

**CENTRE OF EXPERTISE FOR LOCAL GOVERNMENT REFORM**

DIRECTORATE OF DEMOCRATIC INSTITUTIONS

**Council of Europe, Strasbourg**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

## **Code of Conduct of Local Elected Officials**

**Chisinau 2008**

## CONTENT

**Section 1. General provisions of the Code of Conduct of Local Elected Officials' ..... Town Council**

**Section 2. Basic principles of behaviour in the professional activity of local elected officials**

**Section 3. Basic rules of behaviour of local elected officials**

**Section 4. Control of observance of the Code of Conduct.**

**Annex 1. Policy on Local elected officials' gifts, material benefits, advantages and hospitality**

**Section 1. General provisions of the Code of Conduct of Local Elected Officials' ..... Town Council**

The Code of Conduct of Local Elected Officials (hereinafter the Code) is introduced to raise the trust of citizens in town authorities, enhance personal responsibility of local elected officials for proper execution of their professional duties, ensure transparency and correctness of the Council's activity and prevent violations of professional ethics, norms and morality.

The Code was drawn up on the basis of the Law of Local Public Administration Nr. 436-XVI from 28 December 2006 and Law on the Status of Local Elected Officials Nr. 768-XIV from 2 February 2000, and considering the Law on Code of Conduct of Public Servant Nr. 25-XVI from 22 February 2008.

This Code builds on the objectives stated in these Laws and aims to assist Local elected officials in achieving these objectives, by explicitly identifying and by establishing the standards they should apply in undertaking their duties.

### *Scope*

1. Local elected officials must observe this Code of Conduct whenever they:
  - (a) conduct the business of the Council;
  - (b) undertake the role of Local elected official to which they were elected; or
  - (c) act as representatives of the Council.

2. This Code of Conduct shall, unless otherwise indicated, only apply to those activities which a Local elected official undertakes in an official capacity.
3. Where a Local elected official acts as a representative of the Council on another body, that Local elected official must, when acting in that capacity, comply with this Code of Conduct, unless it conflicts with any legal obligations arising as a consequence of service on that body. Where a Local elected official's appointment to another body does not arise from the Local elected official's position as a Local elected official of the Council, this Code shall not apply to the Councillor, who shall instead be subject to the Code of the other body. Such a Local elected official will, however, be expected to have regard to the general principles of conduct and the requirement not to bring the office of Local elected official or the Council into disrepute.

This Code was adopted by the ----- Council on ??/??/2008.

4. Each Local elected official must familiarise themselves with the provisions of the Code and upon the day they come to office must sign the declaration at Annex 1 to the Code, declaring that they will comply with the Code in performance of their duties. The signed declaration must be submitted to the Council's Secretary within 10 working days within 10 working days of being elected.

## **Section 2. Basic principles of behaviour in the professional activity of local elected officials**

The Local elected officials shall follow the following principles in undertaking their official position:

1. Promotion of equality and respect for others
2. Duty to uphold the law
3. Accountability and openness
4. Selflessness and stewardship
5. Objectivity and propriety
6. Integrity
7. Leadership

### *1. Promotion of Equality and Respect for Others*

Local elected officials:

(a) must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others;

(b) must not do anything which compromises, or which is likely to compromise, the impartiality of the Council's employees;

(c) In performing their functions, elected representatives shall show respect for the role of the local government staff reporting to them, without prejudice to the legitimate exercise of their hierarchical authority; and

(d) shall respect the powers and prerogatives of all other Local elected officials.

2. *Duty to uphold the law*

Local elected officials:

(a) must not in their official capacity or otherwise commit a criminal offence or cause one to be committed; and

(b) must not in their official capacity or otherwise behave in a manner which could be reasonably regarded as bringing the office of Local elected official or the Council into disrepute.

3. *Accountability and Openness*

Local elected officials:

(a) must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) must state the reasons for confidentiality, where information is treated as confidential;

(c) must not prevent any person from gaining access to information to which that person is entitled by law;

(d) shall undertake to perform their functions with diligence and openness and shall diligently respond to any request from the public concerning the performance of their functions, the grounds for their action, or the functioning of the services and departments coming under their responsibility; and

(e) in performing their functions, shall not take any measure such as to grant themselves a future personal professional advantage once they have relinquished their functions:

- in public or private bodies over which they exercised supervision while performing those functions;

- in public or private bodies with which they established a contractual relationship while performing those functions;

- in public or private bodies which were set up during their term of office and by virtue of the powers entrusted to them.

