

**NORTH LINCOLNSHIRE COUNCIL**

**CORPORATE SERVICES CABINET MEMBER**

**MOBILE PHONE POLICY AND GUIDELINES**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To seek approval for the adoption of a new Mobile Phones Policy and Guidelines.
- 1.2 Key points in this report are as follows:
- Health and Safety
  - Legislation of using mobiles whilst driving
  - Payment of personal calls
- 1.3 This matter is urgent because of the need to circulate the policy to employees as they collect new mobile phones on 9 February 2009.

**2 BACKGROUND INFORMATION**

- 2.1 The mobile phone procedures were first produced in 2005, these were only guidelines but were not formally adopted as a policy, therefore the information was not disseminated and not adhered to and various inconsistencies and financial implications occurred.
- 2.2 The proposed policy (see attached) advises all employees of the legal implications and use of mobile phones. Due to recent changes in legislation it is the council's responsibility to advise all of the legalities and Health and Safety issues around this.
- 2.3 The mobile phone audit highlighted very little income was sourced from personal calls, this policy advises all that there is a procedure for payment of calls.
- 2.4 This policy is for all employees and elected members of North Lincolnshire Council, which, for the avoidance of doubt, includes all persons employed to work in schools with delegated powers within North Lincolnshire, subject to approval by governing bodies.

### **3 OPTIONS FOR CONSIDERATION**

- 3.1 To consider and accept the use of the mobile phone policy and guidelines.
- 3.2 To reject the proposed policy and guidelines.
- 3.3 To make recommendations to amend the proposed policy and guidelines.

### **4. ANALYSIS OF OPTIONS**

- 4.1 This proposed policy and guideline has been produced in light of experience and changes in legislation. Internal audit have also identifies a significant problem with the none payment of personal calls.
- 4.2 Rejecting the proposed policy could result in the council's approach not reflecting current legislation and good practice and allow the misuse of council assets to continue unchecked.
- 4.3 Recommending further changes to the procedure would require further consultation and delay implementation.

### **5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

#### 5.1 Financial

Production of the policy. None payment of personal calls means financial loss for the council.

#### 5.2 Staffing

There are no significant staffing implications save for the more effective and safe use of mobile phones.

#### 5.3 Property

None.

#### 5.4 IT

None.

### **6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)**

- 6.1 The proposed policy complies with legislation on the use of Mobile Phones whilst driving.

## **7.0 OUTCOMES OF CONSULTATION**

7.1 The trade unions have been consulted and their suggestions have been incorporated into the new procedure. Council management team have also been consulted and support the proposed scheme.

## **8. RECOMMENDATIONS**

8.1 That the new policy be approved and adopted.

### **SERVICE DIRECTOR ASSET MANAGEMENT AND CULTURE**

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Date: 28 January 2009

**Background Papers used in the preparation of this report:** The use of Mobile Phones Policy and Guidelines.

*Mobile Phone Policy*

Version 1 January 2009 author: IT Business Engagement Team owner: IT Services & Human Resources

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**IT Services  
Asset Management and Culture**

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### 1. INTRODUCTION

The purpose of this policy is to ensure the safe and effective use of mobile phones and other similar electronic hand-held devices, by all North Lincolnshire Council employees. The policy outlines the legislative requirements with which the council must comply and provides guidance on the appropriate issue and usage of council mobile phones. The aims of this policy are to:

- Ensure North Lincolnshire Council employees understand the legislative requirements concerning the use of mobile phones whilst driving.
- Support the authority in fulfilling its duty of care and ensuring the well-being of our employees.
- Ensure North Lincolnshire Council mobile phones are used appropriately and effectively to support efficient working practices.

This policy applies to all employees and elected members of North Lincolnshire Council. It is also intended to apply to all persons employed in schools with delegated powers, subject to the agreement of governing bodies.

In all cases, unless otherwise stated, the term mobile phone is inclusive of all brands including 'Blackberry'.

## 2. THE LEGISLATIVE CONTEXT– DRIVING AND THE USE OF MOBILE PHONES

The Road Vehicles (Construction and Use) (Amendment) (No.4) Regulations 2003 came into force to prohibit drivers using a hand-held phone, or similar device, while driving. It also made it an offence to “cause or permit” a driver to use a hand-held mobile phone while driving. This means that an employer could be liable if they expect employees to use a hand-held phone while driving.

A hand-held mobile phone is classed as any ‘device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data’. A mobile phone or other device is therefore “to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function”.

Employees must therefore be aware that it is an offence to use a mobile phone, which is not fitted with hands free equipment or similar hand-held device whilst driving and this includes carry out the following interactive communication functions whilst driving:

- Sending or receiving oral or written messages
- Sending or receiving facsimile documents
- Sending or receiving still or moving images; and
- Providing access to the internet

In addition, although hands-free equipment is not prohibited by the new regulations, a driver can still be prosecuted for using a hands-free device if they fail to have proper control of the vehicle.

