



Correspondence Report For Information	13 March 2019
Audit Committee	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Leader and Champion
Outcome	Establish key relationships with Government, agencies and potential strategic partners
Lead Officer	Director of Corporate Services
Cost: (If applicable)	Nil

**1. Local Government Commissioner for Standards Decision Notice
C00084 – January 2019**

Correspondence has been received from the Commissioner for Standards regarding Case Reference C00084. The Decision Notice and Learning Points were previously issued to Members in January 2019. A copy of both is attached to this report.

**2. Local Government Auditor's Report 2018 – follow up of
recommendations**

The Local Government Auditor has included a number of recommendations for both the Department and councils in her 2018 Report (see attached Annex). Work has now commenced on the 2019 report and it is her intention to assess and report on the progress made in implementing these recommendations.



Northern Ireland

Local Government
Commissioner for Standards

Private and Confidential

Mr David Jackson
Chief Executive
Causeway Coast & Glens Borough Council
Cloonavin, 66 Portstewart Road,
Coleraine,
BT52 1EY

24 January 2019

Dear Mr Jackson,

DSU 1096

Local Government Commissioner for Standards Decision Notice ref: C00084
Councillor George Duddy
Local Government Act (NI) 2014 ("The 2014 Act")

I refer to my Decision Notice (ref: C00084) in respect of the above named Councillor from Causeway Coast & Glens Borough Council who, following an Adjudication Hearing which concluded on 13 December 2018, was suspended for a period of 3 months.

The time for appeal of that decision has now passed. Pursuant to section 61 of the 2014 Act, I may, having adjudicated on any matter, make recommendations to a council about any matters relating to the exercise of the council's functions.

I attach to this letter a schedule of the learning points contained in my decision. I would ask you to note the content of these learning points and draw them to the attention of all councillors at Causeway Coast & Glens Borough Council.

You should note that I will be writing separately to the Chief Executives of all Councils to inform them of my interpretation of Parts 5 and 6 of the Code of Conduct and related principles and rules.

The relevant recording of conflicts of interests, dispensations and councillor attendance at meetings as outlined in my decision are recommended to your Council for action. I will write separately to the Department for Communities in this respect.

I will also be writing to the Northern Ireland Local Government Association (NILGA) and the National Association of Councillors (NAC) about this decision for their information and dissemination to their members.

Yours sincerely,

Marie Anderson

Marie Anderson
Commissioner for Standards

Schedule of Learning Points (ref: C00084)

The Commissioner would like to take this opportunity to highlight a number of learning points for Councillors in general to consider in relation to the application of the Code:

1. Councillor's Personal Responsibility

The Commissioner accepted and made a finding that Councillor Duddy received legal advice in connection with his interest in Terrace Row Presbyterian Church. However, the issue of declaration of interests is a fundamental requirement of the Code and it is a Councillor's personal responsibility to comply with the Code, regardless of any advice received.

On the issue of taking advice the Commissioner had regard to the comments of the Welsh Ombudsman in the case of Councillor Mary Jones as follows

"It is a Member's personal responsibility to decide whether they have a personal interest such that they should disclose it. It follows that the decision whether or not to withdraw is also a personal responsibility of the Member and cannot be delegated to a legal advisor."

2. The Status of the Principles

The Principles in the Code are based on the seven Principles of Public Life and five other principles applicable in Northern Ireland.

The Commissioner is mindful of the provisions of section 53 (2) of the 2014 Act which states that the Principles 'govern' the conduct of Councillors. The Commissioner reminds Councillors of paragraph 3. 4 of her Guidance which states

'The Principles and the Rules ...are integral and complimentary elements of the Code; you must observe both.....Similarly the close association between the Principles and the Rules means that if you if you follow the Principles as the basis for your conduct, you are less likely to behave in a way that is in breach of the Rules.'

3. Co-operation with the Investigation

A failure to co-operate with the Commissioner's investigation is a breach of paragraph 4.6 of the Code. It is important that councillors co-operate with the investigation. The Commissioner has power to certify to the High Court any obstruction of an investigation as contempt pursuant to paragraph 5 of schedule 7 of the Public Services

4.Conflicts of Interest

The Commissioner reminds Councillors of the purpose of sections 5 and 6 of the Code as they relate to conflicts of interest (whether financial or otherwise). The requirements of the Code in relation to the registration, disclosure and declaration of interests are of significant public interest. They are intended to give members of the public confidence that decisions are taken in their best interests, not in the interests of councillors or their family, friends or personal associates.

