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CODES OF CONDUCT FOR LOCAL GOVERNMENTS

QUERY

Can you provide best practice in developing codes of ethics for local governments?

PURPOSE

We would like to draft a practical guideline for the local governments on how to make a good code of ethics. We have a policy paper on this subject but we would like to make a more practical study that could work as a "know-how" for the municipalities.

CONTENT

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Date

Submitted: 14 February 2013

Responded: 8 March 2013

SUMMARY

Codes of conduct for local officials can greatly contribute to maintaining the highest standards of integrity and sustaining trustworthy and accountable relationships with the community they serve.

Codes of ethics need to be tailored to the needs, context and ethical challenges that public officials face at the local level. While they can greatly vary in terms of style, substance application, format, and level of detail, they typically outline broad fundamental values underlying professional standards, provide concrete guidance on behaviours to avoid and suggest how to behave in sensitive or problematic situations

The process for developing the code should be clearly defined from the outset to promote a common understanding of the key stages involved. This typically includes a variety of activities such as identifying who should be involved in the development process, drafting the content (by a multi-disciplinary working group representing various functions of the organisation), testing/piloting and approving the code, disseminating the code (training and communication), and monitoring and reviewing the code.

Implementation mechanisms need to be tied to the code and encompass a dynamic process of communicating, interpreting, training, enforcing and assessing the code.

1 KEY FEATURES OF CODES OF CONDUCT FOR LOCAL GOVERNMENTS

Why develop a code of conduct for local officials?

Local governments serve the needs and priorities of their community. As they affect the lives of citizens more directly than any other level of government, they need to maintain the highest standards of integrity and sustain trustworthy and accountable relationships with the public. The adoption of a code of conduct can contribute to this process, as it provides an opportunity to create a positive public identity for the institution. By providing guidance to local officials on ethical values and behaviours, codes of conduct can be instrumental in promoting high standards of integrity, openness and transparency, and contribute to reinforcing or restoring public trust in government.

There are many expected benefits of developing a code of conduct. First and foremost, the adoption of a code of conduct sends a strong signal that the organisation is committed to adhering to the highest standards of integrity and that ethical behaviour is expected from all local officials. In addition to promoting high standards of professional practice, such codes also help to clarify internal procedures, introduce greater transparency in the institution's management and operations, and provide a framework against which the organisation can be held accountable.

More specifically, codes of conduct usually set objectives, such as:

- Setting out the values and principles the organisation stands for.
- Providing standards of behaviours to be expected across the organisation.
- Providing specific guidance for employees when they are confronted with specific situations, with a view to promoting ethical behaviour and preventing unethical behaviour.
- Establishing a transparent framework for

government officials with regard to decision-making processes.

- Establishing a set of rights and responsibilities.
- Raising awareness on sensitive matters associated with local government operations.
- Providing guidance to officers when they are confronted with such decisions or situations.

In principle, local officials must adhere to the same standards of conduct as other public officials, as per article 8 of the UN Convention against Corruption (UNCAC). As such, general provisions articulated in codes of conduct developed for government officials at the national level also apply to the local level, especially with regards to areas of corruption risks such as conflict of interest, abuse of office, gifts, disclosure of assets, use of state property or assets, undue influence, outside income, post-employment, etc.

However, local officials may be exposed to a specific set of corruption vulnerabilities in particular areas that may require greater emphasis. For example, as citizens and public officials more frequently come in close and direct contact at the local level, they have more opportunities to develop corrupt networks, favouritism, nepotism, patronage and other forms of unethical behaviour. Longer tenure at the local level, often combined with greater discretionary powers than at the central level, may also increase the risk of collusion between the various actors.

A Transparency International working paper on corruption and local government highlights some of the specific corruption vulnerabilities at the local level (Transparency International, 2009). Areas of particular concern include the risks of local state capture and patronage, red tape and bribe extortion, mismanagement of public resources, and procurement and human resource processes. Accordingly, at the local level, there are several operational areas where a well-developed code of conduct can greatly enhance professional performance in the key areas of procurement and supply, human resource management and customer service (Nelson, 1999).

