

LOCAL GOVERNMENT

# BULLETIN

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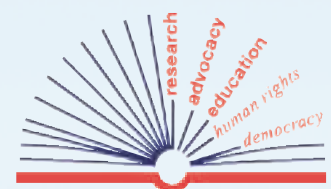
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COMMUNITY  
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# Rooting out Corruption

## CODE OF CONDUCT AND DISCLOSURE OF FINANCIAL INTERESTS

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities are accountable to their communities. In fulfilling this mandate, councillors must abide by the Code of Conduct as set out in Schedule 5 of the Municipal Structures Act, which requires them, among other things, to disclose their financial interests and refrain from using their position as councillors for personal gain.



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First and foremost, a councillor must at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. A councillor must also perform his/her functions in good faith, honestly and in a transparent manner. This is particularly important in light of the incidence of corruption reported with increased regularity over the last few years, which has tarnished the image of local government.

### Incidence of corruption

Examples of councillor corruption abound throughout the country, but mention of a few is made for illustration purposes only and in no way singles out any particular

municipality. The most pertinent examples have taken place in the Free State and Gauteng. In the most publicised case, the mayor of Mangaung was relieved of all leadership positions in the ANC after he was investigated for, and charged with, fraud and corruption. In Gauteng, a number of councillors in the province's 15 municipalities have been dismissed or resigned in the past five years.

### Disclosure of personal assets

When elected, a councillor must, within 60 days, declare in writing to the municipal manager the following interest(s) held by that councillor:

- shares and securities in any company;
- membership of any close corporation;

- interest in any trust;
- directorships;
- partnerships;
- other financial interests in any business undertaking;
- employment and remuneration;
- interest in property;
- pension;
- subsidies, grants and sponsorships by any organisation; and
- gifts received by a councillor above a prescribed amount.

The municipal manager keeps a register of assets for each councillor.

## Disclosure of financial interests in a matter

A councillor must disclose to the council or committee of council any direct or indirect personal or private business interest that that councillor, his/her spouse, partner or business associate may have in any matter before the council. If that is the case, the councillor concerned must withdraw from the council or committee meeting when that matter is considered. A councillor who, or whose spouse, partner, business associate or close family member stands to benefit either directly or indirectly from a contract concluded with the municipality, must disclose the full particulars of such interest to the council as soon as is reasonably possible. However, this does not apply to an interest or benefit acquired by the councillor, spouse, business associate or close family member in common with other residents of the municipality.

Where councillors have reason to suspect that there may possibly be a conflict of interest, they should immediately disclose this, and where a conflict does in fact exist, they should decline to act. In this regard, though, it is important to note that there is conflict between the Systems Act and the Municipal Finance Management Act (MFMA). While the MFMA provides that a municipality may not award a tender to a councillor, the Systems Act permits this provided there is prior consent from the municipality.

The Department of Provincial and Local Government has subsequently issued a circular to address this problem. The circular states that being the latter and more specific legislation that regulates supply chain management procedures, regulation 44 of the Supply Chain Management Regulations takes precedence over the provisions of

# key points

- The Code of Conduct seeks to ensure that councillors fulfil their obligations to their constituencies in an honest and transparent manner.
- A councillor must disclose to the council or committee of council any direct or indirect personal or private business interest that (s)he may have in any matter before the council.
- A councillor may not use the position or privileges of a councillor for private gain or to improperly benefit another person.
- It is of paramount importance that all councillors adhere, not only to the letter, but also to the spirit of the Code of Conduct.

Schedules 1 and 2 of the Systems Act. It therefore advises municipalities to refrain from granting the consent referred to in the Systems Act. It provides further that appropriate amendments will be processed in 2006 to align the provisions of the Schedules to the Systems Act with the provisions of the Supply Chain Management Regulations.

## Misuse of office

A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person. A councillor may also not accept any reward, gift or favour for voting or not voting in a particular manner, or for persuading council to exercise any power, function or duty, or for disclosing privileged or confidential information.

## Comment

The Code of Conduct seeks to ensure that councillors fulfil their obligations to their constituencies in an honest and transparent manner, and support the achievement by the municipality of its objectives. It is thus of paramount importance that all councillors adhere, not only to the letter, but also to the spirit of the Code of Conduct in order to ensure that the integrity, credibility and trust of the people in the local government sphere is restored.