

SECTION HR 10

AM AHLATHI
MUNICIPALITY

CODE OF

CONDUCT

FOR

STAFF MEMBERS

SECTION HR 10

CODE OF CONDUCT FOR STAFF MEMBERS

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SECTION HR 10

CODE OF CONDUCT FOR STAFF MEMBERS

1. Introduction

There are various Codes of Conduct and Codes of Good Practice applicable to both employers and employees. For example, there is the Code of Good Practice on the arrangement of working time, promulgated in terms of the Basic Conditions of Employment Act and which provides guidelines to employers and employees on arranging working time.

Furthermore, there is the Code of Good Practice concerning dismissals which was promulgated in terms of the Labour Relations Act (Schedule 8). This Code deals with the key aspects of dismissals for reasons related to conduct and capacity of employees.

However, the Code of Conduct which we will discuss in this Section is the one promulgated in terms of the Municipal Systems Act. This deals with the manner in which a Municipal employee must conduct him/herself in order to ensure that he/she performs his/her duties and functions in good faith, honestly, transparently and at all times acts in such a way that the credibility and integrity of the Municipality is not compromised.

This Section will also deal with a proposed additional Code of Conduct which Councils may choose to adopt in addition to their legal obligations in terms of the Code promulgated in the Municipal Systems Act.

This Section also includes a set of Guidelines for Officials being offered a gift or benefit (Annexure A).

2. Reasons for Code of Conduct

Municipal Officials are normal human beings and, as such, are subject to the fallibility of human nature. Nobody is perfect and, in order to regulate the behaviour and performance of employees, it has become necessary for a formal Code of Conduct to be promulgated by legislation. The Code endeavours to ensure the following:

- Accountability
- Serving the needs of the Local Community
- Preserving the credibility and integrity of the Municipality
- Transparency
- Honesty, i.e. eradication of corruption
- Fairness to all
- Elimination of personal gain and self interest
- Performance of functions and duties in an acceptable manner
- Prevention of misuse of Council property

- Prevention of unauthorized disclosure of privileged or confidential information
- Elimination of undue influence or interference between the roles of Councillors and Officials

The Code of Conduct can accordingly be seen to contain the following expectations by the Legislator:

- High moral standards
- Achieving of high performance standards
- Commitment to serve the local community
- Co-operation between Councillors / Officials
- Regular communication with local community
- Watchdog function – reporting of breaches of Code of Conduct
- Treating the public with impartiality and fairness

3. Value of the Code of Conduct for Municipal Staff Members

The promulgation of a formally structured Code of Conduct for Municipal Staff Members is of great value to local government as well as to local communities. The Central Government has made it clear that high standards of performance and integrity are required of Councillors and Officials alike. The advantages of the Code of Conduct are briefly summarized as follows:

- Provides a checklist of criteria to evaluate an individual's own behaviour as well as the behaviour of colleagues
- Provides a checklist of criteria by which the local community can evaluate the behaviour of officials
- Provides a guide to refer to when in doubt about the propriety of an individual's own actions as well as the actions of colleagues
- Stipulates the obligations of officials to the local community
- Meant to preserve and strengthen integrity in local government
- Focuses on ethical standards applicable to officials in local government
- Protects democratic values

4. Specific Provisions of the Code of Conduct for Staff Members

Schedule 2 of the Municipal Systems Act 2000, which deals with the Code of Conduct for Municipal Staff Members sets out the following specific provisions:

4.1 General Conduct of Staff

A Municipal employee must act loyally, lawfully, honestly, diligently and impartially in all of his duties. He/she must treat all people

including all other staff members equally without favour or prejudice.

4.2 Commitment to Serve the Public Interest

A staff member is required to foster a culture of commitment to serving the public and must adopt a sense of responsibility for the performance of goals, standards and targets of the Municipality as a whole.

The employee has a duty to seek to implement the objectives set out in the Municipality's Integrated Development Plan (IDP) in as far as the staff member's job description requires this. He/she is also required to participate in the overall performance management system of the Municipality in order that the Municipality may maximize its ability to improve the quality of life of its residents.

4.3 Personal Gain

An employee may not use his position or privileges as a staff member, or any confidential information obtained as a staff member for private gain or to improperly benefit another person. He/she may also not take a decision on behalf of the Municipality in any matter in which he, his wife, partner or business associate have a direct or indirect personal or private business interest.

Only with the prior consent of the Council, may a staff member be a party to a contract for the provision of goods and services to the Municipality or perform any other work for the Municipality otherwise than as a staff member. The Council's approval is also needed before a staff member may obtain a financial interest in any business of the Municipality or be engaged in any other business, trade or profession other than his/her municipal job.

4.4 Disclosure of Benefits

An employee who, or whose spouse, partner, business associate or close family members stands to gain any direct benefit from a contract with the Council must disclose in writing full particulars of such benefit to the Council.