#### 4. *Selflessness and stewardship*

Local elected officials:

(a) must not, in their official capacity or otherwise, use their position improperly to confer on or secure for any person and in particular their family, friends or those with whom they have a close personal association an advantage or disadvantage or to secure an advantage for themselves;

(b) shall undertake to observe budgetary and financial discipline, which guarantees the proper management of public money;

(c) must, when using or authorising the use by another Local elected official of the resources of the Council, do so prudently and in accordance with the law and the Council's requirements;

(d) must ensure that the resources of the Council are not used improperly for their own private purposes, for the purposes of a political party, their family, friends and persons with whom they have a close personal association; and

(e) must not ask or require appointed officials to take or omit to take any measure such as to give themselves a direct or indirect personal advantage or give an advantage to individuals or groups of individuals with the aim of deriving direct or indirect personal benefit there from..

#### 5. *Objectivity and Propriety*

When taking decisions, Local elected official must:

(a) reach decisions on the basis of the merits of the circumstances involved and in the public interest.

(b) Ensure that the appointment of administrative staff shall only be made on the basis of the principles of merit and professional abilities and only for purposes of the needs of the Council.

;

(c) reach decisions having regard to any relevant advice provided by the Council's officers - in particular by:

- the Council's Secretary who should be consulted when there is any doubt as to the Council's power to act, or as to whether the action proposed lies within the policy framework agreed by the Council; where the legal consequences of action or failure to act by the Council might have important repercussions.

(d) give reasons for decisions in accordance with the Council's requirements, specifying factors on which the decision is based such as proportionality, fairness, public interest and demonstrating how the decision complies with relevant rules and regulations.

#### 6. *Integrity*

Local elected officials:

(a) must observe the law and the Council's rules governing the claiming of allowances, expenses and compensation for loss of wages in connection with their duties as Local elected officials; and

(b) must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the Council) material benefits or services for themselves or any person with whom the Local elected official is living that would, or might reasonably appear to, place them under an improper obligation.

#### 7. *Leadership*

Local elected officials should promote and support these principles by leadership and example and should act in a way that promotes public confidence.

### **Section 3. Basic rules of behaviour of local elected officials**

#### **1. Personal interests**

Local elected officials must in all matters consider whether they have a personal interest, and whether this Code of Conduct requires them to disclose that interest.

A Local elected official has a personal interest in a matter if that Local elected official anticipates that any decision taken by the Council which relates to that interest might reasonably be regarded as likely to benefit or disadvantage:

(a) the Councillor, one of the Local elected official's family or a friend, or any person with whom the Local elected official has a close personal association, or

(b) a body which employs those persons, or for which those persons have any degree of ownership, control or management, to a greater extent than other Council Tax payers, ratepayers or inhabitants of the Authority's area.

Local elected officials must regard themselves as having a personal interest in a matter if it relates to:

- (a) another relevant public body of which they are a member;
- (b) a body in which they hold a position of general control or management; and
- (c) a body to which they have been appointed or nominated by the Authority as a representative.

Local elected officials must regard themselves as having a personal interest in a matter if it relates to:

- (a) any full-time, part-time or intermittent employment, office, trade or profession carried on by them for profit or gain;
- (b) any person who employs or has appointed them, any firm in which they are a partner, or any company of which they are a remunerated director;
- (c) any person who has made a payment to them in respect of their election or any expenses incurred in carrying out their duties;
- (e) any contract for goods, services or works made between the Council and the Councillor, a firm in which the Local elected official is a partner, a company of which the Local elected official is a director, or a body falling within sub-paragraph (d);
- (f) any land in which the Local elected official or a member of the Local elected official's family has a beneficial interest and which is in the area of the Authority;
- (g) any land of which the landlord is the Authority and the tenant is a firm in which the Local elected official is a partner, a company of which the Local elected official is a director, or a body falling within sub-paragraph (d);
- (h) any land in the Authority's area in which the Local elected official has a licence (alone or jointly with others) to occupy for a month or longer; and
- (i) any visit outside Moldova for which the Authority has paid or will pay.

Article 21 of the Law on Local Public Administration states that a Local elected official may be present at the Council's meeting, but does not take part in the decision's adoption, if:

- a. he (she) in person, the spouse, the children' parents have a property interest in the debated problem;
- b. he (she) is the director or member of the administration board of the company, institution, organisation or its representative offices, that is regarded directly by the decision to be taken; and
- c. is incompatible according to the present law and the Law of the local people's representative and his (her) incompatibility lasts for more than 30 days from its occurrence.

A Local elected official who has a personal interest in a matter and who attends a meeting of the Council at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent.

A Local elected official who has a personal interest in a matter which is not specified above and who attends a meeting of the Council at which the matter is discussed must disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. If that personal interest is such that a Local elected official of the public might reasonably conclude that it would significantly affect the Local elected official's ability to act purely on the merits of the case and in the public interest if that Local elected official were to take part in the discussion of that matter, the Local elected official must also withdraw from consideration of the matter at that meeting unless granted a dispensation by the Council's standards committee.