This case related to the application of the rules at paragraphs 6.3 and 6.4 of the Code in relation to significant non pecuniary interests. An interest is significant if it falls within the category of interests outlined at paragraph 5.2 of the Code or alternatively if a councillor anticipates that a decision on a matter that comes before a Council meeting is such that it might reasonably be considered by a member of the public to benefit or disadvantage that councillor to a greater extent than other council constituents.

The rules are clear that a Councillor must declare that interest and leave the room. A Councillor may remain and speak and vote on a matter only if a dispensation under paragraphs 6.6 or 6.9 of the Code applies. Paragraph 6.6 of the Code permits councillors to remain in a council meeting when a matter in which the councillor has a significant private or personal non pecuniary interest is to be debated. Before doing so a councillor must consider whether the interest is so significant that it would be wrong to remain. Councils may have specific guidance on this issue and subject to this, a councillor may speak and vote on such a matter only if

- *at least half of the council or committee would be required to withdraw due to their personal interests in the matter or*
- *the councillors withdrawal together with that of other councillors would leave the council or committee without a quorum*

In relation to the dispensation at paragraph 6.9 of the Code, if a councillor's interest arises because they are a member of a public body or a member or a supporter of a charity, voluntary body or other organisation formed for a public purpose, the councillor may remain and speak but not vote. Only those councillors who have been appointed to such a body by their council may vote in reliance on the 6.9 dispensation.

When declaring an interest at any meeting of the Council, councillors should also declare the nature of that interest. When seeking to rely on a dispensation under either paragraphs 6.6 or 6.9 of the Code, councillors should expressly declare this.

5. Recommendations for Councils

Pursuant to section 61 of the 2014 Act, the Commissioner recommends that all Councils clearly record/minute declarations of interest made by councillors at all meetings of the council. The minutes must also record whether a councillor remained or stayed in the room. The Commissioner also recommends that the nature of the interest declared by the Councillor and any declared dispensation be recorded in the minutes.

Annex – Recommendations from the Local Government Auditors Report 2018

Recommendations for the Department

1. I recommend that the Department updates its guidance on allowances, when circumstances permit, to ensure fairness and consistency in the approach taken by councils to the payment of allowances in the event of suspensions. (Page 29).
2. The Department should give early consideration to, and clear guidance to councils on, devising an appropriate methodology for measuring efficiency savings and reporting outcomes. (Page 38).

Recommendations for Councils

1. Councils should assess whether their audit and risk committee exhibits the key characteristics of an effective committee that I have set out above. CIPFA's 2018 Guidance will be a valuable resource in completing this assessment. (Page 27).
2. Councils should review their training provision for those councillors who are decision-makers on planning matters. Councils should provide additional training where necessary, with a particular focus on the need to have regard to the Code, departmental guidance on planning matters and to the Commissioner's Guidance on the Code. (Page 29).
3. In order to ensure the lessons arising from this case are implemented throughout local government, councils should ensure that:
 - procurement staff have the necessary skills and training to ensure the council's Financial Procedures are implemented in any procurement exercise;
 - procurement staff (and staff in other sensitive roles such as recruitment) receive appropriate training on standards in public life and fully understand the need to comply with the requirement to declare conflicts of interest. I would remind councils of the guidance available in the NIAO publication "Conflicts of Interest: A Good Practice Guide" of March 2015;
 - senior staff take appropriate action in handling conflicts of interest of which they are made aware, and that they consider disciplinary action where such declarations are not made; and
 - sufficient emphasis is given to aggregating expenditure on goods and services, wherever possible, in order to achieve economies of scale and maximise the spending power of public authorities. (Page 39).



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Mr David Jackson
Causeway Coast and Glens Borough Council
Cloonavin
66 Portstewart Road
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25th January 2019

Dear David

Local Government Auditor's Report 2018 – follow up of recommendations

My 2018 report included a number of recommendations for both the Department and councils (see Annex). Work has now commenced on my 2019 report and it is my intention to assess and report on the progress made in implementing these recommendations.

I plan to publish the 2019 report early in the next financial year, however, I appreciate that my 2018 report was only recently published therefore plans to address the recommendations may be at an early stage. With this in mind, my staff will be in touch shortly to seek updates on the actions taken to implement these recommendations.

I intend to continue to monitor progress in implementing these recommendations and may report on my findings in greater detail in future annual reports or individual Reports to those charged with Governance.

Should you wish to discuss please do not hesitate to contact me or Colette Kane. In the meantime I would be grateful if you could share this letter with your Council's Audit Committee.

Yours sincerely



PAMELA McCREEDY
Local Government Auditor