4.5 Unauthorised Disclosure of Information

An employee may not, without permission, disclose any privileged or confidential information obtained to any unauthorized person. Such information includes anything determined by the Council to be privileged, confidential or discussed "in committee".

Some examples of the unacceptable disclosure of information could be discussions with others concerning future rates, fees and competitive information in tenders.

4.6 Undue Influence

Staff members may not attempt to influence the Council with a view to obtaining employment, promotion or any benefit for a family members, friend or associate.

Furthermore, he may not mislead or attempt to mislead the Council, or a structure of the Council in the consideration of any matter.

Employees are also not allowed to be involved in a business venture with a Councillor without the prior written consent of the Council.

4.7 Rewards, Gift or Favours

An employee may not request, solicit or accept any reward, gift or favour for:

- Persuading the Council with regard to the exercise of any power or the performance of any duty
- Making a representation to the Council
- Disclosing any privileged or confidential information
- Doing or not doing anything within that employee's powers or duties

An employee has a duty to report without delay to a superior official any offer which, if accepted, may constitute a breach of the above provisions.

Employees are prohibited from accepting gifts for services rendered in the course of their normal employment. Gifts from individuals or organizations with whom the Council does business, or from those who hope to do business with the Council, are prohibited.

In addition, acceptance of social invitations from individuals doing business with, or seeking to do business with Council when such invitations can be construed as an attempt to influence an employee's decision, are prohibited.

4.8 Council Property

An employee may not use, acquire or benefit from any property or asset owned, controlled or managed by the Municipality, to which that employee has no right.

An example of this is that an employee may not use a Council vehicle for his own personal use if he/she has not been granted authority by the Council to do so.

4.9 Payment of Arrears

An employee may not be in arrears to the Municipality for rates or service charges for a period longer than three months and the Council may deduct any outstanding amount from an employee's salary after this period.

It is pointed out that this is not in conflict with the provisions of section 34 of the Basic Conditions of Employment Act. Section 34 provides that an employer may not make any deduction from any employee's remuneration unless the deduction is required or permitted in terms of a law.

It is also recommended that employees be required to voluntarily agree to deductions for service charges from their salaries in these cases and that a clause to this effect be included in their letters of appointment.

4.10 Participation in Elections

An employee may not participate in any Council elections, other than in an official capacity or in accordance with his/her constitutional rights, e.g. to vote.

4.11 Sexual Harassment

An employee may not engage in any action amounting to sexual harassment. Sexual harassment is also prohibited in terms of labour legislation.

4.12 Duty to Report

Whenever a staff member has reasonable grounds for believing that there has been a breach of this Code, the staff member must immediately report the matter to his/her superior officer or to the Speaker of the Council.

4.13 Breaches of the Code of Conduct

Any breaches of this Code of Conduct must be handled in terms of the Council's Disciplinary Code.

5. Matters which can be included in a Code of Conduct

5.1 General Explanation

Section 4 above dealt with the specific provisions of the Code of Conduct for Staff Members which were promulgated in terms of Schedule 2 of the Municipal Systems Act 2000. Staff members are thus legally bound to adhere to the principles set out in the said Section 4.

However, a Municipality may decide to also implement its own Code of Conduct which can be used as a supplement to the legal provisions.

The matters which can be included in such an additional Code of Conduct are set out hereunder:

5.1.1 Proposed Additional Code of Conduct

5.1.1.1 Conduct

All employees shall:

- act fairly, justly and with courtesy and proper efficiency
- act with respect to members of the public
- ensure to the best of his/her ability that correct information is given to those entitled to the information
- work as part of the team and for the general good of the Municipality
- be always aware of public relations and be helpful, polite, efficient and understanding to the public and other staff
- care for the affairs and property of the Council in a fit and proper manner and avoid abuse or waste
- act in accordance with all policies of the Council and relevant legislation
- be loyal to the Municipality
- ensure that those under your control are motivated
- ensure that all necessary safety rules are applied to protect yourself, your fellow workers and the public

5.1.1.2 Misconduct

- any form of dishonesty is regarded as unacceptable
- where the dishonesty destroys the relationship of trust upon which the employment contract is based, dismissal will be likely
- Examples of misconduct include, but are not limited to:
 - * theft
 - * unauthorized use/possession of property

- * fraud
- * false statements / documents
- * tampering with electricity or water meters
- * consumption of alcohol before assuming duties or whilst on duty is unacceptable. Dismissal may result depending on factors such as the nature of the work, e.g. drivers, operators, firemen, traffic officers, city policemen, etc.
- * misconduct which occurs after hours and which threatens the existence / continuity of the employment contract or harms the reputation of the employer or is seriously reprehensible in the eyes of the public will lead to disciplinary action and the possibility of dismissal