Areas covered by codes of conduct for local governments

Types of codes

There are two major types of ethics codes. Value-based codes do not explicitly state specific rules but focus on a set of aspirational values underlying standards of professional conduct, while rule-based codes of conduct explicitly prohibit certain types of behaviours. However, in practice, many codes of conduct adopt a mixed approach and integrate both rules and values into an overall framework for organisational ethics. Such codes of conduct typically include two major components: an aspirational section that outlines the ideals the institution aspires to and a set of specific principles, rules and policies that public officials are expected to adhere to.

Scope

A code of conduct should explicitly mention who within the organisation is governed by it. In the case of local governments, there are several possible options. The code can apply to elected officials; elected and appointed officials; elected officials, appointed officials and top level staff; or only agency staff (Institute for Local Self Government, 2003).

Some local governments have developed a code of conduct for elected officials and another one for appointed staff, covering the rest of the organisation. However, some authors argue that having two codes introduces a division and can fuel the perception that there are different ethical rules governing different groups within the institution (Nelson, 1999). , Since most guiding principles of the code are relevant to both elected and appointed staff, a single code covering the whole organisation should suffice, with additional specific provisions for elected officials.

Vision, values and guiding principles

A value statement, along with the vision and mission statements of the institution, typically provides the basic principles of professional conduct and captures the fundamental values of the organisation that are most essential to accomplishing its goals and

objectives.

Most codes of conduct commit to adhere to values such as impartiality, objectivity and non-discrimination, due diligence, legality, integrity and honesty, transparency and openness, efficiency, equality, fairness, justice, and responsibility (UN-Habitat and Transparency International, 2004).

Set of specific rules and policies

In addition to setting core values and guiding principles, codes of conduct typically cover issues such as internal governance rules, oversight, complaints procedures, conflict of interest policies, whistleblower policies, broadly categorised as: Professional principles and prohibitions, clearly setting out what behaviours are prohibited and expected in a range of situations (conflict of interest, abuse of office, gifts, disclosure of assets, use of State property or assets, etc.); supplementary restrictions (outside income, post-employment); impartial commission (with investigatory and advisory authority); responsibility and sanctions; and procedural protections for complainants (whistleblowing).

More specifically, many accountability issues relevant to local governments can be addressed in codes of conduct (Service Nova Scotia, 2000; Alberta Municipal Affairs, 2005; Feehan, 2010), such as:

- **Internal governance rules** such as transparent rules and procedures governing management structures, hiring and firing processes.
- **Accountability to the agency's stakeholders** through regular reporting, financial transparency, sound financial management and accounting, transparent procurement processes, annual audited financial statements, etc.
- **Receiving gifts, entertainment and hospitality:** As local officials should not realise undue personal gain from the performance of their duties, receiving gifts or hospitality, especially from corporations buying or selling services to the institution, should be regulated.
- **Treatment of friends and relatives** should be regulated (involving prohibition, system of

approval and/or disclosure) to avoid possible conflicts of interest or preferential treatment of family and friends.

- **Outside and post-employment:** The code should include rules regulating outside employment or business interests, which should not interfere or conflict with the duties of the local official.
- **Conflicts of interest:** Local officials should avoid any interest or activities in conflict with their official duties. Guidance should be provided to remove or make those interests/activities transparent and reduce opportunities for misconduct.
- **Disclosure of information** and transparency standards can also be covered by the code.
- **Confidentiality/misuse of information** gained in the course of duties: The code should establish rules for handling sensitive or confidential information during and post-employment, including guidelines to define such information.
- **Public statements:** The code can provide guidelines on the appropriateness and timeliness of public statements, in terms of the information that can be made public, who can make it public, etc.
- **Use of public property** (vehicles, equipment, materials, etc.) for personal convenience or profit should also be covered by the code.
- **Political activity:** Some codes of conduct also regulate political activity of local officials.
- **Establishment of complaints procedures** towards internal and external audiences to facilitate the reporting of wrongdoing.
- **Protection of whistleblowers.**
- **Breaches of the code:** Although emphasising punishment can be detrimental to building an ethical organisational culture, processes for managing breaches of the code and adequate disciplinary measures and appeals need to be established.