### i) Penalties:

The penalties for using a hand-held mobile phone whilst driving are:

- a **£60 fine**
- **3 penalty points** on your licence
- a maximum penalty of **£1,000** if the case goes to court (**£2,500** for drivers of vans, lorries, buses and coaches)
- In addition if you cause someone’s death using a mobile whilst driving you may be prosecuted for causing death by driving.

### ii) Exemptions:

The only exemptions to the legislation are:

- operating a 2 way “press to talk” radio such as those used by the emergency services and taxi drivers
- using a hand-held phone to call to 999 or 112 or for a genuine emergency where it would be unsafe for the driver to stop

### iii) Disciplinary action:

The use of a hand-held mobile phone whilst driving may lead to action being taken against an employee of North Lincolnshire Council in accordance with the council’s disciplinary procedure.

- In the event that an employee of North Lincolnshire Council uses a hand held mobile phone whilst driving at any time, this may result in action being taken against them in accordance with the council’s Disciplinary procedure.

- In the event that an employee of North Lincolnshire Council is convicted of the offence of either dangerous driving, careless driving or causing death by dangerous driving which is, in any way, related to that employee driving whilst using a mobile phone, this may result in action being taken against them in accordance with the council's Disciplinary procedure.

## **2.1 GUIDING PRINCIPLES – DRIVING AND THE USE OF MOBILE PHONES**

The provisions of this policy support the regulations and in order to comply with these requirements the following guidelines must be followed by ALL employees when using mobile phones:

- The use of council hand held mobile phones whilst driving at work is prohibited at all times, including out of office hours. Employees should not make or receive telephone calls or write, read, send text messages or otherwise use hand held equipment whilst driving.
- The use of personal hand held mobile phones whilst driving at work is prohibited. Employees are also advised not to use their personal hand held mobile phones whilst driving during out of office hours.
- Although hands-free equipment is not prohibited by the regulations, a driver can still be prosecuted for using a hands-free device if they fail to have proper control of the vehicle. In addition, there is a view that drivers who use certain hands-free mobile phones whilst driving may be distracted by taking part in a phone conversation. Such conversations must therefore be kept to the minimum.
- Hand-held mobile phones can only be used once the driver has stopped in a safe place and turned off the engine. It is therefore prohibited to use a mobile phone when stopped at traffic lights or when queuing in traffic.
- If calling a mobile phone, always check that the other person is not driving or it is safe for them talk. If not terminate the call immediately and speak to them later.
- Employees should not call colleagues who do not have hands free equipment if they anticipate they may be driving.
- When driving, hand-held mobile phones should be switched to 'silent' and all calls diverted to voicemail, or turned 'off'.

Additional guidance is available in the Health and Safety Manual (3.05 Use of Mobile Phones) in Safety Note 4.06 (Mobile Phone Safety) in the Driver's Handbook (2.8 Mobile phone use) and at:

<http://www.rosipa.com/roadsafety/info/workmobiles.pdf>

## **3. THE LEGISLATIVE CONTEXT - HEALTH AND SAFETY**

The Health & Safety at Work Act (1974) places a duty on North Lincolnshire Council as an employer to ensure, the health, safety and welfare of our employees. This duty of care also extends to all other persons who may be affected by the work we carry out.

To enable North Lincolnshire Council to fulfil the requirements of the health and safety legislation, employees must abide by the following guidelines whilst at work:

- Mobile phones should not be used whilst carrying out any work activity where safety is important and their use might interfere with their concentration.

- Mobile phones should not be used where there is a known risk of explosive atmosphere or near sensitive equipment.
- Mobile phones should not be used in any situation whereby the safety of the individual or those in close contact is put at risk.

### **3.1 GUIDING PRINCIPLES – HEALTH AND SAFETY**

North Lincolnshire Council is aware that there is some public concern about the use of mobile phones; specifically the impact that radio waves emitted by mobile phones may have on an individual's health.

The balance of current research evidence suggests that exposure to radio waves below levels set out in international guidelines do not cause health problems for the general population. All mobile phones sold in the UK, including those issued by the council meet these guidelines. However, there is some evidence that changes in brain activity can occur below these guidelines, but it is not clear why.

In the absence of any conclusive evidence the Health Protection Agency and the Department of Health recommend that employers adopt:

*‘a precautionary approach to the use of mobile phone technologies until much more detailed and scientifically robust information on any health effects becomes available.’*

North Lincolnshire Council therefore requests that the all employees adhere to the following guidelines:

- Minimise the number of calls made and received on a mobile phone - Use landline telephones or other communication methods such as email where possible and practical to do so.
- Keep call duration on mobile phones as short as possible

Additional guidance is available at:

[www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4123979](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4123979)

## **4. ISSUE OF COUNCIL MOBILE PHONES**

### **i) Business criteria for issuing a mobile phone**

A mobile phone or similar hand-held device can be a considerable investment for the council. Therefore the allocation of a mobile phone needs to be supported by both:

- The employee's line manager and
- The budget holder against whose budget the charges will be made.

