

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

1 October 2007

**Links between the Codes of Conduct and Policies and Procedures of the Council**

<b>1. PURPOSE OF THE REPORT</b>	
1.1	To advise Members of work being undertaken in relation to the Council's policies on Equalities, Freedom of Information, Human Rights and Data Protection in terms of ensuring the links between the Codes of Conduct for Members and Employees are incorporated.

**2. BACKGROUND**

2.1 In terms of demonstrating that the Council is upholding high standards of ethics and probity, it is important that its policies reflect and clearly have links to the standards of conduct that are expected of Members of the Council and employees.

2.2 This is best shown by ensuring references to the Codes of Conduct are contained within the policy documents. The Audit Commission in their key lines of enquiry refer to the Code of Conduct being integrated into Council policies relating to equalities, and to linkages being made between the Code and human rights, and freedom of information.

2.3 **Equalities:** Appendices 1-3 contains the Council's current policies in relation to Equalities, Data Protection and Freedom of Information. The Equalities Policy (Appendix 1) is currently being reviewed by the Corporate Equalities Working Group as the Council's duties and responsibilities have significantly changed following recent legislation. This is a timely opportunity to create a positive link between the Policy and the Code of Conduct. It is recommended that the Monitoring Officer should engage with the Working Group with a view to ensuring that a clear statement is incorporated, together with an electronic link to the Code of Conduct on the Council's intranet. Subject to the Committee's views, the following is suggested for consideration by the Working Group:

'a) County Council Members must observe the requirements of a strict Code setting standards for their conduct in undertaking their work for the Council. The Code is based upon Ten General Principles of Public Life. An important Principle requires that Members should be respectful of others, and in doing so should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. Specifically, Members are required in the Code not to do anything which may cause the Council to breach any equality laws.

b) The County Council has also developed a Code of Conduct for Employees to which they must conform during their work. The duty upon Employees in the Code is similar to that of Members. The Code requires Employees to:

a) treat others with respect, and

b) promote equality by not discriminating unlawfully against any person.

It further provides that the Council is an equal opportunities employer and all employees should ensure that its policies and standards relating to equality issues and any legal requirements in relation to equalities are complied with. Particularly, employees must do nothing which may cause the Council to breach any of the requirements of equalities legislation to which the Council is subject. This reflects the requirements of Section 33 Equality Act 2006.'

**2.4 Data Protection:** The Council's Data Protection Policy at Appendix 2 is up to date. It is administered by the Council's Data Management Officer and Corporate Governance Team. It recommended that the following text should be proposed for inclusion within the Policy (together with an intranet link to the Code text):

'a) County Council Members must observe the requirements of a strict Code setting standards for their conduct in undertaking their work for the Council. The Code supports the principles set out in the Data Protection Policy in that it places upon Members an obligation not to disclose information of a confidential nature, which they believe to be of a confidential nature other than in prescribed circumstances. In addition, Members must not prevent another person from gaining access to information to which that person is entitled by law.

b) County Council Employees, in accordance with their Code of Conduct must

- a) not disclose information given to them in confidence by anyone, or information acquired which they believe to be of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so; and
- b) not prevent another person from gaining access to information to which that person is entitled by law.

Confidential information includes personal data about an individual, including a fellow employee or a councillor, and information that is subject to the Data Protection rules.'

**2.5 Freedom of Information:** The Council's Freedom of Information Policy, attached at Appendix 3, is currently under review. It is suggested that the following text be proposed to the review team for incorporation (with an intranet link to the Codes):

'a) County Council Members must observe the requirements of a strict Code which sets standards for their conduct in undertaking their work for the Council. The Code is based upon Ten General Principles of Public Life. Important Principles require Openness and Accountability in the conduct of Members in their work for the Council. This means that members should be as open as possible about their actions and those of the authority, and that they should be accountable to the public for their actions and the manner in which they carry out their responsibilities. Specifically, they must not prevent another person from gaining access to information to which that person is entitled by law.

b) The County Council has also developed a code of Conduct for Employees to which they must conform during their work. The duty upon Employees in the code is similar to that of Members. The Code states that 'the Council believes that open government is best. Legally, certain types of information must be available to members, auditors, government departments, service users and the public.' Employees too must not

prevent another person from gaining access to information to which that person is entitled by law.'

