



# LOCAL ACCOUNTABILITY AND INTEGRITY STANDARD

The project „**Transparency and Accountability of Local Authorities, Strong Communities: Implementing a Standard for Accountability and Integrity of Local Authorities through the Involvement of Local NGOs and the Media**“ is implemented with the financial support of Iceland, Liechtenstein, and Norway under the EEA Financial Mechanism.

[www.localintegrity.bg](http://www.localintegrity.bg)

The main goal of the project „Transparency and accountability of local authorities, strong communities: implementation of a standard for accountability and integrity of local authorities through the involvement of local NGOs and the media“ is to improve the system of accountability and integrity of local government and thus create conditions for fighting corruption at the local level by mobilizing the local civil society.

The project activities are carried out in partnership between Scanteam, Norway and the Anti-Corruption Fund (ACF), Bulgaria. Scanteam, Norway has significant experience in implementing anti-corruption projects and applying the principles of good governance in different parts of the world.

[scanteam.no](http://scanteam.no)

The Anti-Corruption Fund works in the interests of civil society and to assist the judiciary in preventing, exposing, and investigating corruption at all levels in the country and at the highest levels of government. The Anti-Corruption Fund monitors the manifestations of corruption, the inefficiency of the control bodies and the silence of the institutions in Bulgaria.

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## ABBREVIATIONS USED

<b>APC</b>	Administrative Procedure Code
<b>PAIA</b>	Public Access to Information Act
<b>LGLAA</b>	Local Government and Local Administration Act
<b>SIA</b>	Statutory Instruments Act
<b>CPCIAPA</b>	Corruption Prevention and Confiscation of Illegally Acquired Property Act
<b>PEA</b>	Public Enterprises Act
<b>NfPLEA</b>	Not-for-Profit Legal Entities Act
<b>CPCCIAP</b>	Commission for the Prevention of Corruption and Confiscation of Illegally Acquired Property Act
<b>MC</b>	Municipal Council

# Chapter One

## STANDARD FOR ACCOUNTABILITY AND INTEGRITY AT LOCAL LEVEL

### Main objectives

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- **Transparent and accountable** local authorities performing their functions with integrity and predictability;
- **Protection of public interest** in the implementation of local policy and compliance with applicable legislation;
- **Publicity and predictability** of drafted laws, bylaws, regulations and other strategic documents;
- **Transparency and integrity** in the appointment of senior officials;
- **Better quality of decision-making** and improved process of decision implementation;
- **Making public participation a fundamental principle and a necessary stage** in decision-making at local level;
- Creating an **operational tool** for monitoring the implementation of the **12 principles of good governance at local level**

### Transparent local government

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- **Publishing the governance programme of the mayor of the municipality** (municipal district) on the websites of the municipality (town/district)  
**Indicators:** the document is published on the website of the municipality; it is easily accessible and presents consistently and coherently the main ideas, policies and governance measures (by sector and focus area).
- **Making strategic documents, action plans, concept papers and projects publicly available**  
**Indicators:** publication on the website of the municipality and providing easy access to the relevant documents, which present the content of each document (strategy, concept paper, action plan and project) clearly and in a manner that is easy to understand while also indicating how citizens and the local community can become engaged in the process of their implementation, monitoring, reporting and control.
- **Publishing adopted regulations and administrative decisions**  
**Indicators:** documents published on the website of the municipality that are easily accessible, up-to-date, coherently presented and containing a summary of the key points in a language that is easy to understand.
- **Publishing information about the establishment and activity of public councils, municipal foundations and associations;**  
**Indicators:** information published on the website of the municipality about the members of the relevant body/organisation, its goals and areas of work, structure, annual plan of activity, information about the schedule of the meetings, the possibilities for public involvement in its works, and about organised events and initiatives.
- **Publishing information** about the establishment and activity of municipal enterprises and companies in which the municipality is a shareholder.

**Indicators:** publishing information on the website of the municipality about the members of the managing/supervisory bodies, the objects of the company, its annual plan of activity, and information about the schedule of meetings of its bodies.

- **Providing full access to public information** within the shortest practicable time period, ensuring that the information published on the websites of the municipalities is relevant, sufficiently detailed and useful.

**Indicators:** publishing information on the website of the municipality about the procedure for access to public information, examples of applications for access to public information, a section on frequently asked questions (FAQ).

- **Maintaining a platform for communication with the local community and efficient feedback**

**Indicators:** developing and maintaining web platforms enabling a direct link to citizens, featuring feedback mechanisms, tools for organising and reporting on initiatives, submitting/receiving complains and receiving tips about irregularities (social media platforms, mobile device applications, etc.).

- **Making the meetings of the standing committees to the municipal councils public and easily accessible**

**Indicators:** information published on the website of the municipality about the working programme of the Municipal Council and providing opportunities to citizens to make proposals; publishing the agenda of the meetings of the standing committees to the municipal council at least 5 days before the meetings take place, and ensuring that civil society and citizens are able to propose items on the agenda of the meeting, register their interest in attending the meetings, and seek and receive access to the materials.

## Accountability and integrity of local government

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- **Publishing a report on the implementation of the governance programme at least once a year and holding public discussions**

**Indicators:** publishing information on the website and ensuring that the report contains information about progress towards the achievement of the goals set and the implementation of activities and specific measures, and organising a public discussion to present implementation, and any problems and challenges encountered.

- **Publishing a report on the implementation of the strategic documents and action plans, implemented projects and the results achieved**

**Indicators:** publishing information on the website, ensuring the report contains information about the achievement of the respective strategic goals, the progress towards implementing planned activities and specific measures, and providing a possibility to hold a public discussion of the report.

- **Publishing reports on the activity of the public councils, municipal foundations and associations**

**Indicators:** publishing information online, with the report containing details about the meetings held and the decisions adopted, compliance with the annual work programme, organised events (workshops, conferences, public discussions); a report on the activity and financing of municipal foundations and associations; new and existing partnerships with civil society organisations and businesses.

- **Publishing reports on the activity of municipal enterprises and companies in which the municipality is a shareholder**

**Indicators:** published information about the activity (in addition to the information available in the Company Register) about the financial standing, business programme of the enterprises and companies, etc.

■ **Introducing procedures for preliminary hearings of applicants for senior offices in local government**

**Indicators:** developing competitive procedures for the appointment of senior officials in different departments of local government – presentation of a concept on the development of the department concerned; meeting with the public with the possibility for local civil society representatives to ask questions, reporting on progress at regular intervals following appointment.

■ **Adoption and publishing of codes of ethics for local government officials and councilors**

**Indicators:** codes of ethics adopted and published on the website of the Municipal Councils, which are fully in line with the requirements laid down in applicable law (CPCIAPA, LGLAA, municipal rules of procedure and regulations); organising training events on the implementation of the codes at regular intervals.

■ **Public and easy access to the declarations on the property and interests filed pursuant to the CPCIAPA**

**Indicators:** designing an interface, which ensures that the declarations in respect of property and interests filed by local government officials are publicly available and easily accessible to citizens to facilitate scrutiny and control.

■ **Publicity of the checks performed to ascertain the presence or absence of conflict of interest or corruption practices**

**Indicators:** publishing information in an accessible format about current and completed investigations (checks) to ascertain the presence or absence of conflict of interest or corruption practices.

■ **Possibility for safe and secure reporting of suspicions of corruption at local level**

**Indicators:** publishing information about the contact point (special electronic platform, hotline or e-mail), which is available to citizens who wish to report corruption and ensures that their identity is protected; putting in place procedures that enable effective in-depth verification of the alleged facts and circumstances to be performed; and fostering a good working relationship with investigation bodies (when indications of corruption or other misdemeanours are found).

## Civic engagement

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■ **Public discussions on issues of importance to the local community**

**Indicators:** published announcement and organisational arrangements made to hold regular public discussions/consultations on issues of importance to the local community; transparency, openness and accessibility of the process – publishing information, announcements and documents in advance, including the agenda for the meetings and the possibilities for citizens to get actively involved (with proposals, questions and positions); online streaming of events and providing feedback after the discussion/consultation.

■ **Consulting draft legislation, regulations and strategic documents with citizens and civil society organisations**

**Indicators:** compliance with the requirements for conducting public consultations in respect of draft legislation laid down in the SIA – publishing the drafts on the website of the municipal council, determining the stages in the consultative process and the deadline for the submission of opinions and proposals from citizens and interested parties, publishing project summaries in accessible formats and in a language that is easy to understand; making arrangements for various consultation formats (written, online, meetings, discussions, etc.); publishing information about the proposals adopted and rejected, along with a justification of the respective decisions; upon the launch of the consultation process, designating an official(s) from the municipality, responsible for organising the process, compiling a summary and presenting the results. The above requirements may be applied, by analogy, to the consultations held in respect of strategic documents.

- **Financial support for civil initiatives** — annually earmark funds in the municipal budget to finance civil initiatives and the activities of local NGOs:

**Indicators:** publicity of the process, clear funding priorities and criteria for submitting applications on a competitive basis; participation in the process of priority setting together with representatives of civil society; civic monitoring of the process.

# Chapter Two

## MANUAL FOR IMPLEMENTING AND MONITORING THE IMPLEMENTATION OF THE STANDARD

### Transparent local authorities

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**Publishing the governance programme of the mayor** (of the district or municipality) on the website of the municipality/mayoral district

**Indicators:** a document published on the website of the municipality that is easily accessible, which consistently, clearly and coherently sets out the main ideas, policies and governance measures (by priority, sector and focus area).

This requirements is stipulated in Article 44(5) of the LGLAA. The mayor of the municipality presents the *governance programme* for his/her entire term before the municipal council within a period of *three months* after taking an oath of office. The programme sets out the main goals, priorities, activities, implementation periods and expected results. The mayor of the municipality submits to the municipal council an *annual report* on the implementation of the programme by 31 January of the following year.

The governance programme must be published on the website of the municipality in an accessible manner so that citizens are informed about the main priorities set and can monitor and control their achievement at regular intervals. The programme should set out the main ideas, policies and governance measures (by priority, sector and focus area) consistently, clearly and coherently.

There is no legal requirement for the mayors of municipal districts to develop and present separate governance programmes. In Bulgaria the mayors of municipal districts are elected, meaning that they compete for election to office on the basis of programmes that differ from those of the remaining candidates and from the programme of the candidate running for mayor of the greater (metropolitan) municipality. For a district mayor to be able to implement their programme, it must be possible for the programme to be integrated to a degree into the governance programme of the greater municipality. It is important for the citizens living in a particular municipal district that the mayor of the municipality publishes and reports on the implementation of their governance programme on a regular basis.

**Making strategic documents, action plans, concept papers and projects publicly available**

**Indicators:** publication on the website of the municipality and ease of access to the relevant documents, which present the content of each document (strategies, concept papers, action plans and projects) clearly and in a manner that is easy to understand while also indicating how citizens and the local community can become engaged in the process of their implementation, monitoring, reporting and control.

The strategic documents, action plans and concept papers do not have a binding legal effect and do not stipulate rules to be followed by citizens and organisations. Despite this, the requirement for their publication stems from the general principles of publicity, openness, transparency and access to the activity of government bodies and institutions and of the civil service (Article 2 of the Civil Service Act), from the obligation to publish up-to-date public

information (Article 15 of the APIA), and from provisions laid down in certain special laws and regulations adopted by the municipal councils. Article 15(1)(6) of the APIA stipulates a requirement for all strategies, plans, programmes and reports on activities to be published on the website of the relevant institution.

It is essential that published documents present clearly and comprehensively the respective content (objectives, measures, policies, indicators, and activities) in a manner that is easy to understand so that citizens are able to track implementation, the progress achieved and any changes that occurred, as well as activities, adopted decisions and regulations, etc. In addition, measures should be put in place to ensure transparency and that sufficient information is available to the local community (incl. conducting public discussions, seeking feedback, providing consultations to interested parties) so that citizens feel meaningfully engaged throughout the process of policy setting, implementation, monitoring, reporting and control.

The use of interactive forms of presentation and communication is important to ensure that the information reaches the widest possible audience. Publishing the relevant documents in a dedicated section of the website is not sufficient — local government bodies must ensure that these are published in a meaningful context and adequately presented.

The development and implementation of strategic documents and projects should be based on the principle *'from the community, for the community'*, which requires ongoing dialogue and cooperation between the local authorities, civil society and businesses.

#### **Publishing the regulations and administrative decisions adopted**

**Indicators:** documents published on the website of the municipality that are easily accessible, up-to-date, coherent and contain a summary of the main areas of interest in a language that is easy to understand.

The standard for publishing laws, bylaws and other regulations and decisions that have come into effect is stipulated by law. Both Article 37 of the SIA and Article 78 of the APC stipulate a requirement for publishing the legally binding regulations and other documents adopted by municipal councils in the printed press or for making them publicly available via other means within the respective municipality. According to Article 22(2) of the LGLAA, the decisions and acts of the municipal council must be communicated to the residents of the municipality within 7 days from the date of adoption via the printed and electronic media, notices published on the website of the municipality and through other appropriate means.

The general rule is that the acts concerned are published on the websites of the relevant municipalities/municipal councils. In addition, Article 15 of the APIA stipulates an imperative requirement for a list of the acts issued by the relevant bodies on the grounds of the authority and powers vested in them as well as the text of any regulation, bylaw and general administrative decision to be published on their websites.

The publication of the acts and decisions adopted ensures that citizens are well informed and able to adjust their behaviour to the new rules but also a condition precedent for participation in the process of drafting and amending the acts concerned.

In order to ensure that the acts are publicly available to citizens, they must be up to date (i.e. reflect the latest amendments); *presented in a coherent manner* (where changes are introduced, they must be integrated into the body of the text, and not published as a list of amendments as this would create difficulties in developing thorough familiarity with the content of the relevant rules/regulations); contain a *summary* of the main provisions written in a language that is easy to understand (this is particularly important in the case of voluminous and complex regulations, which require a succinct summary setting out the specific provisions applicable to citizens).

According to Article 26 of the SIA, legislation is drafted in compliance with the principles of *necessity, justification, predictability, openness, coordination, subsidiarity, proportionality and stability*. The process of drafting legislation involves public consultations with the

participation of citizens and legal persons. According to the provisions laid down by law, before draft legislation is submitted for adoption or publication by the respective competent body, the institution that drafted the Bill or another draft piece of legislation must publish it on its website, along with a justification, respectively report, and an ex-ante assessment of impact, where such an assessment is required. When bylaws are drafted by the municipal council, the draft is published on the website of the respective council and/or municipality.

The public consultation period in which opinions and proposals can be submitted is at least 30 days. The drafting body may stipulate a shorter period, but not less than 14 days, solely in cases of great urgency. In the latter case, the reason for the shorter public consultation period must be expressly stipulated.

After the end of the public consultation and before the adoption/issuance of the respective piece of legislation, the drafting body publishes on its website the proposals and opinions received, along with a justification for those that were rejected.

### **Publishing information about the establishment and activity of public councils, municipal foundations and associations**

**Indicators:** information published on the website of the municipality about the members of the relevant body/organisation, its goals and areas of work, its structure, annual plan on activity, information about the schedule of meetings, the possibilities for public engagement in its works, and about organised events and initiatives.

Access to information about the various public councils and other forms of partnership with civil society is a prerequisite for the active involvement of citizens in the initiatives of local authorities.

Information should be published on the website of the municipality about the various types of public councils, their members, goals and areas of activity and the procedures for their establishment in compliance with the principles of transparency, openness and expert input as well as about the events and initiatives to be organised/implemented (annual plan of activity), the intervals at which the meetings of the council are held, the possibilities for citizen engagement and involvement in the respective activities, the possibilities for submitting proposals, etc.

