

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

LOCAL INTEGRITY: ALLOWANCES, INTEREST AND ASSET DECLARATIONS, AND REVOLVING DOOR

QUERY

Based on international best practices: (i) In terms of integrity is it advisable to have city council members who are not paid public salaries and are free to engage in private business? (ii) Should all members of city and municipal councils be required to publicly disclose their assets and business connections (regardless of whether or not they receive public salaries)? Should the asset disclosure requirement extend to heads of city and municipal services/departments? (iii) Should there be post-employment restrictions and revolving door regulations for local officials and civil servants from local government bodies?

PURPOSE

The government is preparing to implement a comprehensive reform of local government bodies by adopting an entirely new local government law. This is a good opportunity to review the existing integrity mechanisms in local government and to address any possible gaps.

CONTENT

1. Local elected officials' allowances and restrictions
2. Asset and interest declarations at the local level
3. Closing the revolving door at the local level
4. References



Author(s): Maíra Martini, Transparency International,
tihelpdesk@transparency.org

Reviewer(s): Marie Chêne, Transparency International; Finn
Heinrich, Ph.D., Transparency International

Date: 15 February 2014

SUMMARY

The remuneration of city councillors should be determined according to the nature of their workload, as well as the size of the respective local government area. Some sort of compensation is nevertheless advisable so that less privileged citizens can also afford to be a city councillor. In addition, there should be clear rules restricting the engagement of city councillors in private activities to avoid potential conflicts of interest.

Rules on asset and interest declarations are also instrumental in enhancing integrity and curbing corruption risks at the local level. Within this framework, elected officials such as mayors and city/ county councillors, as well heads of departments should be required to regularly disclose information related to gifts received, all properties and sources of income, debts and liabilities, shares in companies, as well as potential conflicts of interest. In certain circumstances, municipalities should also seek to restrict pre-public employment (the movement of businesspeople to the local administration) and post-public employment to avoid undue influence and misuse of confidential information.

1. LOCAL ELECTED OFFICIALS' ALLOWANCES AND RESTRICTIONS

Overview

Local government councillors play an instrumental role in putting forward and defending the rights of the citizens they represent. They also play a key role in monitoring the executive branch of government and ensuring the effective management of public assets and the delivery of services.

The literature on whether or not local government councillors should receive remuneration for their contribution is scarce. The European Charter of Local Self-Government states that city councillors should receive appropriate compensation according to their workload so that citizens from all social and occupational backgrounds have equal access to elective office (Council of Europe 1985). A system where elected officials are expected to volunteer their time could limit the participation of less economically privileged citizens.

The remuneration system should take into account the following issues: (i) the nature of the workload, determining whether or not the elected official is required to work full- or part-time; and (ii) the size of the respective local government area (Council of Europe 1999, 2006).

With regard to whether or not local government councillors are allowed to carry out other private functions or second public positions depends on whether a post entails a full-time workload. In any case, the law should establish the functions and activities that are considered incompatible with a local elective office (Council of Europe 2006).

Nature of the workload

According to the Steering Committee on Local and Regional Authorities (2008), elective duties that require full-time responsibility should be compensated and the engagement in another activity should be forbidden. This is often the case for mayors and other members of the executive.

In the majority of cases, members of city or county councils have part-time responsibilities, which can take a percentage of their working time or can be

considered as a subsidiary activity that would allow them to keep a full time job (Steering Committee on Local and Regional Authorities 2008).

Types of remuneration

According to the CDLR, an allowance system based on the responsibilities and size of authority concerned should be established. While the remuneration system should be decided on a case-by-case basis, taking into consideration the local context, the existence of general rules at the national level may avoid misuse or disproportionate salaries across the country (Steering Committee on Local and Regional Authorities 2008).

The majority of European countries have regulated the rights and obligations of local elected officials at the national level, but with regard to the remuneration system, in 40 per cent of the European countries assessed, local authorities are allowed to further amend the rules according to their context (Council of European Municipalities and Regions 2010).