- 2.6 The Committee is requested to consider the suggested text for inclusion in the policies. If agreed it will be subject to consultation with the review teams, and a further report on progress brought to members in due course.
- 2.7 Reference has been made to incorporating links to Human Rights. The Council does not have a specific policy on Human Rights. Rather Human Rights implications are taken into account as a matter of course in the development of all Council policies. It is suggested in relation to this that the Monitoring Officer should remind Directorates of the provisions of the Member and Employee Codes and the need to incorporate links wherever it is relevant to the subject matter of policies they are developing.

<b>3.0 RECOMMENDATIONS</b>	
3.1	That the Committee agree the above statements to be proposed for inclusion in the Equalities, Data Protection and Freedom of Information Policies, and
3.2	That the Monitoring Officer request that Directorates should consult her about incorporating links to the Codes where they are relevant to policies they are developing, any such links to be reported back to the Committee.

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Background Documents:

Council Policies in relation to Data Protection, Freedom of Information and Equalities  
Code of Conduct for Members  
Draft Code of Conduct for Employees

County Hall  
NORTHALLERTON

21 September 2007

Appendix 1

# Equality Policy

## Status of Policy

Last reviewed in 2002

## Contents Page

Introduction 2

Statement of commitment 2

Aim of the equality policy 2

Putting the policy into practice 2

Applying our equality policy 4

Responsibility for carrying out our equality policy 4

Breaking our equality policy 4

Access: If you require this information in an alternative format such as large type, audio cassette or Braille, please contact the Policy and Support Team, Personnel Services on 01609 532817 or [personnelpolicy@northyorks.gov.uk](mailto:personnelpolicy@northyorks.gov.uk).

## **Equality Policy**

### **Introduction**

1.0 North Yorkshire County Council aims to be a responsive County Council providing good quality and efficient services. An essential part of providing good quality services is making sure that everyone has equal access to services and employment opportunities.

### **Statement of commitment**

2.0 We are committed to equality and to making fair treatment an important part of everything we do. We make this commitment because we want to provide the best service we can to our community and because we value the contribution our employees make to achieving this.

### **Aim of the equality policy**

3.0 We aim to make sure that services are provided fairly to all sections of our community, and that all our existing and future employees have equal opportunities.

3.1 We will take action to identify and get rid of any direct or indirect discriminatory practices, which act as barriers to achieving these aims. We oppose all forms of unlawful or unfair discrimination, whether because of race, colour, ethnic or national origin, sex or gender reassignment (see note 1), marital status, family status, sexuality, religion or beliefs, disability, age or any other condition or requirement which places a person at a disadvantage and cannot be justified.

### **Putting the policy into practice**

4.0 To achieve the aims of the equality policy statement in delivering our services, we will do the following:

- Continually improve services to make sure they are accessible and provided fairly to everyone in our community;
- Understand that some groups of people experience more disadvantage than others, and promise to target services to meet their particular needs;
- Make sure that all services users are treated with dignity and respect, and that we recognise and value people's differences;
- Consult and involve service users, potential users and community groups in the way we plan and deliver services;
- Make sure that complaints procedures are easy to use, and that we respond to complaints efficiently and promptly;

- Communicate our equality policy to contractors delivering services on our behalf, and take account of equality factors when we award and monitor contracts;
- Communicate to service users our expectation that they must not discriminate against our employees.

## **Employment**

4.1 To achieve the aims of our equality policy statement in employment, we will do the following:

- Make sure that our recruitment, selection, training and promotion processes support us to appoint the best people for the job, and to develop and maintain the highest standards of skills and expertise;
- Take positive action to develop a workforce that reflects the community it serves;
- Create and maintain a workplace where all employees are treated with dignity and respect, and where the need to achieve a balance between work and personal responsibilities is recognised;
- Continue to develop fair and flexible employment policies and practices that respond to the different needs of employees, and include employees in the development process;
- Provide effective procedures for reporting incidents of discrimination or harassment, from colleagues or service users, which make sure all complaints are dealt with fairly and promptly.