In general, public councils are established in the respective municipality and when a municipality is composed of municipal districts, the administration of each municipal district keeps a list of the public councils established in the territory under its jurisdiction. Public councils may also be established on the initiative of the mayor of the municipality or the municipal council. In terms of their area of competence, the councils may have specialist or general competence. The meetings and activities of public councils are public as a matter of general principle. The Rules on the structure and organisation of municipal councils should contain provisions enabling cooperation with the public councils established in the territory of the municipality.

In order to emphasize the *autonomy and independence* of public councils from the balance of powers in the municipal council, public councils should be able to adopt their own rules of procedure governing their work, which clearly set out their principles, area of activity, criteria for membership and representation, decision-making rules and procedures, rules on cooperation with the municipal council and the local administration, civil society organisations, etc.

## Examples

### Public councils in Troyan Municipality<sup>1</sup>

Detailed information is published on the website of Troyan Municipality about the *public councils* established and functioning in the municipality. The public councils are seen as a *successful form of cooperation with citizens and a useful tool for cooperation, accountability and transparency of the municipality*. Public councils bring together the efforts of citizens, experts and institutions and ensure that all interested parties are involved in finding solutions to important public problems or act as an incentive and provide support for the priority areas of development at local level. Information has also been made available about the functions and goals, which the established public councils seek to achieve.

### Sevlievo Municipality

Article 102 of the Rules of Procedure of the Municipal Council of Sevlievo Municipality envisage a possibility for establishing *consultative/public councils* as follows: The Municipal Council may adopt a decision to establish a *consultative/public council* tasked with facilitating its work on specific issues. By its decision, the municipal council shall also adopt rules on the functioning and participation in the work of the consultative/public council.

### **Publishing information about the establishment and activity of municipal enterprises and companies in which the municipality is a shareholder**

**Indicators:** publishing information on the website of the municipality about the members of the managing/supervisory bodies, the objects of the company, its annual plan on activity, and information about the schedule of meetings of its bodies.

*Publicity:* With regard to the development of policies on the participation of the municipality in public enterprises, these should be published on the *website of the municipality* and contain a justification of the municipal ownership of such enterprises; the goals the municipality seeks to achieve in the capacity as owner of the public enterprise; its role in the management of the public enterprises and the indicators used to measure performance and the achievement of policy goals (Article 66(1) of the Implementing Regulation to the Public Enterprises Act). Not later than 31 October each year, each municipality must publish on its website an annual summary report on the performance of municipal enterprises, which contains information about:

- the municipal portfolio in public enterprises (total amount and structure);
- the implementation of the policy on the shares held by the municipality in public enterprises during the reporting period;
- the financial and operational performance of the enterprises at the end of the reporting period;
- a presentation of the public enterprises and the achievement of the strategic goals and planned results;
- an assessment of the compliance of public enterprises with applicable corporate management and disclosure standards;
- the members of the managing and supervisory bodies and their salaries, and any changes to the membership of the respective boards.

*Large municipal enterprises<sup>2</sup>* must have their own websites on which at least the following information is published: statute/articles of association/incorporation; useful tips provided by the enterprise, if relevant, including, when appropriate, the costs and financing agreements

1. <https://www.troyan.bg/konsultativni-i-obshtinski-saveti/obshtestveni-konsultativni-saveti.html>

2. Public enterprises are classified as micro-, small-, medium-sized and large enterprises, depending on the criteria described in Chapter Two, Sections I and II of the Accountancy Act.

concluded with a view to achieving public policy goals; any financial assistance, including guarantees received from the central government; all transactions with the government and other related parties; the qualifications of the members of the managing and supervisory bodies of the enterprise; the procedure for their appointment; and their remuneration.

*Managing and supervision bodies of public enterprises:* Local government must ensure that the affairs of municipal public enterprises are guided by *professional and independent managing bodies with a clear mandate and powers based on a transparent and fair procedure for candidate selection* based on the merits of the applicants (Article 67 of the Implementing Regulation to the Public Enterprises Act). They must determine the requirements and procedure for nominating applicants for election to the managing and supervisory boards of municipal enterprises. There is a requirement for public disclosure of the rules for the competitions for appointment to the managing boards of municipal public enterprises according to which the candidates must satisfy a set of requirements stipulated by law. For example, they must have qualifications and professional experience that is relevant to the specificity of the activities performed by the respective public enterprise, satisfy certain criteria for their reputation and integrity and be able to dedicate sufficient time to the performance of the duties of their office, when elected (Article 21(2) of the Public Enterprises Act).

**Granting full access to public information** within the shortest possible period of time, detailed and exhaustive information published on the websites of local authorities

**Indicators:** publishing information on the website of the municipality about the procedure for access to public information, examples of applications for access to public information, a section on frequently asked questions (FAQ).

A key aspect of transparency and accountability at local level is granting access to public information both on the basis of the applications submitted under the Access to Public Information Act (APIA) but also through the information published on the official website of the municipality. With regard to the minimum requirements for the content of the information to be published online, these are stipulated in Articles 15 and 15a of the APIA.

In order to ensure transparency in the work of the administration and facilitate to the maximum degree access to public information, the law requires each head of an administrative department or agency in the central and local government to publish a wide range of information materials at regular intervals. Although the law does not contain an express reference to the mayors of municipalities, insofar as they are a body of the executive branch of government at local level (in each municipality) and Article 3(1) of the APIA applies to local authorities, the standards in question should be applicable at local level. There is a requirement for the following up-to-date information to be published:

- a description of the powers vested in the body and information about the organisation, and the functions and responsibilities of the administration;
- a list of the acts issued within the remit of the powers vested in the body and the texts of the legal acts and general administrative decisions issued;
- a description of the data sets and information resources used by the relevant administration;
- the name, address, e-mail address, telephone number and working hours of the relevant administrative service and the unit to which requests for access to public information can be submitted;
- rules on the structure and organisation and internal rules relating to the provision of administrative services to citizens;
- strategies, plans and reports on activity;
- information about the budget and the financial statements of the administrative service published in accordance with the Public Finance Act;
- information about public procurement tenders that must be published in the buyer's profile in accordance with the requirements laid down in the Public Procurement Act;

- the legal acts, together with the relevant justification, respectively the report on and the results from the public consultation held prior to adopting the act concerned;
- notifications regarding the opening of proceedings for the issuance of general administrative decisions in accordance with the Administrative Procedure Code, including the main reasons for issuing the act and the possibilities for interested parties to participate in the proceedings;
- information about the right to access to public information, the rules and procedure for the reuse of information, information about fees and the formats in which available information is kept;
- notices of forthcoming competitions for the appointment of civil servants;
- information to be published in accordance with the requirements laid down in the Corruption Prevention and Confiscation of Illegally Acquired Property Act (CPCIAPA);
- information that is public in accordance with the Protection of Classified Information Act and the implementing regulations thereto;
- information that may prevent a threat to the life, health and safety of citizens or their property; refutes disseminated untruthful information with implications for significant public interests; and information that is or may be of public interest;
- the information, which has been provided on more than three occasions in accordance with the procedure for access to public information;
- other information to be published in accordance with a requirement laid down by law.

This information is published, respectively updated, within a maximum of *three working days* after the adoption of the respective act or the compilation of the relevant information, and where the act is subject to promulgation — within a time period of up to *three working days* from the date of promulgation, unless another time period is expressly specified by law.

An annual report detailing all requests for access to public information received and of the requests to reuse of public domain information already provided must be published on the website.

Information about the ways in which the right to access to public information can be exercised, the annual report, existing internal rules and the procedure for access to the public registers kept by the respective administrative service must be published in a dedicated section 'Access to information' on the websites of the relevant institutions.

#### **Maintaining a platform for communication with the local community and efficient feedback**

**Indicators:** developing and maintaining web platforms enabling a direct link to citizens, featuring feedback mechanisms, tools for organising and reporting on initiatives, submitting/receiving complaints and receiving tips about irregularities (social media platforms, special mobile device applications, etc.).

Some municipalities have developed special online platforms for submitting complaints, alerts and proposals. For example, in Stara Zagora<sup>3</sup> municipality each citizen is able to report a wide range of problems (from disturbance of public order to the need to undertake urgent road repairs, dysfunctional street lighting, fallen trees, etc.) or propose solutions to existing social problems.

The Metropolitan Municipality of Sofia has a special web portal (Contact Centre) to which citizens can report problems, submit grievances and complaints, ask questions, including seek access to public information, etc.<sup>4</sup> The party submitting the grievance or reporting a problem

3. Stara Zagora Municipality, platform for submitting grievances and reporting problems: <https://signals.starazagora.bg/bg/signals/add>

4. <https://call.sofia.bg/bg/Signal/Create>

is required to provide their full name, a telephone and an e-mail address.

In parallel, there is a possibility to participate in a number of surveys and studies conducted online, as well as public discussions, public consultations, campaigns and various other activities. This section of the web portal is accessible by pressing the button 'Participate'.<sup>5</sup>

### **Improving the publicity and access to the meetings of the standing committees to municipal councils**

**Indicators:** information published on the website of the municipality about the working programme of the Municipal Council and providing opportunities to citizens to make proposals; publishing the agenda of the meetings of the standing committees to the municipal council at least 5 days before the meetings and providing possibilities to civil society and citizens to propose items on the agenda of the meeting, register their interest in attending the meetings, and seek and receive access to the materials.

The principles of *openness and transparency of the meetings of municipal councils and the committees to them* are stipulated by law. Individual meetings of municipal councils may be closed to the public solely by way of exception.

Citizens have the right to attend the meetings of municipal councils and the committees to them and make statements, pose questions, present opinions and make proposals on matters within the remit of competence of the municipal council, the mayor or the municipal administration, when these are of public interest, and receive answers in accordance with a procedure and in the time frame envisaged by law (Article 28 of the Local Government and Local Administration Act, LGLAA).

#### **Example**

##### **Ruse Municipality**

*Publicity of the meetings of the committees* (Article 48): the meetings are open and streamed directly online via the website of the municipal council. By way of exception, in duly justified cases, individual meetings may be closed on a proposal of the chairperson or a member of the committee.

*Participation of all citizens* (Article 48): The chairperson of the committee is required to enable the participation of citizens, representatives of non-governmental organisations and journalists in the proceedings of the committee.

*Participation of external experts* (Article 55): Temporary and ad hoc committees may rely on the services of external experts and consultants who can attend the meetings in an advisory capacity, when the nature of the committee's work requires external expert input. Such experts and consultants may receive payment for their work.

5. <https://www.sofia.bg/participate>

### **Publishing a report on the implementation of the governance programme at least once a year and holding a public discussion**

**Indicators:** publishing information on the website and ensuring that the report contains information about the progress achieved in pursuit of the goals set, information about the implementation of activities and specific measures, and organising a public discussion to present implementation, and any problems and challenges encountered.

According to Article 44(5) of the LGLAA, the mayor of the municipality presents before the municipal council a governance programme within a period of *three months* as from the date of taking an oath of office. The programme sets out the main goals, priorities, activities, implementation periods and expected results. The mayor of the municipality also presents before the municipal council an *annual report on the implementation of the programme* by 31 January of each year.

The practice of publishing the reports, the format of the programme, the mechanisms for reporting and publicity of the process vary across the municipalities. There is no standardised process, which facilitates citizens who wish to familiarise themselves with the mayor's priorities, monitor implementation and the progress achieved and participate in discussions on key issues. Overall, either perfunctory compliance with this legal requirement is ensured or it is completely ignored. The websites of many municipalities do not contain such information or it is exceedingly difficult to find.

### Examples

#### Ruse Municipality

*Publicity of the governance programme:* According to the rules of procedure of municipalities, the mayor is required to present before the municipal council a *governance programme* for his/her entire term within a period of 3 months after taking an oath of office. The programme sets out the main goals, priorities, activities, implementation periods and expected results. The mayor of the municipality presents before the municipal council an *annual report* on the implementation of the programme by 31 January of the following year. The governance programme for the mayor's term 2019-2023 is published on the website of the municipality.<sup>6</sup> A report on implementation for 2019 has also been published but it concerns the Municipal Plan for the Development of Ruse Municipality for the period 2017-2020.<sup>7</sup>

#### Stara Zagora Municipality

*Governance programme:* There is a dedicated section<sup>8</sup> on the municipality's website where the governance programme and the reports on its implementation are published. The latest governance programme for the period 2019-2023 has not yet been published.

### **Publishing a report on the implementation of the strategic documents and action plans, the projects implemented and the results achieved by the municipality**

**Indicators:** publishing information on the website, ensuring the report contains information about the achievement of the respective strategic goals, the progress achieved in the implementation of planned activities and specific measures, and there are possibilities for public discussion of the report.

6. [https://www.ruse-bg.eu/uploads/files/Strategicheski\\_dokumenti/%D0%9F%D0%A0%D0%9E%D0%93%D0%A0%D0%90%D0%9C%D0%90-%D0%97%D0%90-%D0%A3%D0%9F%D0%A0%D0%90%D0%92%D0%9B%D0%95%D0%9D%D0%98%D0%95-2019-2023.pdf](https://www.ruse-bg.eu/uploads/files/Strategicheski_dokumenti/%D0%9F%D0%A0%D0%9E%D0%93%D0%A0%D0%90%D0%9C%D0%90-%D0%97%D0%90-%D0%A3%D0%9F%D0%A0%D0%90%D0%92%D0%9B%D0%95%D0%9D%D0%98%D0%95-2019-2023.pdf)

7. [https://www.ruse-bg.eu/uploads/files/Strategicheski\\_dokumenti/%D0%9E%D1%82%D1%87%D0%B5%D1%82%D0%B7%D0%B0%202019.pdf](https://www.ruse-bg.eu/uploads/files/Strategicheski_dokumenti/%D0%9E%D1%82%D1%87%D0%B5%D1%82%D0%B7%D0%B0%202019.pdf)

8. <https://www.starazagora.bg/bg/otcheti-na-kmeta>

The publication of reports on the activities of the local government in connection with the implementation of the adopted strategies, plans, programmes and implemented projects is a requirement laid down by law (Article 15 of the APIA).

The published reports must give a clear account, in a language that is easy to understand, of all implemented measures and activities to ensure that citizens are able to track the positive changes in the environment for themselves. The reports must not only list the activities performed but contain an analysis of the risks and challenges for the achievement of the stated goals and formulated policies. The reported results under the individual measures and activities must be specific, measurable, logically coherent and deriving from the goals and objectives sought to be achieved. The reports must also contain a narrative and a financial part and be fully compliant with both the requirements and standards laid down by law and the specific requirements of the financing programmes.

It is also necessary to implement dedicated measures for publicity and with a view to ensuring that the local community is well informed (incl. through conducting public discussions and seeking feedback) in order to involve citizens in the entire process of development, implementation, monitoring, reporting and control.

The use of interactive forms of presentation and communication is important to ensure that the information reaches the widest possible audience. Publishing the relevant documents in a dedicated section of the website is not sufficient — local government bodies must ensure that these are published in a meaningful context and adequately presented.

#### **Publishing reports on the activity of public councils, municipal foundations and associations**

**Indicators:** publishing information online, with the report containing details about the meetings held and the decisions adopted, compliance with the annual work programme, organised events; a report on the activity and financing of municipal foundations and associations; new and existing partnerships with civil society organisations and businesses.