Within this framework, the type of remuneration paid to local elected officials varies, and often includes the following (Steering Committee on Local and Regional Authorities 2008):

- **Duty allowance:** This is a salary paid to elected officials, usually defined by law and indexed to the salary of another full-time elected official (president, congressman, mayor, etc.). In some countries, the law has established ceilings on the maximum amount paid as an allowance.
- **Allowance for loss of earnings:** In cases where elected local officials dedicate only part of their time, they receive compensation for potential salary deductions or loss of earnings for taking time off to perform their political responsibilities.
- **Attendance allowance:** This type of allowance covers the attendance at official meetings in the course of duty.
- **Refunding of expenses:** this includes travel and subsistence expenses that can be refunded based on the actual expenditure or on a flat-rate basis.

Restrictions on private activities

In several countries, city or county councillors have only part-time responsibilities and therefore are allowed to engage in private activities even if they receive some type of financial remuneration from the state.

However, many countries have set incompatibility rules as well as certain restrictions to ensure the separation of powers (for instance, judges are not allowed to run for electoral office in some countries) and that private interests are not in conflict with the public interest (Council of Europe 2006).

Incompatibility rules in some countries include that individuals who have a contract with a local authority to provide any kind of service are not allowed to stand for local elections. This is the case in Belgium, Greece, Italy, Spain and Luxembourg (Steering Committee on Local and Regional Authorities 2008)

Countries have also established rules prohibiting councillors from taking part in decisions concerning issues in which they or their relatives have a direct interest. These rules are often covered by conflicts of interest rules and will be analysed in more depth in the next section.

Country examples

Compensation schemes and restrictions on engaging in private businesses while in office vary from country to country and even from municipality to municipality. This answer illustrates some of the approaches adopted.

Australia

In Australia, the law does not consider being a councillor as regular employment. This means that city councillors do not receive wages and are not entitled to sick pay. However, according to the Local Government Act, they are entitled to an annual payment for carrying out their duties. This annual payment depends on the size of the council, the number of people it serves and the assets it manages. For instance, a councillor in a small rural community will earn less than a councillor in a large city (from AUD\$7,550 to \$33,279 subject to tax). The maximum amount to be paid to councillors is decided

by the Local Government Remuneration Tribunal every year.

In addition, each city council can decide on the facilities and expenses to be provided to councillors. They may include travel and accommodation expenses, trainings courses, and child day care, among others.

With regards to restrictions, councillors must disclose possible conflicts of interest when participating in council debates and decision-making (NSW Department of Premier and Cabinet 2011).

Greece

In Greece, local elective office is considered an honorary position and does not entitle the holder to any remuneration. Nevertheless, councillors receive an attendance allowance and have expenses related to their duties refunded.

As part of the ineligibility rules, individuals engaged in contractual relationships with the local government are not allowed to run for public office (Steering Committee on Local and Regional Authorities 2008).

France

In France, members of the city council are regarded as volunteers; therefore they do not receive any remuneration. With regards to incompatibilities, the law stipulates that individuals (owners or managers of companies) providing municipal services cannot be elected as city councillors in small communities unless “they have not provided these services in the electoral district in which they are standing for election for a period of at least six months” (OECD 2003, European Commission 2014a).

Netherlands

In the Netherlands, councillors have part-time responsibilities and council membership is a voluntary position, thus most local elected representatives also engage in private business. They receive allowances as compensation for loss of earnings, usually given in the form of an attendance allowance (Steering Committee on Local and Regional Authorities 2008, Amsterdam City Government [website](#)).

Spain

In Spain, local authorities are responsible for establishing the rules regarding the remuneration of local elected representatives. Depending on their level of responsibility, members of the city council may receive a salary as compensation for full-time activities or an allowance for part-time activities. In addition, an attendance allowance is paid for participation in meetings. Provision is also made for a flat rate allowance, refunding of expenses and benefits in kind (Steering Committee on Local and Regional Authorities 2008).

In order to avoid members of the council taking advantage of their positions, they are prohibited from taking part in deliberations, votes or decisions in which they hold a personal interest (Steering Committee on Local and Regional Authorities 2008).