4.2 To help us put our equality policy into practice, we will do the following:

- Act in line with all relevant legislation and codes of practice, for example the Sex Discrimination Act 1975, the Race Relations Act 1976 and 2000, and the Disability Discrimination Act 1995;
- Make sure that all employees and other people who help us deliver services are aware of this policy statement;
- Develop and train our members and employees to help them recognise equality issues and further understand their role and responsibilities in achieving equality;
- Include equality in all management processes so that it becomes part of everything we do;
- Develop effective auditing and monitoring procedures for services and employment; and report, at least once a year, to members, employees and the community on how we put this policy statement into practice;

- Promote the principle of equality whenever possible, share successes and good practice, and promise to provide a positive role model to other organisations and employers in our community.

4.3 We are developing a programme of action to put our equality statement into practice, and will monitor its progress against the relevant equality standards, including the Commission for Racial Equality's Standards for Local Government.

### **Applying our equality policy**

5.0 This policy statement applies to all our activities.

### **Responsibility for carrying out our equality policy**

6.0 The County Council is responsible for creating a framework through which equality in service delivery and employment are provided.

6.1 Directors and managers are responsible for taking active steps to put the policy into practice and for making sure that their employees act in line with it.

6.2 All employees have a role in putting the policy into practice and supporting it. In particular they must:

- Act in line with the policy and its related procedures;
- Promote equal opportunities;
- Treat colleagues and service users with dignity and respect;
- Not unlawfully or unfairly discriminate;
- Not harass or victimise others;
- Challenge discrimination or inappropriate behaviour; and
- Report suspected discriminatory actions.

### **Breaking our equality policy**

7.0 If we find that anyone has broken our equality policy, we will take the matter extremely seriously and carry out a formal and thorough investigation, which will result in disciplinary action where appropriate.

7.1 Any act or failure to act that breaks the relevant legislation may also result in legal action being taken against us, and possible against the employee responsible for that act or failure to act.

## DATA PROTECTION POLICY

1. The County Council needs to collect and use certain types of information about people with whom it deals in order to perform its functions. This includes information on current, past and prospective employees, suppliers, clients, customers, service users and others with whom it communicates. The County Council is required by law to collect and use certain types of information to fulfil its statutory duties and also to comply with the legal requirements of the Government. **This personal information must be dealt with properly whether it is collected, recorded and used on paper, computer, or other material.** There are safeguards to ensure this in the Data Protection Act 1998.
2. County Council regards the lawful and correct treatment of personal information as critical to successful operations, and to maintaining confidence between those with whom we deal and ourselves. It is essential that it treats personal information lawfully and correctly.
3. To this end the County Council endorses and will adhere to the Principles of data protection as enumerated in the Data Protection Act 1998,
4. The eight Data Protection Principles are as follows:
  - (i) personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met
  - (ii) personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes
  - (iii) personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed
  - (iv) personal data shall be accurate and, where necessary, kept up to date
  - (v) personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes
  - (vi) personal data shall be processed in accordance with the rights of data subjects under the Act
  - (vii) appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data

(viii) personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data

5. Therefore, the County Council will, through appropriate management processes and the strict application of criteria and controls :

(i) observe fully all the conditions regarding the fair collection and use of information

(ii) meet its legal obligations to specify the purposes for which information is used

(iii) collect and process appropriate information only to the extent that it is needed to fulfil operational needs or comply with any legal requirements

(iv) ensure the quality of information used

(v) apply strict checks to determine the length of time information is held

(vi) ensure that the rights of people, data subjects, about whom information is held, are able to be fully exercised under the Act. These include:

- the right to be informed that processing is being undertaken
- the right of access to one's personal information
- the right to prevent processing in certain circumstances and
- the right to rectify, block or erase information which is regarded as wrong information

(vii) take appropriate technical and organisational security measures to safeguard personal information

(viii) ensure that any third party processors contracted by the County Council adhere to appropriate controls