For citizens to be able to continuously monitor the activity of the established public councils, municipal foundations and associations performing various important functions and activities in society, the latter must publish *reports on their activity* at regular intervals. The reports must be published on the website of the municipality or on dedicated websites and contain detailed information about the various aspects of activity: meetings held and decisions taken, compliance with the annual work programme (with specific objectives and performance indicators); organised events (workshops, conferences and public discussions). There is a significant difference between the reports on activity published by the municipal councils and those to be published by municipal not-for-profit legal entities. In the first case, there are no imperative requirements for publicity and reporting laid down by law, and the information is published in keeping with the general standards for good governance (except the case in which the articles of association of the respective public council does not expressly envisage an obligation to make information available to the public). In the second case, there is a legal obligation for an annual report on activity and a financial report to be published.

A special annual report on activity and financial report of municipal foundations and associations must be drawn up and placed on record in a dedicated register of not-for-profit legal entities kept by the Company Registry (Article 40(3) of the Not-for-Profit Legal Entities Act (NfPLEA)). The possibility to properly assess their role in protecting the public interest of the local community requires publicly available information about their partnerships with various representatives of civil society (NGOs, informal citizens' groups and networks, and the academic community).

### **Publishing reports on the activity of municipal enterprises and companies in which the municipality is a shareholder:**

**Indicators:** published information about the activity (in addition to that available via the Company Register) about the financial standing, business programme of the enterprises and companies, etc.

*Publicity and accountability of the municipal enterprise:* Municipal enterprises are required to publish financial and non-financial information about the enterprise in accordance with Article 28 of the Public Enterprises Act (PEA), the implementing regulation thereto and other applicable legislation. According to Article 29(1) of the PEA, municipal enterprises are required to draw up *quarterly and annual financial reports, analyses and reports* on activity and submit them to the municipality and to the Agency for Public Enterprises and Control. This information must be published on the *website of the Agency for Public Enterprises and Control*. The financial reports must conform to the requirements laid down in the Accountancy Act and to applicable financial reporting standards.

Non-financial information must, at minimum, include the elements listed in the non-financial statement referred to in Article 48 of the Accountancy Act and an assessment of the risks, human resources and labour relations, sustainability and environmental impact, the transactions between related parties and a report on the members of the managing and supervision bodies, including their remuneration, a report on the fulfillment of public service obligations, if relevant, and the achievement of public policy goals (Article 29(4) of the PEA).

The publicity rules laid down in Chapter 7 of the Implementing Regulation to the Public Enterprise Act also apply to municipal public enterprises. This means that the municipality is required to *publish on its website quarterly and annual financial reports and statements, analyses and reports on activity* as provided for in Article 29 of the PEA as well as information about the activity of the enterprises in accordance with the Accountancy Act and applicable financial reporting standards. Municipalities publish information about municipal public enterprises that differs significantly in terms of volume, content and level of detail.<sup>9</sup>

### **Introducing procedures for preliminary hearings of applicants for senior offices in local government**

**Indicators:** putting in place a competitive procedure for appointments to senior positions in local government – presenting a concept on the development of the relevant department/agency, public presentation with a possibility for members of the local community and civil society to ask questions; reporting at regular intervals after taking office.

The Municipal Council may decide to introduce a procedure for holding public hearings of the candidates for appointment to senior positions in local government. Such a procedure may take place as an open meeting of a committee or the municipal council or may be organised as a discussion in the framework of a separate event. It is important that civil society representatives take part in the discussion, along with representatives of various professional organisations etc. The hearings may be organised and take place without being expressly envisaged in a law or a dedicated regulation. The goal is to prevent cases where senior local government officials are appointed by circumventing established procedure and ensure maximum transparency of the process while enabling monitoring and control on the part of civil society. Depending on the appointment to be made, a decision can be made in advance as to whether to organise and hold a public hearing of the candidates in each case. However, it is important that the process becomes *standard* and evolves into a *good practice*.

9. Stara Zagora Municipality: <https://www.starazagora.bg/bg/obshtinski-druzhestva>

Article 21a of the Local Government and Local Administration Act (LGLAA) envisages that such public hearings should at minimum be introduced as an element of the procedure for the appointment of a *municipal ombudsman* who protects the rights and interests of citizens in their relations with local government.

The candidates are required to present a *concept* for the development of the respective department/body and civil society representatives have the possibility to ask questions and provide opinions.

#### **Adoption and publishing of codes of ethics for local government officials and councilors**

**Indicators:** codes of ethics adopted and published on the website of the municipality (municipal council), which are fully aligned with applicable legislation (CPCIAPA, LGLAA, municipal regulations and bylaws); organising training events on the application of the codes at regular intervals.

The codes of ethics for the conduct of local government officials and local councilors are an important part of the effort to build an integrity system at local level. At the time of adopting the codes compliance must be ensured with applicable legislation (CPCIAPA, LGLAA, municipal regulations and bylaws) without duplicating existing provisions so as to prevent a risk of inaccuracies and ambiguity.

For this type of regulation to be effective, it must not duplicate existing legal provisions (on conflict of interest, related parties, incompatibility, grounds for recusal in decision-making, etc.) but should rather attempt to ‘translate’ the basic requirements laid down by law into the language of ethical principles and rules, taking care not to use concepts that are relative or abstract — a technique often used in lawmaking. At the same time, the provisions of the codes must be *sufficiently precise and concrete* in terms of wording so that the parties to which they are addressed are able to comply with them in their work and daily conduct. Where the codes do not contain concrete rules of conduct but rather set out a systematic summary of certain principles and standards, their role is to define the limits of acceptable/unacceptable behaviour and incentives for ethical conduct rather than impose prohibitions and sanctions.

The review of codes of ethics should take into account that the codes of conduct of *municipal officials* are based on the Code of Ethics of Civil Servants,<sup>10</sup> which applies to the entire civil service insofar as no special provisions apply, and therefore also cover local authority officials and municipal employees (Article 27 of the Code). In terms of content, they have a common structure and set out standard ethical rules.

With regard to the ethical rules for *local councilors*, the legal framework comprises a set of *heterogeneous* legal acts (laws, codes of ethics, regulations of municipal councils) and the codes adopted by the different municipal councils are aligned with the applicable legal framework to a significantly smaller degree compared to those governing the conduct of civil servants. Several municipalities do not have codes of ethics for the conduct of the local councilors and the standards and rules applied are those set out in applicable laws and bylaws (CPCIAPA, LGLAA, municipal regulations, the rules on the structure and organisation of the municipal council, etc.). At the same time, as members of the municipal council — a democratically elected legitimate body of local government, the members of the council may not only take part in the adoption of important decisions but also provide support and require that certain actions be taken by the local government. In addition, the councilors themselves continue to pursue their professional and business affairs, which creates a significant risk of conflicts of interest arising.

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10. Adopted by Decree of the Council of Ministers No 57oftr 2.4.2020, effective from 8.5.2020; published in the State Gazette (SG) No 33 of 7 April 2020.

From the point of view of the framework applied, it is important that practice-oriented training events on the implementation of the codes of ethics by the persons to whom they are addressed be conducted on a regular basis.

## Examples

### Stara Zagora Municipality

In 2010, the Municipal Council adopted a *Code of ethics for the conduct and political integrity of elected officials in the local government of Stara Zagora*.<sup>11</sup> The provisions on conflict of interest (Articles 5 to 10) are imprecise and not aligned to the imperative applicable rules and standards established in the Corruption Prevention and Confiscation of Illegally Acquired Property Act (CPCIAPA), including the definitions of private interest and *affiliated parties* laid down by law. The Code of Ethics needs to be revised in its entirety to ensure greater precision and a higher degree of alignment to applicable legislation and to address certain inaccuracies and conflicting provisions.

### Blagoevgrad Municipality

In 2015, a *Code of Ethics of the local council in Blagoevgrad Municipality* was adopted.<sup>12</sup> The Code contains both well-worded standards and rules and ones that partially duplicate the imperative rules laid down in existing legislation, and more specifically the rules on the prevention and detection of conflicts of interest laid down in the CPCIAPA. This duplication, although the content has not been directly ‘copied and pasted’ from the law, creates risks of a body of disciplinary practice emerging that collides with the established legal framework as regards the appraisal of when a specific act constitutes conflict of interest within the meaning of the CPCIAPA and the application of the relevant sanctions – a fine or early termination of the powers vested in the councilor on the grounds of Article 30(4)(9) and (11) of the LGLAA in conjunction with Article 80 of the CPCIAPA. Creating a parallel regime to that established by law may give rise to allegations of the Code being at odds with applicable legislation and therefore constitutes grounds for its revocation by the competent administrative court. In addition, the Code of Ethics has not been updated to take into account the latest amendments to legislation, and mostly the adoption of the CPCIAPA.

### Public and easy access to the declarations on the property and interests filed pursuant to the CPCIAPA

**Indicators:** designing an interface, which ensures that the declarations in respect of property and interests filed by local government officials are publicly available and easily accessible to citizens to facilitate scrutiny and control.

Within the meaning of Article 6(1)(32) of the CPCIAPA *senior public officials include the mayors and deputy mayors of municipalities, the mayors and deputy mayors of municipal districts, the chairpersons of municipal councils, local (municipal) councilors, and the senior architects of municipalities and municipal districts*. Within the meaning of the law the mayors of municipalities, mayoral representatives, the secretaries of municipalities and municipal employees are not considered senior public officials. This means that they are subject to inspection in accordance with the procedure laid down in §2(1) of the Supplementary provisions of the law. A review of the decisions adopted by the Commission for the Prevention of Corruption and Confiscation of Illegally Acquired Property Act (CPCCIAP) in 2018 and 2019 show that allegations of conflicts of interest are most often received in respect of senior public officials in local government.<sup>13</sup>

The asset and property declarations are published on the website of the CPCCIAP (in the case of *senior central government officials*)<sup>14</sup> and on the websites of the municipalities for public officials in local government.<sup>15</sup>

11. Adopted by the Municipal Council by Decision No 747 of 25 February 2010: [https://www.starazagora.bg/uploads/posts/Etichen\\_kodeks.pdf](https://www.starazagora.bg/uploads/posts/Etichen_kodeks.pdf)

12. Adopted by Decision No 9 set out in Protocol No 3 of 27 November 2015 of the Municipal Council of Blagoevgrad: <http://www.blgmun.com/cat24/Etichen-kodeks/>

13. CPCCIAP – decisions: <http://www.ciaf.government.bg/pages/view/reshenija-chl-13-al-1-t-4-218/>

14. CPCCIAP: <https://register.caciaf.bg/2020/index.html>

15. Stara Zagora Municipality: <https://www.starazagora.bg/bg/deklaratsii-po-zpkonpi-obshtina>

The CPCIAPA defines **conflict of interest** as:

- a situation in which a **person holding senior government office** has a **private interest**, which may influence the impartial and objective exercise of the powers and duties vested in their office (Article 52 of the CPCIAPA).
- **Private** interest is any interest that leads to *material or non-material benefit for the incumbent of a senior public office or for a person related to them*, including any obligation undertaken (Article 53 of the CPCIAPA).

The law contains a non-exhaustive list of the types of material and non-material benefits, including the act of receiving goods or services at prices that are lower than prevailing market prices, receiving privilege, gifts, etc.

- **Benefit** is any income in cash or in property, including acquiring shares or assets, as well as provision, transfer or waiver of rights, receiving goods or services free or at prices, lower than prevailing market prices, receiving privilege or honor, assistance, voice, support or influence, advantage, receipt or promise of work, office, gift, award, or promise for avoiding loss, responsibility, sanction or other unfavorable event (Article 54 of the CPCIAPA).
- **Conflict of interest is an infringement and not a criminal offence.**
- **Conflict of interest** is an element of corruption within the meaning of the law. Corruption exists where, as a result of the senior office held, a person abuses the powers vested in their office, violates or fails to perform official obligations with a view to obtaining, directly or indirectly, a material or non-material benefit for themselves or for other persons (Article 3 of the CPCIAPA).
- **A conflict of interest is distinct and separate** from the criminal offences bribery, trading in influence and abuse of power within the meaning of the Criminal Code but may be an indication of criminal behaviour.

#### Publicity of the checks conducted to ascertain conflict of interest or corruption

**Indicators:** publishing information in an accessible format about current and completed proceedings (checks) to ascertain the presence or absence of conflict of interest or corruption practices.

Information about individual cases involving conflict of interest or corruption is sporadically made publicly available (predominantly concerning ongoing cases of alleged offences) or after the respective investigation has been completed, when the final decision in the case is published. As a general rule, the final decisions (of the CPCCIAP) are redacted and only contain the initials of the investigated public officials. On the one hand, the lack of sufficient publicity is justified with the prohibition to disclose personal data and undermine the honour and reputation of the investigated parties. However, on the other hand, the parties concerned are always public officials who upon taking office have accepted certain limitations of their right to privacy and society needs information in order to be able to exercise meaningful control.

#### Examples

##### Case-study from Gabrovo Municipality<sup>16</sup>

The Commission (CPCCIAP) instituted proceedings after receiving an alert from the Anti-Corruption Fund at the end of 2017 concerning the deputy mayor of Gabrovo and a party related to his (his sister), an employee of the municipality and head of the department responsible for projects, who had failed to fulfill her statutory duty to declare a private interest in exercising the duties vested in his office.

16. CPCCIAP – Decision No RS – 214-17-003/ 28.02.2018

The body confirmed the allegations of the ACF of conflict of interest on the part of the deputy mayor who had appointed his sister, the head of a department in the municipal administration, as chairperson of the committee responsible for conducting a public procurement tender while she was also the manager of the project under which the tender for the award of a public procurement contract was conducted. The CPCCIAP accepted the explanation received according to which there was no private interest, although the case clearly involved a violation of the express prohibition laid down by law for powers to be exercised by public officials vis-à-vis related parties that are subordinate to the official concerned. Despite the clear-cut facts of the case, the Commission did not find a conflict of interest or any other violation of express provisions of the law.

#### **Case study from Chuprene Municipality<sup>17</sup>**

The CPCCIAP instituted proceedings in 2018 after receiving an alert that in the period 2013-2017 the mayor of Chuprene Municipality, Vanyo Kostin, authorised transactions involving municipal property that benefited parties he was related to (his father, mother, brother, his common-law wife whom he later married and the respective companies they owned and managed). Only one person who was related to the mayor participated in the conducted open-bid tenders for the sale of municipal land. Only one of the transactions for the sale of municipal property concluded in 2017 was found to involve a conflict of interest. It involved the conclusion of a contract for the sale and purchase of land with a sole shareholder limited liability company owned and managed by the future wife of the mayor with whom she was cohabiting at the time when the contract was concluded. Regarding the earlier transactions, the Commission concluded that the statute of limitation had expired or that the contracts were actually concluded by a person temporarily acting as the mayor's deputy. In order to prevent a conflict of interest from arising, in these cases the mayor should have recused himself from exercising the powers vested in his office.