In addition, the code should explicitly address implementation challenges and establish adequate implementation mechanisms.

2. DEVELOPING A CODE OF CONDUCT FOR LOCAL GOVERNMENT

The development process

Key steps for developing a code of conduct

The process for defining, developing, adopting and reviewing the code should be clearly defined to promote a common understanding of the key stages and activities. This can include a variety of activities such as identifying who should be involved in the development process, drafting the content (by a multi-disciplinary working group representing various functions of the organisation), testing/piloting and approving the code, disseminating the code (training and communication), and monitoring and reviewing the code.

In line with this approach, the Ethics Resource Center has published several guidance books on how to write a code, which can also apply to local governments. Developing a code includes a number of overarching steps, including (Ethics Resource Center 2001 and 2003):

- **Decide on goals and meaning of success.**
- **Get leadership buy-in:** Leadership commitment should be gained early in the process, as it will affect resource allocation, the buy-in of others and communications relating to code development.
- **Create a code development task force** that is given responsibility and accountability for the code development, with careful consideration of its composition in terms of representation of employees and diversity of views across the organisation.
- **Data intake and analysis-interviews and focus groups:** Information should be gathered from stakeholders (leadership, employees, volunteers, etc.) on key ethics concerns, through interviews, focus groups and informal discussions. This can also be part of a stakeholder engagement strategy.
- **Keep leadership informed:** Findings should be reported to leadership so that they understand how employees, volunteers and other key stakeholders view the current ethical environment.

- **Draft the code of ethics.** The task force – with input from key leadership and potential feedback from other stakeholders – should decide on the code values, provisions, structure, etc., based on the information gathered from employees, volunteers and other key stakeholders.
- **Specify reporting and enforcement mechanisms.**
- **Submit code to leadership for review.**
- **Field test the code:** The code can be circulated to key stakeholders for final suggestions and revisions.
- **Have the code reviewed by legal counsel.**
- **Obtain board/governing body approval** of final draft.
- **Decide on a communications and education strategy:** The code will have a greater impact if future ethics communications build on issues that are addressed in the code.
- **Revise and update regularly:** Codes of conduct should ideally be developed as living documents as they are usually works in progress that need to be updated on a regular basis when loopholes emerge during the process of implementation (UN-Habitat and Transparency International, 2004).

A check-list for the development of codes of ethics can be accessed at: <http://www.shrm.org/about/documents/organization-coe.pdf>

Several publications are available that can guide the process of developing codes of conduct for local officials. Among others, please see:

Ethics Resource Center. 2003. *Creating a Workable Company Code of Ethics.* <http://www.ethics.org/resource/erc-creating-workable-company-code-ethics>.

Ethics Resource Center. 2001. *A Guide to Developing your Organisation's Code of Ethics.* <http://www.shrm.org/about/documents/organization-coe.pdf>

Holm, S. and Lillywhite, S. 2003. *Turning Values into Action: Developing a Code of Ethical Behaviour.* http://www.bsl.org.au/pdfs/Turning_values_into_action.pdf

Institute for Local Self Government (ILSG). 2003. *Developing a Local Agency Ethics Code: A Process-Oriented Guide.* http://www.ca-ilg.org/sites/main/files/file-attachments/resources_20426.Complete_Developing_Local_Agency_Ethics_Code_Guide.pdf

Who should be involved in the development process?

The [UN-Habitat's Urban Governance Toolkit](#) stresses that the process of producing a code of ethics is itself an exercise in ethics. The code should be developed in a way that supports and enables effective implementation and ensures that its target audience embraces the standards it promotes. This involves promoting the participation of staff in the design process to avoid imposing the code on people who will be affected by it, as well as seeking feedback from external constituencies on what is seen as the mandate and obligations of the agency.