## Responsibilities and Roles

6. Because the Data Protection Act 1998 is '*An Act to make provision for the regulation of the processing of information relating to individuals including the obtaining, holding, use or disclosure of such information. obligations on those who record and use personal data*' the County Council will endeavour to apply the spirit of the Act to ALL data operations.
7. In legal terms, the overall responsibility for the notification of the County Council as a data controller and for ensuring compliance with the Data Protection Act rests with the Chief Executive. However, the nominated officer for Data Protection matters within the County Council is the Director of Financial Services. This officer will lead the response of the organisation if there are any problems. Meanwhile, everybody is required to bring details of any proposal to create a system, paper or automated, which contains personal data to the attention of the Data Management Officer and Chief Internal Auditor for approval and notification before implementation.
8. To achieve the position detailed in **paragraphs 5/7** above the County Council will ensure that:
  - (i) there is someone with specific day to day responsibility for Data Protection matters in the organisation. Currently that person in Financial Services is the Data Management Officer (telephone 01609 532031, email [jane.grayson@northyorks.gov.uk](mailto:jane.grayson@northyorks.gov.uk))
  - (ii) everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice
  - (iii) everyone managing and handling personal information is appropriately trained to do so
  - (iv) everyone managing and handling personal information is appropriately supervised
  - (v) methods of handling personal information are clearly described and recorded
  - (vi) a regular review and audit will be made of the way personal information is managed

## **Disposal of personal information**

9. Documents and any storage media containing input to and output from systems (paper or electronic) detailing personal information will be held, transported and disposed of with due regard to its sensitivity. Confidential paper output no longer required will be shredded before it is included in the recycling process. The disposal of confidential waste may be arranged with firms who provide a certificated secure disposal service. Individual Business Units will be responsible for ensuring appropriate arrangements are made subject to approval by the Data Management Officer.
10. Where arrangements are made with external companies for paper data disposal, or other media holding personal data then checks will be made to ensure that the arrangements are secure and that disposal certificates are provided and recorded. Where the information is particularly sensitive it may be appropriate to ensure that the information is shredded on site.

## **Subject Access**

11. An individual is entitled, on making a written request, to be supplied with a copy of all, with limited exceptions, information which forms the personal data held about them. A request for subject access must be responded to within 40 days. If it is not, the individual is entitled to complain to the Data Protection Commissioner.
12. All data subject access requests must be referred to the Data Management Officer, who will co-ordinate the processing of the requests. However, if the requested information is held exclusively by Social Services, requests are to be directed to the Head of Strategy and Performance Business Unit within Social Services, who will ensure that these requests are processed appropriately.
13. **All persons are advised that any wilful non-compliance with the data protection principles and this Policy Statement will be regarded as a serious disciplinary matter and may lead to dismissal.**

## **NORTH YORKSHIRE COUNTY COUNCIL DRAFT**

### **Freedom of Information Policy**

#### **Introduction**

This is North Yorkshire County Councils Freedom of Information Policy which sets out how we will comply with the Act in particular:

- it follows the Codes of Practice produced by the Lord Chancellor in November 2002
- it follows the best practice recommended by the Information Commissioner
- we will adhere to our corporate records retention and disposal schedule
- we will maintain and review our Publication Scheme
- we will provide information and training to staff

We hold significant quantities of information derived from our key roles in providing:

- Children and Young People's Services
- Adult and Community Services
- Chief Executive's Group
- Business and Environmental Services
- Finance and Central Services

#### **Statement of Intent**

We will make all information that we hold available, unless individuals are not entitled to have access to it, or it is not in the public interest to disclose it.

#### **What is information?**

Information means any record we hold in any form. This includes documents, plans, and all other types of recorded information that are not personal information.

Individuals can ask to see any information we hold but the Act does exclude access to some information. (One of the exemptions is access to personal information)

#### **What are our duties under the Freedom of Information Act?**

It requires the County Council to:

- have a document that refers to all the types of information we publish or intend to publish (our Publication Scheme)
- tell individuals whether or not we hold the information they have asked for, if it is not in the Publication Scheme

- supply the information where appropriate, if possible in the way the individual prefers, normally within 20 working days
- follow the Code of Practice issued under the Act on the keeping, management and disposal of our records
- provide assistance to applicants to help them obtain the information they require

To help accessibility we will note all the information we have, where it is kept and how long we should keep it. We will ensure our records management systems have standards, procedures, guidelines and security measures to ensure relevant, accurate, secure information that is kept no longer than necessary.