While the proceedings before the Commission were ongoing, the mayor was also charged with committing the crime of abuse of power and making false statements in his declaration in respect of conflict of interest. The announcement has been made by the specialist prosecution service.<sup>18</sup> The mayor was detained for 72 hours and the prosecution service asked the Specialist Criminal Court to grant its motion for the mayor to remain in pretrial custody. The investigation started approximately one year ago following an alert received from a resident of Chuprene village. Subsequently, the mayor was charged with abuse of power in connection with 10 public tenders for the sale of approximately 23.6 ha of municipal land. The buyers were four companies registered and owned by parties related to the mayor. On 9 May 2019, the Specialist Court of Appeal removed the mayor from office. All municipal land plots sold were within the boundaries of the future ski complex Midjur for which a municipal project had already been developed and approved.<sup>19</sup>

#### **Case study from Cherven Bryag Municipality<sup>20</sup>**

The CPCCIAP instituted proceedings in 2018 after receiving an alert in respect of Yavor Bakardjiev, a municipal councilor in Cherven Bryag, and Kamen P. Vlahov, deputy mayor of Cherven Bryag. The case concerns a decision adopted by the Municipal Council of Cherven Bryag to conduct a publicly announced tender for the award of a lease agreement in respect of municipal property (a hotel), which contained the terms and conditions for conducting the tender. The check performed established that Kamen Vlahov was married to Councilor Bakardjiev's sister. In its decision the CPCCIAP held that on account of voting in favour of the decision to conduct a public tender for the award of a lease agreement in respect of a municipal hotel, and being subsequently authorised by the company that won the tender to represent it for the purpose of concluding a contract with the municipality, a conflict of interest arose in respect of the local councilor. At the same time, the CPCCIAP also established that on the insistence of councilor Bakardjiev the power of attorney was withdrawn and he never exercised the powers granted to him thereunder. The CPCCIAP further held that councilor Bakardjiev had used the information contained in the decision adopted by the Municipal Council to further a private interest, which caused a conflict of interest to arise. By his actions (voting in favour of the decision) he procured a non-material benefit for a commercial undertaking affiliated with him. Two fines, each in the amount of BGN 5 000, were levied on Councilor Bakardjiev for the infringements.

17. Decision No RSC-163-18-082 of 13.11.2019

18. Bulgarian National Radio (10.4.2019): <https://www.bnr.bg/horizont/post/101104999/povdignaha-obvinenia-na-kmeta-na-chuprene-vanyo-kostin>

19. <https://www.prb.bg/bg/news/aktualno/apelativnijat-spezializiran-nakazatelen-syd-ot-100>

20. Decision No RS-5674-18-074 of 23.10.2019

### Possibility for the safe and secure reporting of cases of corruption at local level

**Indicators:** publishing information about the contact point (special electronic platform, hotline or e-mail), which is available to citizens who wish to report corruption and ensures that their identity is protected; putting in place procedures that enable effective in-depth verification of the alleged facts and circumstances to be performed; and fostering a good working relationship with investigation bodies (when indications of corruption or other misdemeanours are found).

To date, the control bodies at local level (inspection services, the units responsible for security, human resources departments or the municipal police) have not put in place effective systems for the protection of whistleblowers reporting corruption, abuse of power or conflicts of interest. The websites of most municipalities have an integrated section on the prevention of corruption where contact details (hotline, e-mail or contact person/unit) are typically indicated.<sup>21</sup> At the same time, there are insufficient guarantees for protecting the anonymity or personal data of whistleblowers. The requirement for whistleblowers to identify themselves by disclosing a significant volume of personal data (their full name and ID number, address, telephone and e-mail) is stipulated by law (Article 48 of the CPCIAPA). This has a strongly deterrent effect on citizens who wish to report corruption.

An alternative is to use the procedure for reporting cases of corruption stipulated in Article 119 et seq. of the Administrative Procedure Code (APC). The latter procedure does require the whistleblower to reveal such a large volume of personal data and, if the alert contains indications of corruption or conflict of interest within the remit of competence of the CPCCIAP, the respective body is legally obligated to refer the case to the competent body (Article 112 of the APC).

The approach should be to encourage whistleblowers by requesting minimum personal data and even allowing anonymous alerts to be submitted. In both cases the emphasis should be on the content of the fact and circumstances, the extent to which they can be verified, and whether specific infringements can be found that can be linked to the alleged perpetrators within the meaning of the law.

Some municipalities have developed special online platforms for submitting complaints, alerts and proposals. For example, in Stara Zagora municipality<sup>22</sup> each citizen is able to report a wide range of problems (from disturbance of public order to the need to undertake urgent road repairs, dysfunctional street lighting, fallen trees, etc.). Minimal personal data is required (the names, telephone and e-mail of the party reporting the irregularity or problem). However, the platform cannot be used to report alleged cases of corruption or abuse of power. There is a special hotline but it is unclear whether it can be used to report cases of corruption or abuse of power and what the procedures for verifying the alleged facts and circumstances are.

The effective protection of whistleblowers is a requirement laid down in both national and EU law. Both the APC and the CPCIAPA stipulate specific requirements for protection. According to Article 108 of the APC, the tips and proposals received must be reviewed objectively, impartially and in a timely manner. In addition, they prohibit the prosecution of whistleblower. Guarantees for objectivity and impartiality have been introduced (Article 113 of the APC), which include a prohibition of decisions on the reported cases being taken by the bodies and persons implicated in corruption or abuse of power, except when they accept them as justified and take appropriate action. At the same time, there is a prohibition of instituting proceedings on the grounds of anonymous proposals or alerts.

According to Articles 49-51 of the CPCIAPA, the protection of whistleblowers has several aspects:

21. Metropolitan Municipality: <https://www.sofia.bg/en/anticorruption>

22. Stara Zagora Municipality, Platform Grievances and reports of irregularities: <https://signals.starazagora.bg/bg/signals/add>

- **Confidentiality:** the officials responsible for handling the alert must not disclose the identity of the whistleblower, protect the facts, data and documents from unauthorised access and propose measures to their respective superiors, which ensure the protection of the identity of the whistleblower, including ones that prevent harassment or intimidation of the whistleblower.
- **Assistance from the Ministry of Internal Affairs:** in special cases, the chairperson of the Commission may seek assistance from the police in order to take additional measures to protect the whistleblower;
- **Right to compensation:** a person who has been dismissed from work, persecuted or subjected to physical or mental harassment in their capacity as a whistleblower has the right to receive compensation for the material and non-material damages suffered by filing a lawsuit for damages.

In order to exercise their right to compensation, the person must file a lawsuit and prove that the actions taken against them were triggered by reporting the crime, i.e. the burden of proof is on the whistleblower. Furthermore, the wording ‘subjected to physical or mental harassment’ is too general and unclear, which creates difficulties in its application by courts.

At EU level, *Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law* has been adopted with the aim of improving the application of Union law and policies by establishing minimum standards for a high level of protection of the persons who report infringements and irregularities in keeping with the protections granted by the European Union Charter of Fundamental Rights.

- All whistleblowers are entitled to protection, regardless of whether they work in the *private or public sector* – workers, employees, civil servants, self-employed persons, shareholders, members of governing bodies, etc.
- Whistleblowers are entitled to protection, when they have reasons to believe that the information about the reported crime was truthful at the time when the crime was reported. Protection is also granted to *anonymous whistleblowers* whose identity has subsequently been established.<sup>23</sup>

## Civic engagement

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### Public discussions on issues of importance to the local community

**Indicators:** published information and organisational arrangements put in place to enable public discussions of issues of importance to the local community to take place; transparency, openness and accessibility of the process – publishing information, documents and the agenda of meetings in advance, providing possibilities for active civil participation (proposals, questions and opinions); live streaming, providing feedback after the discussion.

The public discussions of issues of importance for the local community are one of the forms of citizens’ participation in decision-making. In order to ensure that the civic participation mechanism is effective, certain requirements for providing information in advance and publicity must be observed. It is important that discussions are open to all stakeholders, citizens and organisations; that information is made available in advance; that questions can be asked during the discussions; that critical opinions can be freely expressed; and that alternative decisions and opinions can be proposed. In order to reach a maximum number of citizens, a possibility should be envisaged for online streaming of the discussion and for disseminating information about the discussion and the decisions taken after the event (in local media and via online platforms).

23. Slavov, A., L. Georgieva-Mateeva, D. Rukanova-Kalmudkova, Prevention of conflicts of interest and abuse with public procurement. Guide, Sofia, ACF 2019, pages 19-27.

## Examples

### Sevlievo Municipality

The Rules on the structure and organisation of the Municipal Council of Sevlievo Municipality expressly envisage the possibility for *public discussions* (Article 103): The Municipal Council organises *public discussions in connection with draft decisions to be taken of major public interest to the local community*. The purpose of the discussion is to ensure that citizens and other interested parties are able to share their opinions and make proposals on draft decisions. The Council adopts decisions on conducting public discussions with the votes of more than half of its members. By the decision, the council determines the subject-matter, form, date, venue, length and rules of procedure for the discussion. The chairperson of the municipal council notifies the interested parties and publishes announcements in respect of the decision in local printed and electronic media or online at least 7 days before the date of the discussion. A protocol is drafted in which the *opinions and positions* received are documented. The protocol is then submitted for consideration by the Municipal Council, together with the draft decision and the opinions of the standing committees.

### Ruse Municipality

*The procedure is laid down in Article 69 of the Rules on the structure and organisation of the Municipal Council:* The Municipal Council may hold *public discussions of draft decisions* of major public interest to the local community. The purpose of the discussion is to ensure that citizens and other interested parties are able to share their opinions and make proposals on draft decisions. The public discussions are organised after a special decision has been adopted by a majority vote of more than half of the members of the Municipal Council, which determines the subject-matter, forms, date, venue, duration and rules of procedure for the discussion. The chairperson of the municipal council, acting through a specialist auxiliary unit at the municipal administration, notifies the interested parties and publishes an announcement in respect of the decision on the website of the Municipal Council and in local printed and electronic media at least 7 days before the date on which the discussion is scheduled to take place. A *protocol* is drafted in which the *opinions and positions* received are documented. The protocol is then submitted for consideration by the Municipal Council, together with the draft decision and the opinions of the standing committees.

### Consulting draft legislation and strategic documents with citizens and civil society

**Indicators:** compliance with the requirements for conducting public consultations in respect of draft legislation laid down in the SIA – publishing the drafts on the website of the municipal council, determining the stages in the consultative process and the deadline for the submission of opinions and proposals from citizens and interested parties, publishing project summaries in accessible formats and in a language that is easy to understand; making arrangements for various consultation formats (written, online, meetings, discussions, etc.); publishing information about the proposals adopted and rejected, along with a justification of the respective decisions; upon the launch of the consultation process, designating an official(s) from the municipality, responsible for organising the process, compiling a summary and presenting the results. The above requirements may be applied, by analogy, to the consultations held in respect of strategic documents.

According to Article 26 of the SIA, legislation is drafted in compliance with the principles of *necessity, justification, predictability, openness, coordination, subsidiarity, proportionality and stability*. The process of drafting legislation involves public consultations with the participation of citizens and legal persons. According to the provisions laid down by law, before draft legislation is submitted for adoption or publication by the respective competent body, the institution that drafted the Bill or another draft piece of legislation must *publish* it on its website, along with a justification, respectively report, and an ex-ante assessment of impact, where such an assessment is required. When bylaws are drafted by the municipal council, the draft is published on the website of the respective council and/or municipality.

The public consultation period in which opinions and proposals can be submitted is at least 30 days. The drafting body may stipulate a shorter period, but not less than 14 days, solely in cases of great urgency. In the latter case, the reason for the shorter public consultation period must be expressly stipulated.

After the end of the public consultation and before the adoption/issuance of the respective piece of legislation, the drafting body publishes on its website the proposals and opinions received, along with a justification for those that were rejected.

The Metropolitan Municipality of Sofia has adopted a special Regulation on conducting public consultations in the Greater Municipality of Sofia<sup>24</sup>. The Regulation applies to all draft legal acts and strategic documents developed by the municipality. The web portal comprises a dedicated section where public consultations are announced and conducted, clearly indicating details such as the name of the draft act to be consulted, the start and end dates of the public consultation, the party submitting the draft act, the form of the consultation and a contact person.<sup>25</sup> Guidelines on conducting public consultations in the Metropolitan Municipality have been developed and published on the web portal.

### Partnership with civil society (incl. financial support for civic initiatives)

**Indicators:** publicity of the process, clear funding priorities and criteria for submitting applications on a competitive basis; participation in the process of priority setting together with representatives of civil society; civic monitoring of the process; annual allocation of funds in the municipal budget for the financing of civil initiatives and activities of local NGOs.

The forms of partnership with civil society may differ, depending on the specificity of each municipality in terms of the planning of joint initiatives, support for building networks of organisations in various sectors (social activities, participation, education, environmental protection), creating joint organisations and various councils and committees for cooperation with NGOs.

One of the most intensive forms of support for the activity of civil society sector is the *financial grants from the municipal budget* or from a *dedicated fund* intended to fund various civil society initiatives. The process of financing should involve a degree of publicity and the development of clear priorities and criteria for submitting applications on a competitive basis. The process of defining priorities should involve representatives of civil society. The entire procedure must be subject to *civic monitoring*.

#### Example

##### Ruse Municipality

- **Committee for cooperation with civil society:** Following amendments to the Rules on the structure and organisation of the Municipal Council, in December 2019 a permanent committee responsible for cooperation and partnership with civil society was established.
- **The Regulation laying down the conditions and procedure for cooperation between Ruse Municipality and registered not-for-profit legal entities** adopted in 2009 governs.<sup>26</sup>: the partnership between the municipality and NGOs and their joint efforts for the achievement of specific priorities and the implementation of initiatives included in the Development Plan of Ruse Municipality, incl. the provision of financial grants to NGOs on a competitive basis. The funding is earmarked annually in the municipal budget. No annual report on the implementation of the projects that received financing and the expenditure incurred is available on the website of the Municipal Council.

24. Adopted by Decision No 442 set out in Protocol No 37 of 20 July 2017 of the Metropolitan Municipality of Sofia, in force as from 15 September 2017.

25. <https://www.sofia.bg/en/web/guest/public-consultations>

26. <https://obs.ruse-bg.eu/documents/%d0%bd%d0%b0%d1%80%d0%b5%d0%b4%d0%b1%d0%b0-%d0%b7%d0%b0-%d1%83%d1%81%d0%bb%d0%be%d0%b2%d0%b8%d1%8f%d1%82%d0%b0-%d0%b8-%d1%80%d0%b5%d0%b4%d0%b0-%d0%b7%d0%b0-%d0%be%d1%81%d1%8a%d1%89%d0%b5%d1%81%d1%82-2/>

# Chapter Three

## EUROPEAN AND INTERNATIONAL STANDARDS AND GOOD PRACTICES

### Focus area 1: Public ethics, public integrity, and conflict of interest management

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Principles to guide local government conduct related to these areas of focus are drawn from two sets of documents.

**Guidelines**<sup>27</sup> generally have a wide scope and are non-specific. They outline a set of values meant to guide elected representatives and public employees to make judgements and decisions based on expectations for independent and moral behaviour.

**Codes of conduct**<sup>28</sup> outline specific behaviour and require little judgement. They lay down standards of behaviour for public officials that specify whether actions are acceptable or not. Within those that are specified correctly, conduct is either correct or not.

Procedures for the adoption, maintenance and implementation of such principles into action must be made accessible for the public and civil society to reference and become clear on what they should expect from those involved in regional governance.

Where possible, best practice recommends that such principles are embedded and integrated into the legal framework of government. With regular intervals, the principles must be revisited and discussed, with clear options for updates available where the political and social context requires it.

For these principles to be implemented within local government, commitment, buy-in and active promotion from all levels of the public service will be required. These groups are outlined in the diagram below.

- **Elected officials** who hold executive office (city mayors etc.)
- **Civil Servants**
- **Board members** of publicly owned or controlled companies
- **Managers** of publicly owned or controlled companies
- **Council members** with oversight functions

### Public ethics

**Public ethics** refer to the implementation of standards by public officials that place the public good before private interests in accordance with the law. The purpose of embedding ethics into public sector activity is to gain and retain the confidence, trust and engagement of citizens in the operations of all levels of government. Public ethics are considered to be a fundamental element of an effective democracy that functions properly<sup>29</sup>.