For other country examples please see the Council of European Municipalities (2010), and Council of Europe [Resources on Local and Regional Democracy](#).

2. ASSET AND INTEREST DECLARATIONS AT THE LOCAL LEVEL

Overview

Local governments play an instrumental role in the allocation of state resources and the delivery of public services. However, local officials often enjoy wide discretionary powers in the exercise of their functions, which combined with dispersed control over finances, closer relationships with contractors, and a relatively limited capacity and oversight make local government highly vulnerable to corruption (Transparency International 2009).

The United Nations Convention against Corruption (UNCAC) Article 8 states that local officials must adhere to the same standards of conduct as other public officials. States should seek to establish clear rules within areas considered to be high corruption risk, such as conflicts of interest, abuse of office, gifts, outside income, and post-public employment, among others.

Against this backdrop, rules on asset declaration and

conflicts of interest are instrumental to ensure that local public officials (elected, appointed and career civil servants) abide by the highest ethical standards and that trust in local governance is sustained.

Who should declare assets and interests?

An effective asset and interest declaration system is one that is targeted, covering public officials working in corruption-prone areas. The demand for a comprehensive approach needs to be balanced with the requirements to keep it manageable so that it can be properly implemented and enforced (Wechsler 2013).

At the local level, the literature suggests that those exercising “significant authority”, that is, those who have the ability to influence the outcome of a decision on behalf of the municipality should be obliged to disclose their interests, as well as their assets and liabilities. Therefore, elected officials such as the mayor and city councillors, their close staff members and individuals appointed to so-called “trust positions”, such as head of departments, should be covered by such laws. In addition, public officials responsible for procurement processes as well as licenses and registries should also be required to declare their assets and interests (Wechsler 2013).

Asset declaration regimes should also take into account the risk of corrupt officials hiding their assets under the names of their relatives, spouses and other individuals. Therefore, data from spouses, domestic partners, children and other household members should also be disclosed in public officials’ declarations (OECD 2011).

What should be included?

In order to prevent/ detect illicit enrichment and conflicts of interest, asset declaration rules at the local level should require elected and appointed officials, as well as career civil servants working on corruption-prone areas to declare their (i) assets (properties, vehicles, bank accounts, financial investments and any other significant movable asset); (ii) liabilities (all debts, obligations, and loans, among others); (iii) income from all sources, including any private sector employment, business assets, consulting and other paid contracts from the public or private sector; (iv) boards and directorships; (v) gifts;

and (e) potential conflicts of interest, including information on any personal financial interest connected with decisions of the local authority, and post-tenure or post-public employment positions (Wechsler 2013).

In addition, local elected officials should be excluded from decisions in which they or their relatives have direct interest.

When to file?

Local officials should be required to declare their interests and assets on a regular basis, ideally annually. In the case of elected officials, they should be required to declare their assets upon taking office and then annually and once after leaving public office. In some countries, officials are also required to make a declaration at the moment their assets change (Wechsel 2013).

In addition, asset and conflict declarations should be verified by an independent oversight agency. They should also be made available to the public in a timely and user-friendly manner.

For more general information regarding the coverage of asset declarations, types of information to be declared, frequency of filling, and verification mechanisms please refer to previous Anti-Corruption Helpdesk answers (Martini 2011, 2013).

Country examples

Requirements for councillors, mayors and heads of municipal departments to declare their assets and liabilities vary from country to country. This section provides an overview of the different approaches adopted by countries across the globe.

Australia

In Australia, the Local Government Act requires councillors and their staff to declare their interests and not to take part in any discussion, vote or decision when the matter in question could directly or indirectly benefit them. In addition, councillors are required to submit an annual written return of interests, including information on properties, gifts, interests and positions in corporations, sources of income, as well as debts. Declarations are made publicly available. Municipalities are encouraged to

create their own code of conduct, detailing the behaviour to be expected from local officials.