The commitment of the governing body of the organisation is essential, as it ultimately has the power to influence the organisation's culture and behaviours, and responsibility for ethical conduct of affairs. As such, some guides recommend that the governing body oversees the development of the code and formally appoints a senior manager to supervise the process (International Federation of Accountants, 2007).

Similarly, the Institute for Local Self Government's guide for developing a local agency ethics code emphasises that the scope of the code drives the development process and representatives from all the groups affected by the code should participate in crafting the code from the early stages of development (for example, elected and/or appointed officials, agency staff, etc.). A multi-disciplinary and cross-functional group should lead the development process, while other groups of employees and key stakeholders can help identify risks (International Federation of Accountants, 2007).

As the ultimate stakeholder of the agency, it is also

important to involve the community in the process of developing the code. This can be done by conducting surveys to determine the values and concerns of the community and government employees and establish priorities (UN Habitat and Transparency International, 2004).

As launching an agency-wide discussion about the code can be a daunting task, an alternative approach consists in having the agency governing body define the values that should be included in the code and expand the discussions at a later stage to include other stakeholders for reviewing and updating this initial version of the code.

The code can also be initiated at staff level. For example, the staff of the city of San Buenaventura in California initiated the process of adopting a code of conduct for the city's 600 employees and met every week to develop the code. As part of this process, the staff created an ethical checklist to guide decision-making (ILSG, 2003).

What topics should be covered?

Codes of ethics need to be tailored to local needs and context and they can greatly vary in terms of style, substance application, format, and level of detail. However, while they need to cover the majority of ethical issues facing local employees and officials (Service Nova Scotia, 2000), they should also resist the impulse to be too comprehensive, which could undermine their utility (ILSG, 2003). There are various approaches to identifying the core values that are relevant to a specific agency.

Model codes of ethics

Some model codes of ethics can either be adopted by other agencies or adapted to respond to local needs and circumstances.

For example, New York's Comptroller General has developed a model code of ethics for local governments, intended to be used as a starting point by any municipality that intends to adopt or amend a code of ethics. Among others, this model include sections such as: definitions; applicability; acting in

the public interest and avoiding the appearance of impropriety; use of the position for personal or private gain; disclosure; recusal and abstention; private and future employment; interest in contracts; nepotism; political solicitations; confidential information; gifts; establishing a board of ethics; posting and distributing the code of ethics; and enforcement.

The model code of ethics can be accessed at: <http://www.osc.state.ny.us/localgov/pubs/ethics.htm>

Another example is the Model Code of Conduct for Local Councils in New South Wales, Australia: http://www.dlg.nsw.gov.au/dlg/dlghome/documents/information/Model_Code_of_Conduct_June_2008.pdf. The accompanying guidelines to this code identify the key topics that should be addressed in every council's code of conduct, relevant principles, and key legislation that underpin these areas. Some sections also include optional better practice suggestions and concepts:

Participatory selection of core values

An alternative approach is to develop the code in a three part process, involving all stakeholders as a way to engage the whole agency in the ethical discussion (ILSG, 2003):

1. Identification of core ethical values.
2. Discussion across the agency of what those look like in the local/public agency context.
3. Examples of behaviours reflecting these values or not.

Consistent with this approach, the ILSG's guide to the code development process provides examples of potential values that an agency may want to reflect in an ethics code, with sample expressions of what these values can mean in practice:

http://www.ca-ilg.org/sites/main/files/file-attachments/resources_20426.Complete_Developing_Local_Agency_Ethics_Code_Guide.pdf

Alberta's guide to developing a code of ethics for municipal employees also provides broad guidance on the key topics that could be covered by such codes:

http://www.municipalaffairs.alberta.ca/documents/ms/Code_of_Ethics.pdf

Management and implementation

Implementation

Implementing and monitoring of the code is key to its success. There is a broad consensus that implementing the code of conduct typically involves a number of core components (Holm and Lillywhite, 2003), which can include:

- Developing a code of ethics through a broad process of consultation that has support from the highest level of the organisation.
- Establishing an ethics committee for advising, interpreting and reviewing values.
- Establishing reporting, monitoring and evaluation mechanisms.
- Undertaking on-going training and awareness-raising activities targeting employees and stakeholders.
- Integrating the code of ethics and implementation strategies with existing policies and procedures, including by rewarding those whose values are aligned with the organisation's values.