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27. Council of Europe (1997), *“Twenty guiding principles on the fight against corruption”* and Council of Europe (2008), *“The strategy for innovation and good governance”* and *“Local Level: The twelve principles of good democratic governance at local level”*

28. Council of Europe and the Congress of Local and Regional Authorities (2018), *“European Code of Conduct for all Persons involved in Local and Regional Governance”* and Council of Europe (1985), *“The European Charter of Local Self-Government”*

29. European Committee on Democracy and Governance (2020) – Guidelines of the Committee of Ministers of the Council of Europe on Public Ethics)

## Textbox 1 | Ethical assessment frameworks

Ethical assessments can be used as tools to benchmark the degree to which ethical standards influence decision making within an agency. They can either serve as a reassurance, or as an early warning of potential ethical blind spots that could, over time when left unaddressed, damage the credibility of the agency in the future. Examples of such a framework adapted from the Public Service Commission in Australia is provided in Annex 1<sup>30</sup>.

### 1. Primacy of law

The basic powers and responsibilities of local authorities are to be described in a country's basic legal documents, such as the constitution, or by statute.

In principle, local authority actors should act in accordance with and within the bounds of legal and regulatory frameworks and statutes.

### 2. Accountability

To be accountable means to have the duty to provide an account: that is, to explain and justify one's actions in terms of appropriate criteria and in sufficient detail.

All actors are accountable for their decisions and actions. Specified channels should exist to give detailed grounds for decisions and actions, if the ethics of them is called into question. Immunity from investigation, prosecution or adjudication of offences is determined by law.

### 3. Transparency

An environment of openness within local government will bring visibility to activities that include but are not limited to policy and decision making, communication and participation.

Where requests for information from the public arise, channels and resources are to be directed to ensuring that they are responded to and fulfilled diligently and honestly.

## Textbox 2 | A tool to promote transparency

Clear procedures are recommended to ensure that dialogue and exchanges between parties allows for proper scrutiny and avoids misconduct. An example of such a procedure is the European Transparency Register.<sup>31</sup>

The Transparency Register provides a platform to document information on who seeks to influence law-making, who they represent, what their mission is and how they are funded. Similar platforms can be set up at a country level, to answer core questions such as what interests are being pursued, by whom and with what budgets.

### 4. Privacy and use of data

Data processed by organisations in local and regional governance should be guided by the principles of legality, proportionality, efficiency and respect for privacy. This means that only relevant and necessary data will be collected and processed for purposes that are specific, clear, time limited and with a legally defined purpose.

Such data must be processed in a manner that restricts third parties from unethical and improper use, and must be stored for only as long as is necessary for it to fulfil the specific purpose of its collection.

All individuals from whom data is collected should be guaranteed the right to review, contest and correct their data.

### 5. Sustainability

The needs of future generations should guide current policies. Development of policies and priorities should be shaped by a long-term perspective on the future needs of the community.

30. Australian Public Service Commission (2013), "Agency Ethics Self-Assessment"

31. The EU Transparency Register (2020)

## Public Integrity

**Public integrity** is said to have been achieved when there is consistent alignment of, and adherence to, shared ethical values, principles and norms in government activities. In a public sector with integrity, the interests of society and the general public are upheld and prioritised over private interests and form the basis of government activity.

### 1. Clear integrity policies

It is recommended that all parties involved in local and regional governance integrity have access to an integrity policy that consists of clearly defined procedures for maintaining integrity in political decision making. Within this policy, bodies and institutions that support and safeguard public integrity should be identified, as well as the means of contacting them.

It is recommended that employees should be able to access training materials, as well as clear provisions for counselling, advice and guidance on how to identify, prepare for, and respond appropriately to integrity risks.

### 2. Corruption and fraud

Corruption is a global problem, and while the big numbers look at this issue at this global level (see Textbox 3), the problem is universal and at all levels of society. One challenge is the abuse of public resources, and this is an issue that needs to be addressed regarding the organisation, functioning and decision making within public administration. But the problem is deeper and more complex than this.

#### Textbox 3 | The Challenge of Corruption

Corruption is a problem for all countries and the costs are enormous:

**World Economic Forum** data estimate the global cost of corruption at USD 2.6 trillion per year, equivalent to 5% of global gross domestic product. World Bank figures businesses and individuals pay over USD 1 trillion in bribes each year.<sup>32</sup>

■ **Global Financial Integrity** estimates that the annual value of trade-related illicit financial flows in and out of developing countries amounts on average to about 20% of the value of their total trade with advanced economies.

The United Nations Convention against Corruption, UNCAC, adopted in 2003, is the only legally binding universal anticorruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to this problem. The Convention covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. Its Article 8 contains Codes of conduct for public officials<sup>34</sup>. UNDP defines corruption as **the misuse of public power, office or authority for private benefit — through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement**, so a broad concept that includes non-material benefits and advantages.

#### Textbox 4 | UNCAC – Anti Corruption Self-Assessment Tool for Parliamentarians

A tool was co-developed by UNDP and the Global Organization of Parliaments Against Corruption (GOPAC) to assist in a country's compliance with UNCAC. With a focus on the role of parliaments in combating corruption in general, it comprises a series of questions and checklists to help identify gaps in the effectiveness of a parliament's contribution to the implementation of the Convention. The self-assessment tool was designed to be a benchmark for measuring progress, a basis for dialogue with the Executive, a tool for mobilizing public opinion and NGOs for a strategy against corruption and a means of priority identification. The tool is available online.<sup>35</sup>

32. <https://www.un.org/press/en/2018/sc13493.doc.htm>

33. <https://gfintegrity.org/issue/illicit-financial-flows/>

34. [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf) p. 11

35. <https://agora-parl.org/resources/library/uncac-anti-corruption-self-assessment-tool-parliamentarians>

Since the issue of corruption is this wide-ranging, the focus on transparency in decision making and accountability for consequences lie at the heart of “good governance” concepts, and what is often termed “the social contract” between governed and government. The public will hand over and give the responsibility for administering resources through taxation, fees etc. in return for the authorities providing the services promised.

In this connection, an important dimension is that investigative work and research into and information about possible cases of corruption should not be hampered or impeded by the authorities. Media and the public should have access to legitimate channels that provide or produce information regarding corruption matters.

#### **Textbox 5 | The Finnish approach, “Values to be Part of the Daily Job”<sup>36</sup>**

In September 2002 the Ministry of Finance in Finland initiated a new project to find ways to identify and integrate principle-based values into the practical day to day work life of government agencies. The process of clearly identifying and articulating the values of an organisation helped to define uniform procedures within various Finnish government departments that could in the future guide behaviour and conduct of management and all levels of organisational employees. The value definition process also served to provide a blueprint and ethical backbone for routine decision making within government organisations. Examples of how to define values in practice at the individual agency level is provided in Annex 2.

### **3. Public procurement and contracting**

Public procurement tends to be the major source of financial mismanagement. This is true both for one-off contracts and more continuous service contracts. It is therefore important that all steps and decisions in a procurement process are well documented and available to appropriate oversight and control bodies. All decisions should be justified and reflect the criteria for the procurement. For all persons and bodies involved in procurement processes, rules and procedures for ethical procurement should be well known and their application documented, with clear rules for how inappropriate steps are to be reported, and information available about likely consequences of infractions of procurement rules and procedures.

Bidders in a procurement process must adhere to the rules for the competition and risk being disqualified if they in any way try to influence the decision or access information during the process that might help them win the tender. A “good practice” is that all bidders for a contract have the right of insight – that is, they are given access to a lightly redacted version of the winning tender so that it is possible to challenge a contract allocation that does not appear in line with the criteria for the procurement and an objective assessment of the various bids. It is important that bidders are aware of complaint mechanisms available, and this might include the right to demand a review by an independent body that is seen as credible by the parties to the procurement process.

### **4. Respect, diversity and non-discrimination**

Working relationships within local government are to be based on mutual respect for one another, and the public served. Within organisations, a non-discriminatory culture should be promoted, and a policy developed that appreciates fairness, tolerance and diversity. Figure 1 below provides guidance on how to do this in practice, adapted from guidelines developed by the Environmental and Social Department of the International Finance Corporation of the World Bank Group.<sup>37</sup>

36. OECD (2005), “Public Sector Integrity – A framework for assessment”.

37. World Bank Group (2006), Good Practice Note, “Non-Discrimination and Equal Opportunity”

Figure 1 | A road map to non-discrimination in the workplace

Identify the need for a non-discrimination strategy	Prepare baseline information	Review and change recruitment policies	Assess payment practices
<ul style="list-style-type: none"> <li>■ Link non-discrimination with business priorities, accentuating the benefits</li> <li>■ Gain top management support</li> </ul>	<ul style="list-style-type: none"> <li>■ Analyse composition of workforce and local labor market</li> <li>■ Get information on legislative requirements</li> </ul>	<ul style="list-style-type: none"> <li>■ Move to competence-based systems away from personal preference</li> <li>■ Train managers in non-discriminatory recruitment</li> </ul>	<ul style="list-style-type: none"> <li>■ Identify potentially discriminatory practices</li> <li>■ Audit payment disparities for women and minority groups</li> </ul>
Implement an anti-harassment policy	Develop family-friendly policies	Understand cultural and religious diversity	Involve underrepresented groups in the workforce
<ul style="list-style-type: none"> <li>■ Define the policy and communicate to workforce</li> <li>■ Train managers</li> <li>■ Support workers who face harassment</li> </ul>	<ul style="list-style-type: none"> <li>■ Institute parental leave policies</li> <li>■ Encourage flexible work where appropriate</li> <li>■ Consider ways to accommodate family needs</li> </ul>	<ul style="list-style-type: none"> <li>■ Train and develop managers to understand cultural differences</li> <li>■ Adjust workplace practices to facilitate cultural inclusiveness</li> </ul>	<ul style="list-style-type: none"> <li>■ Revisit recruitment requirements and update if needed</li> <li>■ Engage with trade unions and NGOs to promote representation of marginalised groups</li> </ul>
Devise a strategy to deal with disability and health issues		Communicate and promote	
<ul style="list-style-type: none"> <li>■ Examine ways in which jobs can be adjusted to accommodate needs</li> <li>■ Have a health management system to rehabilitate and reintegrate employees with long term needs</li> </ul>		<ul style="list-style-type: none"> <li>■ Ensure managers and workforce know the standards of expected behaviour</li> <li>■ Accentuate the positive advantages of non-discrimination in the workplace</li> </ul>	

Impartial and documented decision-making processes will assist in mitigating prejudice, favouritism or nepotism within local government. Human rights need to be promoted and understood, and in particular the commitments Bulgaria has made when signing the various international treaties and compacts need to be explained as obligations that all public officials are to respect and adhere to in their daily work. There should be clear provisions and guidelines on how to recognise, report and combat all forms of discrimination.

**Textbox 6 | A cross country body to implement respect and non-discrimination in practice**

EQUINET – European Network of Equality Bodies<sup>38</sup> – develops cooperation and facilitates information sharing between equality bodies and organisations, to support the uniform implementation of EU Anti-discrimination law. It also provides support to increase the level of legal protection for victims of discrimination. It works across age, disability, gender, gender identity, race, ethnicity, religion and belief, sexual orientation and other cross-cutting issues of discrimination.

**5. Financial management**

Budgets should reflect public commitments based on the stated and agreed priorities. These should be made publicly available at agreed points in the preparation and decision-making phases of the budget process. The public must have opportunities to verify that stated priorities are in fact reflected in the actual budget funding, and with possibilities for complaints and recourse when there appear to be discrepancies between statements of intent and actual allocations.

38. European Network of Equality Bodies (2020)

Fiduciary risks must be identified early and prepared for with appropriate response mechanisms embedded within organisational policy. Internal control and oversight bodies with clear mandates should be in place, and external audits by credible and certified public auditors should be made public in an easily accessible manner. Summaries of audit reports and other information on budgets and budget processes should be made available in a language as simple and clear as possible, to make the contents understandable for the general public.

## Conflict of interest management

A conflict of interest occurs in a situation where the public duty and private interests of a public official diverge such that the private interests could improperly influence the performance of *official* duties and responsibilities<sup>39</sup>. An *apparent* conflict of interest exists when outside observers think there may be danger that such private interests could impact the performance of public duties. Even if this is not in fact happening, the fact that there is some form of legitimate suspicion about this may undermine the credibility of the official's decisions and actions, potentially weakening the "social contract" referred to above. This itself can therefore become an issue and is something that should be avoided by ensuring arm's length dealings, transparency in decision making processes, etc. A potential conflict of interest occurs when a conflict of interest could arise in the future if a public official was to partake in an activity where their private interests may be seen to possibly become important.

### 1. Real and perceived conflicts

All actors involved in government, whether at national, regional or local levels, should take steps to avoid both real and perceived conflicts between their private affairs and public duties. With due consideration to all relevant facts and circumstances, a risk of perceived conflict of interest within public office should in most cases be treated as if it were an actual conflict.

Any functions and activities which are deemed incompatible with the holding of local elective office should be determined by statute or fundamental legal principles, and public officials and the public at large should be made aware of what these are and how compliance will be monitored and reported.

One good practice increasingly applied is that those with a position or power for taking important decisions must declare their direct and indirect personal interests, functions, occupations, mandates, assets and liabilities that may in some way be seen to potentially lead to conflict of interest situations.

### 2. Merit-based recruitment and retention

The recruitment of professional staff and management is to be based on merit relevant to the explicit criteria for the given position. The merit of those contracted is to be documented and accessible to relevant oversight and control bodies, and procedures and criteria for recruitment are to be made publicly available if requested.

Appropriate and adequate training opportunities, remuneration and career prospects are important incentives for attracting and retaining candidates who possess the desired merit and qualifications, and it becomes particularly important that the public sector can provide credible guarantees of fair treatment and promotions based on merit.

### 3. Post-public employment

This occurs when public officials use, or appear to use, information or connections acquired while in office to benefit themselves or their associates after they leave government. The conflict of interest in such cases can arise before the officials actually leave office. For example, a serving public official can give preferential treatment to a business firm with a view to obtain employment with them once their position in public office comes to a close.

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39. OECD (2003), "Managing Conflict of Interest in Public Services"

In principle, while performing their functions, public officials should avoid any measures that provide them with a personal or professional advantage once their duties and functions have been relinquished.

#### **Textbox 7 | How Australia, New Zealand and Norway address the potential for post-public employment conflicts**

- Within the **Australian** Public Service, agencies include references to post-public employment within their contracts with private sector organisations.
- In **New Zealand**, employment contracts for chief executives include post-public employment clauses that prescribe a cooling off period to limit the paid activities they can engage in after they leave the State Service.
- **Norway** adapted separate Post-Employment Guidelines for the Public service that can be adapted and incorporated into employment contracts for public service employees.

#### **4. Reporting and recourse**

All organisations and institutions involved in local and regional governance should have clear and accessible procedures and guidelines on how to report real and perceived perceptions of wrongdoing. At a minimum, it is recommended that these procedures cover:

- A description of what is considered a wrongdoing
- The way that the report is handled, recorded and responded to
- An established channel for confidential advice / consultation in regard to the suspicion
- The designation of the official or institution to whom the suspicion can be reported
- The assurance of confidentiality if it is wished by the reporter
- The requirement to handle the report in a timely manner
- The circumstances under which a wrongdoing (real or perceived) can be reported externally
- The legal protection of employees who report suspicions of wrongdoing (real or perceived)

**Annex 1:**

**Tool to measure ethics within public agencies (from Australian Public Service Commission)**

Each tick in the green zone means you are on track to implementing the Ethical Framework.