Denmark

In Denmark, local elected representatives and high-ranking local officials are not required to declare their assets and interests regularly. However, they are required to announce any potential direct or indirect interest in a matter being dealt with by the local authority of which they are a part. In these cases, they should refrain from taking part in any decision/discussion (Steering Committee on Local and Regional Authorities 2008).

Portugal

In Portugal, conflicts of interest are not uniformly regulated, and local elected representatives are obliged to declare their assets and interests only if municipal assemblies adopt dedicated legislation (European Commission 2014b).

Spain

In Spain, local elected and appointed officials (such as heads of departments) are obliged to declare assets and interests. Declarations have to be submitted upon taking office and upon leaving office. In addition to information related to their sources of income and liability, local officials are expected to disclose information on the main activities of companies in which they and their family members have interests. All declarations are available to the public.

However, the law does not include any rules regarding the verification of these declarations and the responsible oversight agency has limited power to verify their accuracy (European Commission 2014c).

United States

In the United States, laws requiring local officials to declare their interests, assets and liabilities vary from municipality to municipality. For instance, in Chicago, every city elected official and every appointed official is required to declare their sources of income, debts and potential conflicts of interest (Wechsel 2013).

In Atlanta, the mayor, members of the council, chief

of staff, all employees of the office of the mayor who report directly to the mayor, department heads and their equivalents, executive directors of city boards, commissions, authorities or other similar bodies, inspectors of all departments and bureaus, as well as city attorneys are required to disclose sources of income, properties, gifts, debts as well as interests (Wechsel 2013).

3. CLOSING THE REVOLVING DOOR AT THE LOCAL LEVEL

The term “revolving door” concerns the movement of individuals between the private and public sectors. While this movement of skilled experts between sectors may help to bring innovation and different perspectives into government and business, if it is not well regulated it can also provide opportunities for undue influence and the misuse of confidential information (Transparency International 2010).

The usual focus of revolving door regulations is on decision-makers, such as ministers and members of the legislature, as well as political advisors, senior public servants, chief executives and managers of state-owned enterprises. However, some local government employees and councillors may also face potential conflicts of interest when they take up post-public employment, or when they come from the private sector. Therefore, restrictions on revolving doors should be considered.

The European Code of Conduct for local officials Article 15 states that practices enabling elected representatives to use their elective office to guarantee themselves a post after their term should be restricted (Council of Europe 2010).

Some countries have also sought to address the issue of pre-employment (the movement from the private sector to the public sector) by prohibiting individuals who have a business relationship with the local administration to stand for office or hold trust positions.

In general, it seems that restrictions on pre- and/or post-public employment are less common at the local level. In some countries, conflicts of interest rules also seek to address the revolving door issue, but there is no clear good practice with regard to which officials should be covered by such rules. As with asset declaration rules, there needs to be a balance

to ensure that the oversight agency is not overwhelmed with information, as well as to ensure that the public sector can still attract qualified individuals.

Country examples

As mentioned, revolving door regulations are less common at the local level, but some countries have introduced restrictions as part of their ineligibility and/or conflicts of interest rules. These restrictions may relate to local elected representatives and/or officials in positions of authority at the local level. This answer highlights some of the approaches adopted.

Czech Republic

In the Czech Republic, individuals occupying political office at the local level are not allowed to join a private company for three years after leaving office (Council of European Municipalities and Regions 2010).

Poland

In Poland, restrictions on post-public employment only cover mayors. They are not allowed to work for a company who benefited from a decision taken during their term (Council of European Municipalities and Regions 2010).

Slovakia

There are no restrictions on post-public employment for local elected officials, but in order to ensure that decisions are made in a fair manner, former local representatives are required, after leaving office, to annually submit detailed information regarding their recent employment and income to an independent commission at the municipal level (Council of European Municipalities and Regions 2010).

Spain

In Spain, former elected representatives (mayors and city councillors) may not work on subjects over which they had decision-making power while in office for two years after leaving office (European Commission 2014c).

United States

Municipalities in the United States have dealt with the issue differently. In Seattle, for example, the law establishes rules on pre-employment. Local public officials (elected or not) are prohibited from participating in matters relating to the interests of their former employers (in the past 12 months) (Wechsler 2013).