Implementation mechanisms can also include awareness-raising workshops for all staff, inclusion in induction and orientation processes, inclusion in position descriptions, and introducing a standing item on all staff meeting agendas. Most importantly, an independent mechanism (the ethics committee) should be established that allows staff to raise ethical issues and provides guidance for solving those issues. In addition, the code can be linked to the performance management policies and systems, as well as internal controls for maximising impact and supporting effective implementation.

Leadership

Both elected and appointed leadership are key to the development and implementation of the code, as they shape the norms and culture of the organisation. They also need to act as role models, and behave in

accordance to the code.

The document should be endorsed at the highest level to give it credibility. In some cases, the code can include a “leadership letter” to demonstrate the leadership’s commitment – from the top – toward the creation of an ethical culture. It can address issues such as why the organisation needs a code, the ethical/legal context in which the organisation operates, and the ethical challenges that employees face and how the code can help to solve them (Ethics Resource Center, 2001).

Promoting ethical leadership can include integrating and prioritising ethical concerns in the performance appraisal systems and rewarding ethical decision-making (Nelson, 1999).

Other strategies to promote the formation and support of ethical leaders can include regular dialogue with the leadership at key points of the planning/review cycle in order to keep the code alive and reflect the ethical values of the institution. Another approach is to have a mentoring system for leaders, linked to the performance appraisal process, which can allow leaders to have access to an independent person with whom they can review their management of ethical issues within their area of responsibility (Nelson, 1999).

Guidance, control and enforcement

Implementing a code of ethics involves creating procedures for investigating allegations and imposing sanctions on those who violate the code. The UN-Habitat Toolkit on local governance emphasises the need to determine jurisdiction and identify which governmental entity/independent agency will have authority to interpret and enforce the code. Individuals responsible for establishing enforcement guidelines and advisory procedures need to be clearly designated and named in the code of ethics.

In addition, some institutions have trained a number of “ethic guides” across the institution; as an internal resource for their peers, they provide support in working with ethical dilemmas and taking action where appropriate (Holm and Lillywhite, 2003).

There should also be monitoring and reporting requirements on the implementation of the code. For example, the ethics committee could report within the first 12 months after implementation of the code, then biannually, and external peer evaluation can also be conducted (Holm and Lillywhite, 2003). Regular reporting on the committee's activities (for example, statistics on the cases, the broad areas and how each was resolved, official warning on vulnerability areas) can be effective to prompt organisational training and awareness on key issues.

Dissemination

Local officials need to be aware of the code and understand the rules, obligations and expectations of standards to which they must adhere. A comprehensive communications and education strategy needs to support the adoption of the code. Communications can take many forms including ethics training, newsletter articles, posters, e-mails, formal and informal discussions of ethics, and so forth. The code could also be launched at an event involving the institution's leadership and other important contributors to the code (Ethics Resource Center, 2001).

Sample codes of ethics for local governments

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School of Government, University of North Carolina. 2010. *A Model Code of Ethics for North Carolina*

Local Elected Officials with Guidelines and Appendixes.

<http://shopping.netsuite.com/s.nl/c.433425/it.A/id.2531/f>

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UN-Habitat and Transparency International. 2004. *Tools to Support Transparency in Local Governance*. <http://ww2.unhabitat.org/publication/TOOLKITGOVERNANCE.pdf>

Vyas-Doorgapersad, S. and Ababio, EP. 2010. "The Illusion of Ethics for Good Local Governance in South Africa." *The Journal for Transdisciplinary Research in Southern Africa* 6, no. 2: 411-427. [http://dspace.nwu.ac.za/bitstream/handle/10394/3876/Vyas-Doorgapersad_Ababio_TD6\(2\).pdf?sequence=1](http://dspace.nwu.ac.za/bitstream/handle/10394/3876/Vyas-Doorgapersad_Ababio_TD6(2).pdf?sequence=1)