Each tick in the orange zone means you have gaps implementing the Ethical Framework.

Each tick in the red zone means you are less likely to have implemented the Ethical Framework.

**MONITOR AND REVIEW TO CONTINUALLY IMPROVE**

**WORK STILL TO BE DONE**  
Refer to the Good Ethical Practice Guides in the PSC ethics resources for assistance.

**IMMEDIATE ACTION RECOMMENDED**  
Refer to the Good Ethical Practice Guides in the PSC ethics resources for assistance.

Ethical framework for the government sector		
<p>■ My agency's values are based on the objective, values and principles of the Ethical framework for the government sector</p>	<p>■ My agency's values are not based on the objective, values and principles of the Ethical framework for the government sector</p>	<p>■ My agency does not have explicit values</p>
<p>■ My agency's code of conduct is based on the Ethical framework for the government sector</p>	<p>■ My agency code of conduct has not been revised in the last 12 months</p>	<p>■ My agency does not have a formal code of conduct</p>
<p>■ All employees understand the role of codes and when and how to use them</p>	<p>■ Some employees understand the role of codes and when and how to use them</p>	<p>■ Employees do not generally understand the role of codes and when and how to use them</p>
<p>■ We promote my organisation's Code of Ethics and Conduct to our employees, clients and the community</p>	<p>■ We promote our organisation's Code of Ethics and Conduct to our employees</p>	<p>■ We do not promote our organisation's Code of Ethics and Conduct</p>
<p>■ All of our employees are aware of the need to act ethically with customers and clients</p>	<p>■ My managers are well versed in ethical conduct if a customer is unhappy with one of our employees</p>	<p>■ Most of our employees do not know how to act ethically with customers and clients</p>

**Annex 2:**

**Tool to define values within a public agency (the Finnish model)**

**A model on defining values in practice**

Values in practice			
	Value: _____		
	How can this value be seen outwardly?	What does it require of personnel?	What does it require of management?
Normal level = good present level			
Peak performance = future target level			

### What are Local Public Enterprises?

Local Public Enterprises (LPEs) play an important role in the provision of a range of public services. Very often, LPEs dominate the provision of basic infrastructure and other essential services. However, their use and functions vary considerably across countries, determined largely by the legislative and economic leanings on the 'correct' allocation of public service delivery between the government and the private sector.

#### Textbox 1 | A taxonomy of LPEs<sup>40</sup>

From an organizational governance perspective, it is possible to distinguish three types of LPEs:

- **Directly managed LPEs** are those in which the public sector maintains decision rights.
- **Corporatized LPEs** are owned exclusively by local governments, but decision rights lie with the enterprise's management.
- **Mixed public private LPEs** occur when there is a private share in ownership and operation.

Whether the governance of LPEs is managed by the public officials, the private sector or, as is documented in Bulgaria, a hybrid of both, their principled operation is central to the provision of sound services that benefit the public.<sup>41</sup>

### The management of LPEs – principles in action

An overview of the principles, standards, guidelines and practical tools to ensure the sound 'management' of LPEs within this section includes:

- The leadership that steers their overall strategic direction; and
- Those who maintain the day-to-day operation.

Across both of these complementary and interlinked aspects of management, fundamental principles enshrined in membership of the EU and endorsed by the Council of Europe are, at a minimum, expected to be adhered to by all LPEs involved in the provision of public services. These are captured and summarised below<sup>42</sup>.

#### 1. The rule of law

**Rule of Law** is at the heart of the social contract between the state and the individuals under its jurisdiction. When this principle is not respected, it may have wide-ranging consequences for individuals and communities. As such, fundamental legal mandates should determine the functions and activities carried out by LPEs. Within LPEs, personnel from leadership to administrative staff have the responsibility to abide by, and enforce the widespread adoption of the law and judicial guidelines and, through their actions, translate legal rules and regulations into everyday practice.

When public service provision is correctly and meaningfully situated within a Rule of Law (RoL) framework, the 'users' of the system – i.e. the public – become rights-holders, with the ability to legally claim services of a certain quality, and the agency to hold LPEs accountable to their mandates.

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40. Saussier, Stephanie и Klien, Michael (2014). *Local Public Enterprises – OECD Report*

41. Open Society Foundation and the European Commission (2017) – „*State Owned Enterprises: Preventing Corruption and State Capture, the case of Bulgaria*”

42. Principles drawn from the Council of Europe (1985), “*The European Charter of Local Self-Government*”, and Council of Europe (1997), “*Twenty guiding principles on the fight against corruption*” Council of Europe (2008), “*The strategy for innovation and good governance and Local Level: The twelve principles of good democratic governance at local level*”; and Council of Europe and the Congress of Local and Regional Authorities (2018), “*European Code of Conduct for all Persons involved in Local and Regional Governance*”

## Textbox 2 | How to assess rule of law within public services<sup>43</sup>

The United Nations Development Program (UNDP) provides guidance on how to measure and determine appropriate actions to ensure the rule of law is embedded into the activities of an organisation. Adapted in table 1 below is the overview they provide on how steps may be taken to assess the level of respect for the rule of law within the operations and management of LPEs within a sector. The suggested self-assessment is designed to be both time and cost efficient.

**Table 1: A method for self-assessment of the rule of law within LPEs**

Step	Objective	Action	Timeframe
Inception Institutional and Context Analysis (ICA) <sup>44</sup> and Risk Assessment <sup>45</sup>	Identify participating LPEs, get an understanding of the political economy of the sector by means of an ICA exercise, establish ownership and lead processes and agree on scope and objectives of the assessment	Prepare practical and logistical arrangements (procurement if necessary). Establish an Advisory Committee and identify an external expert to conduct impartial data collection and analysis	2-3 weeks
Formal mapping	Understand the legal and institutional framework applicable to the sector and the participating LPEs	Conduct the formal mapping in close cooperation with external expert and legal experts at the participating agency.	2-4 weeks
Agency staff survey	Map perceptions of LPE personnel, from leadership to employees, on the strengths and challenges of the rule of law principle in action	Administer the LPE survey with potential to supplement survey findings with interviews.	2-3 weeks
User survey	Map perceptions of users of LPE services	Administer the user survey with potential to supplement survey findings with interviews. Apply profiling for selection to ensure the survey correctly targets actual users of LPE services.	4-6 weeks
Step	Objective	Action	Timeframe
Data analysis, triangulation and report writing	Identify and categorise main findings, conduct a validation exercise by presenting results and welcoming feedback from assessment stakeholders to guarantee credibility of results	Prepare preliminary report and hold a stakeholder seminar.	4-6 weeks
Presentation and dissemination of results	Once stakeholder feedback is incorporated, disseminate the findings to target groups and broad audiences, including national/local authorities, NGOs, international organisations etc.	Publish and disseminate final report and organise follow-up events with key stakeholders	2 weeks
Follow up actions (training, policy and administrative reforms, etc.)	Address the capacity gaps and organisational and institutional bottlenecks that have been identified in the self-assessment process	Political and administrative action at the municipal level, lobbying and advocacy at higher levels for reforms that improve the mandate and or competency level of LPEs.	Ongoing

43. United Nations Development Programme (2014) *“Guidance Note for Assessing Rule of Law in Public Administration”*

44. Use can be made of UNDP’s Institutional and Context Analysis methodology, with further information found within UNDP (2012) *“Guidance Note for Institutional and Context Analysis.”* [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/oslo\\_governance\\_centre/Institutional\\_and\\_Context\\_Analysis\\_Guidance\\_Note.html#:~:text=The%20Institutional%20and%20Context%20Analysis,analysis%20to%20support%20development%20programmes.&text=It%20offers%20practical%20guidance%20to,to%20assess%20the%20enabling%20environment.](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/oslo_governance_centre/Institutional_and_Context_Analysis_Guidance_Note.html#:~:text=The%20Institutional%20and%20Context%20Analysis,analysis%20to%20support%20development%20programmes.&text=It%20offers%20practical%20guidance%20to,to%20assess%20the%20enabling%20environment.)

45. Several tools are available for this purpose: UNOPS Strategic Risk Management Planning Framework (2010), AusAid Risk Management Framework and Policy (2012) as well as the OECD/INCAF report, *Managing Risks in Fragile and Transitional Contexts* (2011)

## 2. Ethical conduct

**Ethical conduct** encapsulates the expectations that citizens have of those involved in the provision of services to act with impartiality, legality and integrity on a daily basis. For essential services, ethical conduct includes the notion that access to such services must be preserved and made widespread, in particular for the most disadvantaged segments of the population.

To boost the citizenry's faith and trust in the conduct of the public service, the development of ethical standards that guide the provision of services and the exercise of public authority can be useful. As a practical example of what ethical behavior in the provision of public services should, at a minimum, entail, Textbox 3 below provides an overview of the ethical guidelines developed by the Norwegian Government for public service delivery.

### Textbox 3 | Norwegian ethical guidelines for public service<sup>46</sup>

- **Concern for the citizenry:** Service providers are obligated to take account of public interests, strive to equal treatment based on respect for the individual
- **Regard for the State's reputation:** Personnel within public service organisations are required to behave in a manner that avoids damage to the State's reputation
- **Duty of obedience:** Public officials are required to comply with the legal rules and ethical guidelines that are in line with the directives of their superiors, with the exception of those directives that are illegal and out of sync with the law.
- **Duty to report:** To avoid or limit losses and damages, public officials are required to report circumstances which could cause damage or loss of public credibility and trust.
- **Duty of efficiency:** The preservation of public resources must be sought after, and abuse or waste of public funds must be pursued by a balance between efficiency and the use of resources, thoroughness, quality and good administrative practice.
- **Freedom of information:** The general public should be able to understand the activities conducted by public enterprises and have access to further information if desired.
- **Active duty of disclosure:** Information of significance must be disclosed and accessible in a manner that effectively communicates correct and adequate information.
- **Employees freedom of expression:** Officials involved in the provision of public services must enjoy the fundamental right to express their opinions, critical or otherwise, about State activities and all other matters.
- **Whistleblowing:** There must be established channels to report circumstances involved in the provision of public services that are worthy of criticism. Before a report is filed, an attempt should be made to sort the matter in house, through an impartial mediator.
- **Impartiality:** Public officials shall not behave in a manner that may impair faith in their impartiality.
- **Outside and second jobs:** A public official cannot have outside or second jobs, directorships or other paid assignments that undermine trust in the public service.
- **Gifts and other privileges:** Public officials must not use their position to gain an undue advantage for themselves or anyone else.
- **Professional independence:** The principle of professional independence must guide how public officials discharge their duties.

Prior to the development of specific guidelines for ethical conduct, dependent on the type of LPE, it may be useful and necessary to conduct benchmarking and assessment exercises to determine the current ethical standing within the organisation, as well as the ethical risks it faces now, or may face in the future. Guidelines and comprehensive methodologies for such approaches to strengthening public ethics have been developed by the Council of Europe, summarized in Textbox 4 below.

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46. The Norwegian Ministry of Modernisation (2009) – "Ethical Guidelines for the Public Service."  
<https://www.regjeringen.no/en/dokumenter/Ethical-Guidelines-for-the-Public-Service-2/id88164/>

#### Textbox 4 | A Public Ethics Toolkit<sup>47</sup>

The Public Ethics Toolkit, developed by the Centre of Expertise for Local Government Reform, is accessible online and is designed to be adapted to various country contexts. The tool is meant to practically assist committed local authorities to assess, ensure and improve public ethics standards and compliance in the short and medium term.

The toolkit consists of two complementary parts. The first one deals with the most important issues related to the prevention of corruption risks in public administration. The second part presents the Public Ethics Benchmark and the methodology of its application. Both parts may be used together or separately, depending on the scale of the project and local context.

### 3. Transparency

The principles of transparency and accountability state that any local government decisions which involve public funds must be measured, recorded, with accessible information. If the information is requested, LPEs must always be able to effectively inform the community and other interested parties about the financial and organisational aspects of their work.

While legally endorsed standards and regulations are of course an important start point for the incorporation of transparency into the day to day operations of local government, civil society also has an important role to play in mobilizing support and action, as can be seen from the below captured example program from Poland.

#### Textbox 5 | The Transparent Poland programme<sup>48</sup>

The 'Przejrzysta Polska' (Transparent Poland) program was established in 2003 as the largest transparency and accountability program in Poland. With a statewide mission to *improve the quality of public life and local governance*, and invigorate civil society, it operates as a coalition between the media, NGOs, international donors and individuals with past or present prominence in public life.

Its functioning is based on a collaboration between those districts (local government areas) that are willing to cooperate with civil society to improve local governance, wipe out corruption and other unethical behavior and increase access to public information for regular citizens. The program sets forth six rules to guide the functioning of public office: 1) transparency, 2) citizens participation, 3) no toleration for corruption, 4) professionalism, 5) predictability and 6) accountability. Every local government that participates is expected to fulfil regular tasks that relate to each of the six rules: for example, creating a road map of local initiatives, sharing materials that accessibly explain the role and creation of budgets and involving the community in community strategy development.

### 4. Inclusive governance

Sound leader led governance is reflected in the ability of key people within an organization to implement effective strategies and policies that improve everyday service delivery and organisational performance. For leadership to be effective, all parties concerned in the day to day operation of LPEs should be clear about the role and functions of governing bodies, and be aware of the channels available for monitoring and, if necessary, updating them.

Core to governance is the recognition that while it may start with the leadership, its functioning depends largely on the ability and willingness of employees and personnel to follow directives. While the ability of personnel is largely tied to their competencies, their willingness is a matter of how they experience the organisational culture of an enterprise: how they relate to the management, whether they feel a part of a cohesive team, and whether they feel they have a say and role to play in its strategic direction.

LPE performance and governance can be enhanced by setting a strategic direction and purpose that people can relate to: both by harnessing the opinions and resources of personnel within the organisation, as well as forming coalitions and partnerships with actors in the surrounding local environment such as citizens and civil society that can add vital opinions to strategic development and foster needs-based and innovative approaches to service delivery.

47. Council of Europe, Centre of Expertise for Local Government Reform (2017) – Public Ethics Toolkit.

48. The European Research Centre for Anti-Corruption and State-Building – Transparent Poland <https://www.againstcorruption.eu/projects/transparent-poland-i-massive-action/>

## Textbox 6 | How to set and manage the strategic direction and organisational purpose<sup>49</sup>

Governing bodies (boards, management committees, etc.) should have the responsibility to make a clear statement of the *purpose, vision and mission* of the organization, and use this as a basis for planning. These should be developed based on the needs of service users and regularly reviewed, to ensure that service delivery continues to contribute to intended outcomes. Practically, this can be done by:

- Deciding how the quality of service for users is to be measured, through engagement with users from all backgrounds on their needs from service provision. Systems should then be implemented to review the service quality regularly
- Collecting and comparing information about the efficiency, effectiveness and quality of service provided by organisations with a similar mandate, and performing an analysis on why there may be differences
- Delegate to non-executive directors the specific responsibility to ensure that information about user experiences are collected, brought to the attention of the governing body and used in decision making

## 5. Financial oversight

To oversee the activities of LPEs and ensure they meet both the expectations of the community and their legal mandates, mechanisms to measure accountability and provide oversight of daily operations are important. If local governments do not know where to start, a benchmarking exercise on the current state of financial oversight and accountability can be undertaken.