### **Who is responsible?**

The Corporate Director Finance and Central Services is the Information Champion within North Yorkshire County Council and is responsible for overseeing compliance with the Freedom of Information Act and will report on progress to Management Board and the Audit Committee.

Each Corporate Director is responsible for records management and access to information within their business area.

The Practitioners Information Governance Group chaired by the Data Management Officer will work to ensure compliance with the Freedom of Information Act and the Codes of Practice issued under it.

The Data Management Officer is responsible for providing advice on the Freedom of Information Act and for outlining appropriate training for all relevant employees on the Freedom of Information Act. Corporate Directors will be responsible for ensuring that the appropriate training is delivered.

Corporate Directors are responsible for ensuring that requests for information are dealt with by employees in accordance with their level of responsibility and training and will ensure that information is provided within the 20 days time limit where applicable.

### **How we will deal with information relating to third parties**

In circumstances where a response for information relates to a third party we will follow the Code of Practice issued under section 45 of the Act.

### **How we will deal with information held by other public bodies**

In circumstances where the County Council receives a request for information and some or all of it is not held by the County Council, but we believe that another public body may hold that information, then we will attempt to transfer the request to that body once we have disclosed the information we ourselves hold.

If we are unable to facilitate the transfer of the request for information to another public body, then we will, where possible, offer advice to the applicant to enable him/her to pursue the request.

### **How we will manage requests transferred to the County Council by another public body**

Any requests for information transferred by other public bodies to the County Council will be dealt with in the same way as if the request been received directly, and in accordance with our obligations under the Act

### **How we will charge for providing information**

The County Council will, in some circumstances, charge for releasing information in accordance with regulations.

If there is a fee and it is not paid within 3 months we will not provide the information. Where a fee is payable, information will not be released until such fee is received.

### **How we will apply exemptions**

The Freedom of Information Act lists 23 exemptions to disclosure. Some exemptions are absolute and others are subject to a public interest test (see below).

We will apply the exemptions identified in the legislation fairly and evenly. We will explain the reasoning for our application of an exemption unless the legislation says that we do not have to.

Some of the information we hold is confidential. The Act makes some information exempt from disclosure; we will tell individuals if they cannot have the information they have asked for and give the reasons why.

### **How we will apply the Public Interest Test**

The Freedom of Information Act contains a public interest test that applies to 17 of the 23 exemptions.

In instances where the public interest test is to be applied, a small committee of senior officers (representing the County Council corporately as well as the unit which 'owns' the information) will be convened.

### **How we will handle appeals**

The Act sets out a number of exemptions, to protect confidentiality, or other information, where disclosure may not be in the public interest.

Where the County Council invokes these provisions to withhold information the applicant will be notified. If the applicant is not satisfied with the way we have handled their request, with the fee we have charged, or with the reasons

we have given for refusing to provide information, they have the right to appeal. The review of the appeal will be a two-stage process.

1. If the applicant is not satisfied with the response from the County Council, they will be able to seek an internal review of that decision by a senior County Council Officer. An officer who was not involved with the original decision would be commissioned to undertake the internal review. The applicant will be informed of the outcome of the review in due course. Complaints regarding information that applicants consider should have been provided and was not provided can be made to the County Council's Data Management Officer, in the first instance.
2. Following the internal review, if the applicant still remains dissatisfied, they can seek an independent review from the Information Commissioner. Requests for a review by the Information Commissioner should be made in writing directly to:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 01625 545 700  
Fax: 01625 545 510

### **Evaluation**

This policy will be evaluated and reviewed regularly by the Data Management Officer and the Practitioners Information Governance Group.

If you would like this information in another language or format such as Braille, large print or audio, please contact the Communications Unit on 01609 532031 or email [communications@northyorks.gov.uk](mailto:communications@northyorks.gov.uk)

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