartial at all times.

## **8. Confidential Information**

Commercially sensitive information must be kept confidential and never utilised for personal gain or to prejudice fair competition.

Those involved in procurement activity must recognise the confidential nature of all information relating to every stage of the procurement cycle from pre-tender activities to final completion of contracts. Confidentiality is particularly necessary in the areas of:-

*Prices* – the Council maintains a policy of confidentiality of tender and contract prices

*Drawings, Documents, Information, etc.* – protective provisions are necessary in all contracts where the Council's (or third party's) drawings, documents or information are supplied to potential suppliers or contractors; and

## **9. Offers of Employment**

If an employee involved in procurement activity receives an offer of employment from anyone with whom he/she has been brought into contact by his/her official duties, he/she should advise their Head of Service.

## **10. Whistleblowing**

Employees involved in procurement should be aware of the Council's Whistleblowing policy and procedures. Our Contract Procedure Rules also require that all potential contractors are made aware of the Whistleblowing Policy as part of any tender exercise.

It is our policy to support, protect, and, where possible, preserve the anonymity, of any of our employees who report questionable activity, even if their fears subsequently prove to be unfounded. Early reporting is essential, so that, where necessary, legal advice can be taken and both the individual and the Council protected.

Concerns can be raised either verbally or in writing to the Executive Director (Legal and Democratic Services) or the Executive Director (Resources) or the Head of Audit and Investigations. Concerns may be reported by the employee or on their behalf by their trade union.