## Textbox 7 | Local finance benchmarking<sup>50</sup>

Local finance benchmarking (LFB) is a tool designed by the Council of Europe to contribute to improving local financial management and fiscal accountability for local authorities in all European countries. Such benchmarking tools are used primarily for diagnostic purposes, to help public service organisations identify the areas of needed intervention and to prioritize development actions for better performance, increased efficiency and targeted, needs-based policy.

Monitoring reports conducted at regular intervals and made accessible to the public go a long way to promote accountability and provide oversight on publically financed activities. At a minimum, such reports should summarize the overall financial performance of the sector as well as provide information on individual companies. Well-designed reports usually encompass five main sections, captured in Textbox 8 below.

## Textbox 8 | IMF guidance on important themes for LPE monitoring reports<sup>51</sup>

- **An overview of the sector and highlights of LPE** activities during the year, including information on policy decisions and significant transactions that impacted the sector
- **A full list of the LPEs** that the government has a stake in, broken down by industry, size and type of ownership. For example, majority or minority owned companies' strategic companies or candidates for privatization
- **An overview of how the government** has exercised its ownership policy, including the appointment of board members, dividend policy, organisational and governance arrangements and financial and public policy targets.
- **Special topics** such as changes in the policy framework for LPEs, issues of organisation and management, and the impact of LPEs on government finances and the economy.
- **Information on individual companies**, comprising a summary of operations, social responsibility objectives, sustainability targets, abridged financial statements and indicators of financial performance for current and previous years. The report should also provide a list of board members, key personnel and auditor, as well as information on the government's shareholding and financial targets, together with key performance indicators.

49. The Office for Public Management and the Chartered Institute of Public Finance and Accountancy (2004) – Good Governance Standard for Public Services

50. The Council of Europe (2017) Local Finance Benchmarking: a shared tool for improved finance management.

51. The International Monetary Fund (2016) – “How to improve the Financial Oversight of Public Corporations”

## 6. Responsiveness and innovation

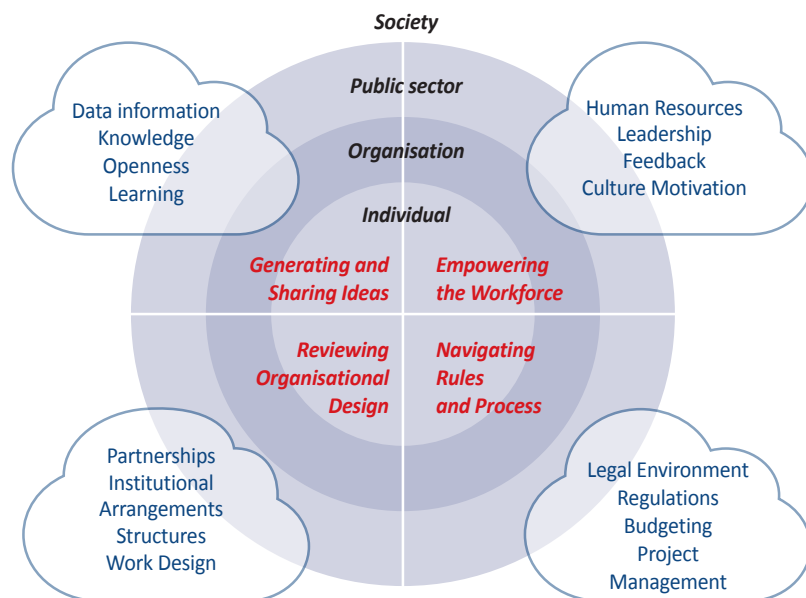
For public service delivery to meet the needs of the population in a manner that reflects the evolving political, economic and social circumstances of regions, there should be a readiness for those within organisations delivering essential services to look at new ways of delivering these services or see if new kinds of services may in fact address their needs better.

The public sector and LPEs are not normally known for being the most innovative or piloting. This is in part in keeping with their mandate of providing public services in a predictable and cost-efficient manner, meaning that risks and new transaction costs are to be kept low.

However, technology is evolving, opening up possibilities for providing services and bringing the LPE closer to its beneficiaries in new and low-cost ways – if the target population has access to the new communications technology, for example. At the same time, LPEs are to ensure that they do not transfer negative costs – environmental, structural, economic, social – to external actors or to future generations, requiring them to come up with new solutions to such challenges.

Figure 1, drawn from OECD, illustrates the kinds of considerations that should be part of an organisational innovation process. Looking at how organisational attributes (structures, rules and processes, technologies, culture, etc.) impact innovation is a central element to public sector innovation. This diagram has at its core the individual and then works its way outwards. While this is a rather abstract model and perhaps not the simplest of structures, it provides a conceptual framework for thinking about the challenges of innovation<sup>52</sup>. But the main concern of course should be the extent to which a given innovation is likely to improve the quality, price, availability of the LPE’s services to the intended beneficiary groups.

Figure 1 | The OECD Public Sector Innovation Framework



A key concern with such processes should always be an analysis of likely **distributional** effects across the various beneficiary groups. Innovations tend not to be “neutral” in the sense that everybody gets an equal share of the benefits. Possible distributional biases need to be understood and – if need be – compensated for if in particular the more marginal groups are the ones who benefit the least from such innovation. This is hence an issue that should be borne in mind when looking at an LPE’s organisational development and evolution of services, ensuring that they are in line with core needs of citizens.

52. OECD (2014) – “Innovating the Public Sector: from Ideas to Impact – Building Organizational Capacity for Public Sector Innovation”

There are several tools available and accessible online to stimulate innovation within the public sector. These range from strategic foresight guides to public problemsolving canvases. Some of these tools are captured in Textbox 9.

#### Textbox 9 | Global examples of toolkits for innovation<sup>53</sup>

- **The Innovation Toolkit Navigator** is designed to stimulate public sector innovation and transformation and is curated by the OECDs Observatory of Public Sector Innovation.<sup>54</sup>
- **20 Tools for Innovating in Government** was developed by the UK innovation foundation (Nesta) and contains an inventory of guides proven to help innovation flourish in government.<sup>55</sup>
- **The Human-Centred Design Playbook** is a guide produced by the Victorian Government in Australia, targeted at public sector employees for the design, procurement and management of projects that put the needs of humans and service users to the heart planning.<sup>56</sup>
- **The Futures toolkit for policy-makers and analysts** is maintained by the UK Government Office for Science, and provides a set of tools and techniques to help government officials use long-term strategic thinking in policy making.<sup>57</sup>

### 7. Collaboration and cooperation

It is unlikely that changes to persistent negative practices like corruption and poor governance will come from one agency or one organisation alone. Instead, the need to share, understand and integrate diverse understandings and experiences of the issue in question is vital. Collaborative networks between public sector managers, citizens, not-for-profit actors and other key players in the economy – for example, the private sector – are critical vehicles for addressing persistent problems.

In order to resolve such problems, it may be useful to combine core government responsibilities with an obligation to build public sector capacity for addressing, managing and cooperatively and effectively responding to the challenges of sound, ethical delivery of services.<sup>58</sup> Textbox 10 below provides toolkits that can be used to promote public sector collaboration.

#### Textbox 10 | Toolkits for public sector collaboration<sup>59</sup>

Both toolkits below recognise that ‘wicked problems’ of our time, such as corruption, ethical deficits and declining public trust, cannot be solved by sectors in isolation. They therefore promote the importance of cross-sectoral collaboration and provide useful tools for implementing this in practice.

- **Working together, a toolkit for campaigns collaboration across the public sector** developed by the UK Government Communication service provides a four-step road map on how to collaborate to engage effectively within and across sectors that deliver socially vital services.<sup>60</sup>
- **The Intersector toolkit** is designed by the New York based not-for-profit organisation, the Intersector Project, to diagnose, design, implement and assess successful, consensus-based initiatives for cooperation and collaboration.<sup>61</sup>

53. Australian Department of Industry, Science, Energy and Resources (2020) – “Tools for public sector innovation.”.. <https://www.industry.gov.au/government-to-government/public-sector-innovation-network/tools-for-public-sector-innovation>

54. <https://oecd-opsi.org/toolkit-navigator/>

55. <https://www.nesta.org.uk/report/20-tools-innovating-government/>

56. <https://www.vic.gov.au/download-human-centred-design-playbook>

57. <https://www.gov.uk/government/publications/futures-toolkit-for-policy-makers-and-analysts>

58. UNDP Global Centre for Public Service Excellence (2015) – “From Old Public Administration to the New Public Service”

59. UK Government Communication Service (2016) – “*Working together: A toolkit for campaigns collaboration across the public sector*” and The Intersector Project (2020) – “*The Intersector Toolkit: Tools for Cross-Sector Collaboration.*” <http://intersector.com/toolkit/>

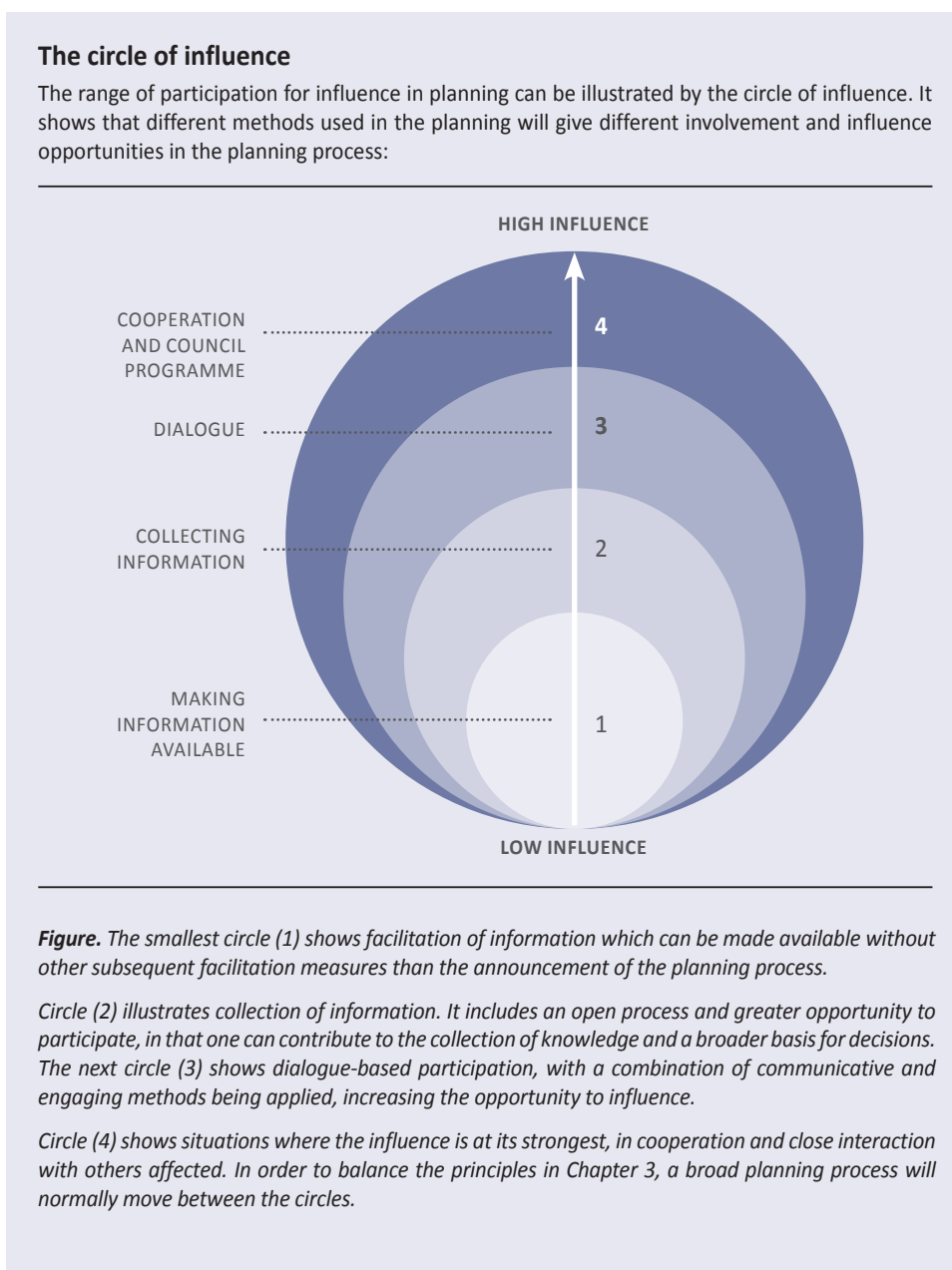
60. <https://gcs.civilservice.gov.uk/publications/working-together-a-toolkit-for-campaigns-collaboration-across-the-public-sector/>

61. <http://intersector.com/toolkit/>

### Public participation in shaping local agendas

Public participation, or citizen participation, is an individual's or a group's right to take part in and influence public assessment and decision-making processes and is a key feature for a well-functioning democracy. Essentially it means that those who live in a community get involved in both the planning and the decisions for its future. The communication lines with public officials should be open and transparent, as illustrated in the circle of influence of citizens vs. elected officials in figure 1<sup>62</sup>.

Figure 1: The Circle of Influence



62. Norwegian Ministry of Local Government and Modernization (2014), "Guide: Public Participation in Planning"

The aim for good public participation should be to:

- Ensure good solutions that pay attention to everyone's needs
- Enable all affected and interested parties to present their views
- Promote creativity and enthusiasm, and be an arena for democratic participation in the local community
- Provide a solid basis for decision-making

By engaging in public participation, one ensures:

- Quality information as a basis for plans and decisions.
- With a diverse community you ensure a nuanced and comprehensive knowledge base for communities
- Local ownership and identity
- Mutual learning and democracy development.

### **How to engage and encourage public participation:**

Access to Information is key to civic mobilization and for building public awareness of new information and granting the ability to understand it and see decipher it<sup>63</sup>:

#### **1. Rule of Law**

- There needs to be clear legislation guaranteeing access to information, including a general right to request and receive information to all – individuals and organisations, including vulnerable and marginalized groups – in line with international standards.
- Limitations to information should be narrowly and clearly defined by law and reviewed by an independent body.
- Legislation on access to public information should establish strong independent oversight bodies, commissions, or ombudspersons, to make sure that it is respected and implemented.

#### **2. Transparency**

- Public participation/meetings of public councils include open and online consultation processes and online access to related information and documents. Here one can use social media ensuring to avoid the risk of a digital divide, though there are a variety of other dissemination methods that can be applied, depending on the national and regional context.
- Information regarding public decision-making processes should be disseminated as widely as possible, using a variety of means and media, including local newspapers and other printed media, social media, TV/radio-broadcasts, mails, telephones/SMS, online applications, issuing open invitations for dialogue using civil society and other networks, to ensure timely information to interested parties and the public.
- Ensure that permanent and ad hoc, formal, and informal, channels or platforms for dialogue exist between decision-makers/representatives of state/public administration and civil society actors, in order to allow for dialogue, information sharing, and advocating on particular issues.

### **Monitoring and Accountability: strengthening ability of local society to hold authorities to account<sup>64</sup>**

- Establish a system of monitoring and reporting on compliance with binding standards on public participation in decision-making processes by designated independent bodies

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63. Council of Europe (2017), "Guidelines for civil participation in political decision making"

(such as national human rights institutions) with the participation of associations. This requires that the environment for civil society to participate is in fact conducive to this and is in itself an area that should be regulated and monitored (see the reference to a Tool Kit below).