Municipalities in California have to abide by the Political Reforms Act, which determines that high-level local officials such as local elected officials, chief administrative officers of counties, and city managers or chief administrative officers of cities, are not allowed, for one year after leaving local government office, to accept jobs related to the activities performed by its former agency.

The act also establishes a ban on influencing prospective employment, prohibiting current local officials from taking part in decisions that directly relate to a prospective employer (Fair Political Practices Commission 2010).

4. REFERENCES

Amsterdam City Government. "City Council and College of Alderpersons."

www.iamsterdam.com/en-GB/living/about-amsterdam/city-of-amsterdam/city-government/city-government

Council of Europe. 1985. *European Charter of Local Self-Government*.

<http://conventions.coe.int/Treaty/en/Treaties/Html/122.htm>

Council of Europe. 1999. *Recommendation 60 on Political Integrity of Local and Regional elected representatives*.

<https://wcd.coe.int/ViewDoc.jsp?id=847931&Site=COE>

Council of Europe. 2006. *Abridged Handbook on Public Ethics and at Local Level*.

<https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=1160413&SecMode=1&DocId=1339034&Usage=2>

Council of Europe. 2010. *European Code of Conduct: For the Political Integrity of Local and Regional Elected Representatives*.

www.coe.int/t/congress/files/events/2010/20100507-messine/code-conduite_en.pdf

Council of European Municipalities and Regions. 2010.

Status of Local Elected Representatives in Europe.

www.ccre.org/img/uploads/piecesjointe/filename/status_of_local_elected_rep_en.pdf

European Commission. 2014a. *EU Anti-Corruption Report Annex France*.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_france_chapter_en.pdf

European Commission. 2014b. *EU Anti-Corruption Report Annex Portugal*.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_portugal_chapter_en.pdf

European Commission. 2014c. *EU Anti-Corruption Report Annex Spain*.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_spain_chapter_en.pdf

Fair Political Practices Commission. 2010. *Leaving Local Governmental Office or Employment: Revolving Door and other Post-Employment Issues for Local Officials*.

www.fppc.ca.gov/factsheets/Leaving_Local_Government_Service_08-2010.pdf

Martini, M. 2011. *Asset Declaration Rules for Politicians*. Anti-Corruption Helpdesk.

www.transparency.org/whatwedo/answer/asset_declaration_rules_for_politicians

Martini, M. 2013. *Declaration of Interests, Assets and Liabilities: Oversight Mechanisms, Disclosure Policy and Sanctions*. Anti-Corruption Helpdesk.

www.transparency.org/whatwedo/answer/declaration_of_interests_assets_and_liabilities_oversight_mechanisms_disclosure_policy_and_sanctions

NSW Department of Premier and Cabinet, 2011. *Becoming a City Councillor*.

http://www.dlg.nsw.gov.au/dlg/dlghome/documents/information/Becoming_A_Councillor.pdf

OECD. 2003. *Managing Conflict of Interest in the Public Service*. OECD Guidelines and Overview.

www.oecd.org/gov/ethics/48994419.pdf

OECD. 2011. *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing.
<http://dx.doi.org/10.1787/9789264095281-en>

Steering Committee on Local and Regional Authorities.
2008. *Status and Working Conditions of Local and Regional Elected Representatives – Basic Principles*. Study Series Local and Regional Authorities in Europe.
<https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=1126261&SecMode=1&DocId=1337194&Usage=2>

Transparency International. 2009. *Corruption and Local Government*. Working paper 5/2009.

Transparency International. 2010. *Regulating the Revolving Door*. Working paper 6/2010.
www.transparency.org/whatwedo/publications/doc/wp/

Wechsler, R. 2013. *Local Government Ethics Programs*. CityEthics.org.
www.cityethics.org/ethics%20book

“Anti-Corruption Helpdesk Answers provide practitioners around the world with rapid on-demand briefings on corruption. Drawing on publicly available information, the briefings present an overview of a particular issue and do not necessarily reflect Transparency International’s official position.”