Any disclosed interests must be registered in the Register maintained by the Council Secretary.

Local elected officials must exercise personal responsibility in deciding whether they have a personal interest such that they should disclose it. They may seek advice from the Council's Secretary.

Local elected officials must notify the Council's Secretary of any change to the interests within one month of their occurrence.

## **2. The registration of gifts and hospitality**

A Local elected official must notify the Council's Secretary of the existence and nature of any gifts, hospitality, material benefits or advantage received by the

Councillor, or to the Local elected official's knowledge any person with whom the Local elected official is living, from any company, organisation or person and relating to or arising out of their position as a Councillor, where the value of the item or benefit exceeds such amount as the Council shall from time to time determine.

Any gift accepted by a Local elected official on behalf of that Local elected official's relevant Council need not be notified to that Council's Secretary. *Details about gifts and hospitality are provided in Annex 1 to the present Code.*

#### **Section 4. Control of observance of the Code of Conduct.**

##### **a. Internal control of observance of the Code of Conduct by local elected officials**

The Council has established a Commission of Ethics which has the function of:

- promote and maintain high standards of conduct by the Local elected officials of the Council;
- monitor the operation of the Authority's Code of Conduct; and
- considering alleged breaches of the Council's Code, and to recommend to the Council what, if any action should be taken in response to the allegations;
- advise, train or arrange to train Local elected officials on matters relating to the Authority's Code of Conduct.

##### **Reporting breaches of the Code**

Local elected officials:

(a) must report to the Commission designated by the Council any conduct by another Local elected official which they believe involves or is likely to involve a failure to comply with this Code of Conduct;

(b) must report, whether through the Council's confidential reporting procedure or direct to the Commission, any conduct by another person which they believe involves or is likely to involve criminal behaviour; and

(c) must not in relation to (a) above make vexatious or malicious complaints against other persons.

##### **b. Public control of observance of the Code of Conduct by local elected officials**

Citizens may submit to Council, in accordance with procedures established by law, applications concerning violations of ethical norms of behaviour by elected officials.

Review of facts of violation of the requirements of this Code by local elected officials shall be vested in the commission of ethics.

The Commission shall sum up and analyse applications concerning violations of ethical behaviour by local elected officials and regularly inform the public of the results of the review.

## **Annex 1**

# **POLICY ON LOCAL ELECTED OFFICIALS' GIFTS, MATERIAL BENEFITS, ADVANTAGES AND HOSPITALITY**

## **1. INTRODUCTION**

1.1. This Policy contains the threshold value set for gifts material benefits, advantages and hospitality at which and in excess of which the Council requires Local elected officials to notify and register their receipt in a Register kept by the Council's Secretary.

1.4. Forms are provided for Local elected officials to complete their notification and these forms are to be returned to the Council's Secretary within the time limit specified in this Policy. The completed forms will form the basis of the Register, which will be known as the Register of Gifts and Hospitality.

## **2. STATUTORY BASIS**

2.1. The Council has adopted a Code of Conduct (hereafter called 'The Code'). The Code says Local elected officials "must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a Civic Reception or a working lunch duly authorised by the Council) material benefits or services for themselves or any person with whom the Local elected official is living that would, or might reasonably appear to place them under an improper obligation".

2.3. The Code requires that subject to the provisions referred to in paragraph 2. Section 3 below "a Local elected official must notify the Council's Secretary of the existence and nature of any gifts, hospitality, material benefits, or advantage received by the Councillor, or to the Local elected officials knowledge any person with whom the Local elected official is living, from any company, organisation or person and relating to or arising out of their position as a Councillor, where the value of the item or benefit exceeds such amount as the Council shall from time to time determine".

2.4. "Any gift accepted by a Local elected official on behalf of that Local elected official's relevant Council need not be notified to that Council's Secretary".

## **5. NOTIFICATION OF ACCEPTANCE**

5.1. Local elected officials must give the notification of the acceptance of gifts, material benefits, advantages or hospitality by giving the information required on the relevant Form approved for the purpose. Such form must be returned to the Council's Secretary within 21 days of receipt.

## **6. THE REGISTER**

6.1. The Council's Secretary will keep a Register of all notifications made by Local elected officials.

6.2. The Register will be open to public inspection during all normal office hours.

6.3. The Register will be kept at the Council Offices, under the custody and control of the Council's Secretary.

## **7. THE THRESHOLD**

7.1. Local elected officials must notify receipt of gifts, material benefits, advantages and hospitality (of a value of or in excess of one minimum wage established by Government) by the Local elected official and to the Local elected official's knowledge also with regard to such receipt by persons with whom the Local elected official is living, subject to the provision in 8 below.