- Set up an online Promise Tracker to monitor politicians' campaign promises and progress through their term in office (see Textbox 1).
- Mechanisms should be set up to monitor and control laws, regulations, structures and/or other modalities that promote the participation of associations in public decision-making processes.
- The assessment of public participation in decision-making processes in a given State should not only take into account regulations and procedures that are in place but the way in which they are being implemented in practice (to ensure the equal involvement of various groups and associations, the acceptance of all views – including critical ones, and that the proposals and recommendations put forward by associations are actually taken into account).

## Promote participation in elections

- Seek new ways to enhance civic-mindedness and to promote a culture of democratic participation shared by communities and local authorities.
- Develop the awareness of belonging to a community and encourage citizens to accept their responsibility to contribute to the life of their communities.
- Promote the balanced participation of women and men in local politics and local public life.
- Review polling stations (number, accessibility, opening hours, etc.).
- Introduce new voting options, corresponding more closely to the aspirations of the citizens of each district (early voting, postal voting, post office voting, electronic voting, etc.).
- Introduce specific forms of assistance (for example for persons with disabilities or illiterate people) or other special voting arrangements for particular categories of voters (voting by proxy, home voting, hospital voting, voting in barracks, voting in prisons, etc.)

## Toolkit

The Balkan Civil Society Development Network (BCSDN) in 2013 published its **Balkan Civil Practices note # 9**, *“Monitoring Matrix on Enabling Environment for Civil Society Development”*. It was the result of wide consultations across the civil society in the Western Balkans, but with technical support and advice from the *International Center for Non-profit Law (ICNL)* and the *European Center for Nonprofit Law (ECNL)*, two experienced legal advisory milieus. This 76-page Note is a structured consideration regarding fundamental conditions for civil society to be able to play its role in the democratic development of society, where BCSDN applies this for publishing annual monitoring reports<sup>64</sup>. The 76-page booklet contains operational indicators that cover the three key dimensions divided into nine sub-areas: :

- Basic Legal Guarantees to Freedoms: Freedom of association and related freedoms such as those of assembly and expression.
- Framework for CSOs' financial viability and sustainability, including issues such as tax regime, public funding, human resources.
- Government-CSO Relationship, looking at framework for cooperation, involvement in policy-/decision-making, service provision.

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64. Council of Europe (2018), *“Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life”*

65. <http://www.balkancsdn.net/category/products/products-monitoring-ee-csdev/>

## Stages of political decision making which can bring in public opinion / build public consensus:

- Ensure that the participation of citizens has a real impact on decision-making processes, that citizens are well informed about the impact of their participation and that they see tangible results. However, local authorities should be honest with the public about the limitations of the forms of participation on offer and avoid raising exaggerated expectations about the possibility of accommodating the various interests involved, particularly when decisions are made between conflicting interests or about rationing resources.

## Give citizens more influence over local planning and, in a general manner, over strategic and long-term decisions; more specifically:

- Give citizens the opportunity to participate in different phases of the decision-making process concerning such decisions. These phases can be preparation, adoption, implementation, evaluation and reformulation of local policies.
- Illustrate each phase of the process by means of lucid, intelligible material that is readily accessible to the public, using, if possible, in addition to the traditional methods (maps, scale models, audio-visual material) other means available through new technologies.

## Methods of raising public engagement / public literacy in evaluating performance.

- Develop systematic feedback mechanisms to involve citizens in the evaluation and improvement of management of local affairs and service delivery, such as user surveys, user panels, performance indicators, or in the choice between different service providers, in order to enhance the quality of decisions and services and increase accountability.

## Tracking election promises – identifying areas of focus and direction

- Parliamentary/council/local level equivalent voting records and session transcripts are easily accessible and made public.
- Transparency register that links promises to relevant ministry / portfolio of responsibility.
- Regular reporting against each promise (short, medium, long term goals).

### Textbox 1 | Online trackers

Online trackers for political promises/campaign promises are an example for both transparency and accountability for the people/party in question. Additionally, it's open to the public, easily accessible (if you have internet), and should be set up in an understandable and legible manner. Below are two examples of such promise trackers

- Australia's Promise Tracker; <https://www.abc.net.au/news/factcheck/promisetracker/>
- Politifact's Trump-O-Meter: <https://www.politifact.com/truth-o-meter/promises/trumpometer/>

## Information sharing – clear, accessible<sup>66</sup>:

Authorities should address the needs and overcome specific challenges confronting minority, disadvantaged, vulnerable or marginalized persons or groups wishing to participate in public decision-making processes. They should put in place legal guarantees and organisational mechanisms to ensure more inclusiveness of public decision-making processes, while taking care to diversify the structures, methods, mechanisms, tools and types of public participation,

66. Council of Europe (2018), "Recommendation CM/Rec (2018) 4 of the Committee of Ministers to member States on the participation of citizens in local public life", Transparency International (2015) "Local Governance Integrity: Principles and Standards"

ensuring that they are user-friendly, and include new technologies, but are not limited to the use of online tools. The tools could include, among others, public announcements regarding draft policies and laws, consultation meetings, the posting of information on official websites, use of the Internet and of new technologies, civil society networks and social media, with the particular aim to enhance youth participation.

To avoid the risk of a digital and generational divide, some forms of generational partnerships could be envisioned whereby young people who may be more aware of new technologies may assist older generations and/or other measures whereby the risk of digital divide between urban and rural areas should be taken into consideration.

### **Standards for mayors<sup>67</sup>:**

- Examine the issues relating to plurality of elective office, so as to adopt measures designed to prevent simultaneous office-holding where it would hinder the proper performance of the relevant duties or would lead to conflicts of interest.
- Authorities shall not exclude certain persons, groups or associations from participation in public decision-making processes and, particularly, associations should not be discriminated.
- Shall ensure that public resources are not used for party-political work or private tasks.
- Shall delegate tasks to the right level, both internally and externally.
- Shall not cover up errors and omissions but facilitate learning from them.
- Shall present cases of doubt and dilemmas to an immediate leader, according to line management principle, and follow the instructions given, unless they are illegal. In such a case they must give clear notice and not follow the instructions.
- The public good is placed before individual interests.
- Openness, transparency and accountability.
- Public authorities, NGOs and civil society at large may consider establishing different platforms as a permanent space for dialogue and participation. Such platforms may include regular public hearings, public forums, advisory councils or similar structures.
- Public services are delivered, and requests and complaints are responded to within a reasonable timeframe.
- Decisions strive to internalise all costs and not to transfer problems and tensions, be they environmental, structural, financial, economic or social, to future generations.
- All decision-makers, collective and individual, take responsibility for their decisions.

### **Standards for councils<sup>68</sup>:**

- Examine the issues relating to plurality of elective office, so as to adopt measures designed to prevent simultaneous office-holding where it would hinder the proper performance of the relevant duties or would lead to conflicts of interest.
- Organizers of public consultations should be impartial and public decision-making processes should be opened i.e., offer possibilities for all interested associations, including smaller civil society groups, to get engaged even if they are not involved in regular discussions or institutionalized frameworks for participation such as consultative bodies (e.g. public councils) and appointed government bodies or working groups (see Figure 2 below for an example of decision making process).

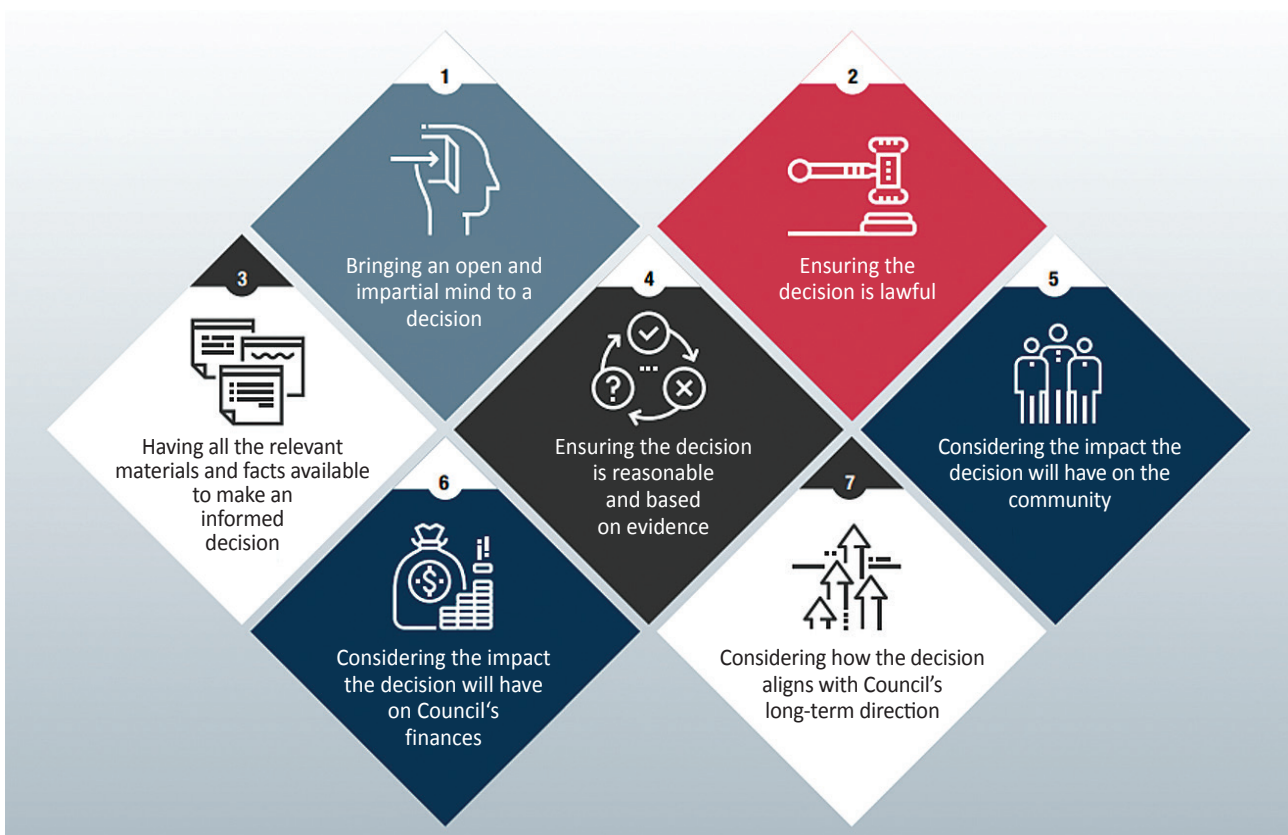
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67. Council of Europe (2018) *“European Code of Conduct for all Persons Involved in Local and Regional Governance”*, Council of Europe (2017), *“Guidelines for civil participation in political decision making”*; Council of Europe (2008), *“12 Principle of Good Democratic Governance”* and Council of Europe, *“The Strategy for Innovation and Good Governance at Local Level”*

68. Council of Europe (2017), *“Guidelines for civil participation in political decision making”*, Council of Europe, *“The Strategy for Innovation and Good Governance at Local Level”*, Logan City Council *“Decision making Framework”*

- Authorities shall not exclude certain persons, groups or associations from participation in public decision-making processes and, particularly, associations should not be discriminated.
- Shall not cover up errors and omissions but facilitate learning from them.
- Shall present cases of doubt and dilemmas to an immediate leader in accordance with line management principles, and follow the instructions given, unless they are illegal. In such cases they must give clear notice and not follow the instructions.
- The public good is placed before individual interests.
- Openness, transparency and accountability.
- All decision-makers, collective and individual, take responsibility for their decisions.
- Dialogue is a structured, long-lasting and results-oriented process which is based on mutual interest in the exchange of opinions between public authorities, individuals, NGOs and civil society at large.

Figure 2: Example of a decision-making process<sup>69</sup>



#### Toolkits:

- Leadership Academy Programme – LAP: <https://www.coe.int/en/web/good-governance/lap>  
The Leadership Academy Programme (LAP) course is an interactive training programme for public authorities of all levels that seeks to develop leadership for organisations, leadership for strategy and leadership for capacity building over 3 stages.”
- Strengthening Public Ethics and Preventing Corruption in Public Administration. Toolkit for Public Authorities (2017): <https://rm.coe.int/1680746d52>

69. Image taken from Logan City Council “Decision making Framework”

- Toolkit on Modern and Effective Human Resources Management: <https://rm.coe.int/1680746cb9>

5th Toolkit issued by the Council of Europe’s Centre of Expertise for Local Government Reform: “Instead of offering ready-made solutions, the Toolkit shows the process that is required for assessing the needs of local authorities in respect to the development of human resources capacities and management. Bringing all concepts, models and best practices together from several European local authorities, it aims at making local governments more effective and democratic.”

- European Label of Governance Excellence Benchmarking (2018): Good Governance Benchmark: <https://rm.coe.int/1680746d9f>

*“Benchmarking of the 12 Principles of innovation and good democratic governance allows to identify municipalities which are the closest to respecting all (or most) of the principles, and therefore are eligible for receiving the ELoGE – European Label of Governance’ Excellence.”*(Though this is a measurement for eligibility the actual benchmarking tools are both relevant and useful.)

- Council of Europe Local Finance Benchmarking Toolkit (2013): <https://rm.coe.int/1680746fd3>

### **Standards for civil society<sup>70</sup>:**

“Citizen” shall mean any person (including, where appropriate, foreign residents) belonging to a local community. Belonging to a local community involves the existence of a stable link between the individual and that community.

- Mutual respect between all actors as the basis for honest interaction and mutual trust.
- Respect for the position of public authorities with whom responsibility and accountability for decision making lies.
- Openness, transparency and accountability.
- Responsiveness, with all actors providing appropriate feedback.
- Non-discrimination and inclusiveness so that all voices, including those of the less privileged and most vulnerable, can be heard and taken into account.
- Gender equality and equal participation of all groups including those with particular interests and needs, such as young people, the elderly, people with disabilities or minorities.
- Accessibility through the use of clear language and appropriate means of participation, offline or online, and on any device.

### **Toolkits:**

- EUROPEAN COMMITTEE ON LOCAL AND REGIONAL DEMOCRACY(CDLR)

C.L.E.A.R. TOOL: A self-assessment tool for citizen participation at the local level: <https://rm.coe.int/168074701b>

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70. Council of Europe (2017), “Guidelines for civil participation in political decision making”, Council of Europe (2018), “Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life”





Iceland   
Liechtenstein **Active**  
Norway **citizens fund**

[www.activecitizensfund.bg](http://www.activecitizensfund.bg)

The project „**Transparency and Accountability of Local Authorities, Strong Communities: Implementing a Standard for Accountability and Integrity of Local Authorities through the Involvement of Local NGOs and the Media**“ is implemented with the financial support of Iceland, Liechtenstein, and Norway under the EEA Financial Mechanism.

More information about the project can be found at [www.localintegrity.bg](http://www.localintegrity.bg).

The main goal of the project „Transparency and accountability of local authorities, strong communities: implementation of a standard for accountability and integrity of local authorities through the involvement of local NGOs and the media“ is to improve the system of accountability and integrity of local government and thus create conditions for fighting corruption at the local level by mobilizing the local civil society.

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The Anti-Corruption Fund is an independent, expert-led non-governmental organization, which investigates cases of alleged corruption, misuse of public funds, and conflict of interest among public officials in Bulgaria. Our research adheres to the highest legal, professional, and ethical standards. We aim to assist public authorities and journalists in investigating and prosecuting corruption-related violations. The goal of our work is to help address systemic factors leading to high corruption levels, and to raise public awareness about the existing mechanisms to counteract corruption.

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