5.1.1.3 **Managerial Responsibility for Discipline**

- Discipline is a line function and is the responsibility of the manager / supervisor
- Where an employee misbehaves, the supervisor must investigate and where necessary institute disciplinary action
- In general, disciplinary action must be kept within the relevant Department (unless exceptional circumstances exist)
- Action must be instituted and heard at the lowest appropriate level
- Supervisors are required to investigate any cases of suspected wrongdoing with due diligence in order to prove their case. Not to do so may result in disciplinary action being taken against such supervisor
- Any disciplinary cases shall be properly conducted at the hearing and once again due diligence is required
- Supervisors who fail to conduct a case with due diligence risk being, themselves, charged
- Deliberately failing to conduct a case with due diligence will be seen in an extremely serious light with severe penalties for such supervisor

5.1.1.4 Vicarious Responsibility

- Employees must be aware that their conduct can lead to criminal or civil action being taken against them and their employer where such conduct occurs in the course and scope of their duties
- Where an employee acts in the course and scope of his/her duties and does so in good faith and without negligence, he/she may receive legal assistance from the Council

5.1.1.5 Fraud

- There are conditions in the workplace that provide opportunities for irregularities. These include:
 - * poor internal controls
 - * too much control vested in individuals
 - * lax management
- Management should establish a positive attitude towards controls to create a positive control environment
- Control concerns should be considered in all aspects of department operations

5.1.1.6 Council Policy

The Council is committed to a clean administration and will not tolerate fraud, corruption or any dishonest behaviour on the part of staff members.

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ANNEXURE A

GUIDELINES FOR OFFICIALS BEING OFFERED A GIFT OR BENEFIT

The Offer of Gifts

Officials may be offered a gift in the course of their work. The gift could be offered innocently or it could be an attempt to influence, or affect a decision or action.

In a business context, gifts are rarely offered to an individual for purely charitable or hospitable reasons. It may be the case if the gift or benefits is of little or no commercial value, such as a corporate memento or marketing trinket.

However, in cases where the gift or benefit has more than a nominal value, it is possible that it is being offered to create a sense of obligation and even an expectation that something will be given in return. Feelings of obligation can arise from incidents such as the acceptance of a meal, tickets to a sporting event or discounts on purchases. Once a gift or benefit is accepted, an official can be compromised.

Individuals attempting to corrupt officials often start with small inducements that appear to have no improper motive behind them. From here, they gradually grow in nature until the official is compromised. At this point the corruptor asks the official to perform a corrupt action. When the official declines, the corruptor threatens to reveal the previous inducements given in return for small 'favours'.

Making Excuses

Rationalising acceptance of a gift or benefit is common and examples include:

- * everybody else does it
- * the motivation of the giver is generosity, kindness or friendship
- * the exchange of gifts and benefits harms no-one
- * gifts and benefits foster the development of business relationships
- * gifts and benefits are practice and to refuse may cause offence
- * public officials are not paid enough, so they deserve a little extra

Acceptance of gift or benefits in the course of work may result in feelings of obligation which may undermine impartiality.

By inappropriately accepting a gift or benefit, officials risk:

- * becoming the subject of an enquiry
- * disciplinary action

- * loss of employment
- * anxiety, shame and embarrassment
- * criminal prosecution

What to do if offered a Bribe, Gift or Benefit?

1. Consult Council's Code of Conduct or relevant policies for guidance. The Code of Conduct prohibits the receipt of gifts or benefits.
2. Reject the offer if it is for something of more than nominal value. Use discretion in deciding how to refuse.
(You could inform the person offering the gift or benefit that acceptance would be inappropriate. If you feel uncomfortable with an out-and-out rejection, you could try and disengage from the conversation and use an excuse for not accepting the offer straight away. This type of strategy can be used if you fear that a blunt rejection could place you at risk. Regardless of the type of strategy you adopt, the important point to remember is that you should not accept the offer.)
3. Make notes immediately after the conversation has occurred.
(Try and frame the notes in the first person using 'I said' and 'he/she said' to ensure clarity. You must inform your supervisor of the offer, and all relevant details, as soon as possible. If your supervisor is involved in the offer, report the incident to an appropriate senior officer.)
4. If the gift or benefit was of more than nominal value, provide your supervisor with a note outlining the incident. Include in the note:
 - * date, time and place of the incident
 - * to whom the gift or benefit was offered
 - * who offered the gift or benefit and contact details (if known)
 - * the response to the offer
 - * other details of the offer
 - * your signature and the date

Keep a copy of the note for your own records.

5. Supervisor must inform Senior Management immediately.
6. Supervisors in consultation with Senior Management must then determine how future relations with the person who offered the gift or benefit should be conducted.