## **8. OTHER MATTERS**

8.1. The receipt of gifts, material benefits, advantages and hospitality by a Local elected official or by persons with whom the Local elected official resides need only be notified by the Local elected official if receipt arises out of a Local elected official's position as a Local elected official of the Council i.e. if it is given because of some other capacity of the Local elected official such as, because the Local elected official is involved in an organisation like a choir, sports club etc. This Code will not then apply; no notification or registration is required.

## **9. CIVIC GIFTS**

9.1. However, the receipt by a Local elected official etc. of a gift accepted on behalf of Council is not subject to the Code. Local elected officials should note that the Council requires that a gift accepted by a Local elected official on behalf of this Council i.e. a civic gift, should be given into the custody of an appropriate officer (usually this will be the Secretary who will keep a manifest of gifts received and will keep them in safe custody). If any decision is needed as to the disposal of civic gifts the Secretary shall determine what is to happen to them.

## **10. VOLUNTARY DECLARATIONS AND OTHER MATTERS WHICH IT IS NOT NECESSARY TO DISCLOSE**

10.1. If Local elected officials wish to notify the Council's Secretary the receipt of gifts, material benefits, advantages and hospitality of a value below the threshold for notification and registration they may do so if they wish on a voluntary basis.

10.2. However, it is stressed that those Local elected officials who observe notification based purely on the threshold set will have thereby complied precisely with the statutory requirements laid down.

## **11. HOSPITALITY**

11.1. The Council regards working lunches or their equivalent as appropriate hospitality and a proper way of doing business provided that they are generally authorised by Council and involve no extravagance and would be considered within the bounds of normal courtesy lunches i.e. following working parties, Committee

meetings, partnership meetings etc including Seminars, Conferences or similar events.

11.2. Likewise the Council authorises the receiving of official hospitality – such as Civic Receptions, by Local elected officials as by persons living with them.

11.3. Otherwise the Council requires that Local elected officials should only accept offers of hospitality if it is generally felt that the Council interests are served by attendance or that it is appropriate for the Council to be seen to be represented at the event.

11.4. Hospitality covered by 11.1 and 11.2 will usually not need to be notified to the Council Secretary of the on the basis that the same will unlikely to be of a value reaching the threshold in this Policy. However, if hospitality mentioned in 11.1 and 11.2, and of course 11.3, reached the threshold specified in this Policy then receipt must be notified in the usual manner to the Council's Secretary.

11.5. Additionally, Local elected officials who wish to accept any form of hospitality covered by 11.3 above are advised to seek appropriate advice beforehand from the Council's Secretary.

11.6. Acceptance by Local elected officials of hospitality through attendance at conferences, seminars and other similar events is permissible when it is clear that the hospitality is corporate rather than personal in nature and where it is clear that the Council's position is not compromised.

11.7. Where visits to sites to view proposed developments or to view vehicles, equipment, any goods or service delivery or similar are required or Local elected officials attend any demonstrations relating to same including software/IT demonstrations Local elected officials must ensure that the cost of such visits are borne by the Council to avoid jeopardising the integrity of any subsequent purchasing decision. [Local elected officials may accept mere modest courtesy hospitality as in 10.1 above on the basis that purchasing decisions are not thereby likely to be compromised].

11.8. Local elected officials should be mindful of the timing of any acceptance of any gift, material benefits, advantages and hospitality in relation to decisions which the Council may be taking affecting those providing the same.

11.9. When gifts, material benefits, advantages and hospitality have to be declined, those making the offer should be courteously, but firmly informed of the procedures and standards operated within the Council.

## **12. OTHER CONSIDERATIONS**

12.1. Local elected officials should balance the practicalities of operating in public life against any misconception which would arise with the public were Local elected

officials to be perceived as being able to receive lavish or expensive gifts, material benefits or advantages and hospitality of a similar nature.

12.2. The Council requires Local elected officials to refrain from accepting disproportionately generous offers which could create an improper obligation, particularly if linked into any actual or potential commercial transaction with the Council.

### **13. GENERAL**

13.1. The threshold value for the notification and registration of gifts, material benefits, advantages and hospitality will be reviewed from time to time by Council.

13.2. When Notification is required a separate notification for each class of receipt is to be given and Local elected officials should separately declare receipt by themselves from receipt by persons living with them i.e. values are not aggregated.

**Annex 2**

<p>.....COUNCIL</p> <p><b>DECLARATION OF ACCEPTANCE OF OFFICE</b></p>	
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I, **{INSERT NAME OF LOCAL ELECTED OFFICIAL}**

having been elected as a local elected official to .....Council

declare that I take that office upon myself, and will duly and faithfully fulfill the duties of it according to the best of my judgment and ability.

I undertake to observe the Members Code of Conduct for the time being as to the conduct which is expected of Members the .....Council and which may be revised from time to time.

Signed: .....

Date: .....

This declaration was made and signed before me,

Signed: .....

Secretary of the Council