Managers must be satisfied that one or more of the following business criteria are met, before authorising the issue of a mobile phone:

- The employee is a remote worker and requires a mobile phone to enable them to undertake their job effectively.
- Issuing the employee with a mobile phone will enable them to provide a more efficient service to their customers.
- There is a requirement for the individual to be contactable whilst working away from their normal place of work and where other methods of communication (e.g. landline or e-mail) are unsatisfactory.
- The individual's role involves out of hours support (e.g. on call), which necessitates alternative means of contact.

- The employee is a lone worker and their personal safety could be compromised if they are not in possession of a mobile phone. Please note, that a mobile phone should not be relied upon as the sole means of ensuring an employee's personal safety. A Health and Safety Risk Assessment should therefore be carried out to assess this requirement).
- The employee travels and visits areas where summoning help (if they break down, for example) may be difficult.
- There is a statutory/corporate requirement for a mobile phone (e.g. Emergency Planning).

Managers should also consider if it is necessary to allocate a mobile phone on an individual basis or if it may be more appropriate to supply a group or team phone. This is normally applicable where team members meet one of the above criteria but only on an intermittent or irregular basis.

The council does not encourage the provision of hands free mobile phones unless it is an essential requirement of the job.

Where there is a genuine business requirement to remotely access the Internet or e-mail managers should request the issue of a Blackberry mobile phone. All other handsets issued by the council will not be permitted for use for these purposes.

#### **ii) Employee requests for a mobile phone**

There may be occasions when an employee requests a council mobile phone. To be eligible to be issued with a mobile phone, the employee must demonstrate that one or more of the criteria listed above applies. The manager has the right to refuse such a request if none of the criteria are met and any refusal will be explained fully to the individual.

**Any employee who is allocated with a council mobile phone will be required to complete and sign a declaration adhering to the content of this policy prior to the issue of the handset. Appendix A is provided for this purpose.**

### **5. PROCUREMENT OF COUNCIL MOBILE PHONES**

Once managers are satisfied that one or more of the business criteria above have been met, the request is to be made via the IT Servicedesk on 5555 or 01724 296288.

The authority has an agreed corporate contract and council mobile phones should only be supplied through this agreement, via the Servicedesk, IT Services, Asset Management and Culture.

#### **i) Registration of mobile phones**

It is a requirement of the council's Audit section that individual services keep and maintain a register of all mobile phones issued. This will enable management of the equipment to be carried out more effectively.

On issuing a council mobile phone, managers must ensure that the relevant employees contact details are updated on the Organisation Directory located on the council's Intralinc site. Where phones are re-allocated to employees, the IT Servicedesk should be advised. Please note that the mobile phone stays with the post unless prior consent from the IT Servicedesk is obtained.

#### **ii) Lost/stolen or faulty mobile phones**

If a council mobile phone is lost or stolen it must be reported to the authorising line manager and the Police. To protect the authority against any misuse, as a result of loss or theft, phones must be protected by a 'key lock' code to prevent access by unauthorised users.

If a council mobile phone is faulty please report this to the IT Servicedesk.

Depending on the circumstances in which the phone was lost/stolen or became faulty, the council will be responsible for replacing the phone. However if extreme carelessness on the part of the employee can be evidenced as the cause of the loss or fault, the employee will be required to meet the replacement cost.

### **iii) Employees leaving the council**

Mobile phones provided by the organisation remain the property of North Lincolnshire Council. When an employee leaves the council it is the responsibility of the authorising line manager and the employee to ensure that the mobile phone is returned. It is the responsibility of the line manager to request an up to date bill from the Servicedesk. All personal call/sms costs plus VAT charges at the current applicable rate must be recovered from the employee prior to the leave date or as soon as possible thereafter.

Should an employee fail to return the mobile phone to the council they will be held responsible for any usage and line rental incurred until the mobile phone is either returned to North Lincolnshire Council or disconnected. An invoice will be issued and sent to the ex-employee to recover the full replacement cost of the modern equivalent handset, call and rental costs plus VAT charged at the current applicable rate.

## **6. THE USE OF COUNCIL MOBILE PHONES**

In addition to ensuring that mobile phones are used safely in accordance with the legislation and guidelines set out above, managers and their staff are responsible for ensuring all council mobile phones are used appropriately and do not interfere with work requirements.

The following guidelines must therefore be observed when using council mobile phones:

- Phone holders will be issued with a handset, SIM card, battery and charger. Phone holders must keep the SIM and handset issued together and must not put any other SIM card into the council's handset or the council SIM card into any other handset. Phones that become faulty should be reported to the IT Servicedesk at the earliest opportunity.
- Users of all mobile phones issued by the council should ensure they do not use the phone to do anything that could:
  - result in excessive cost to the council;
  - risk legal liability on the council;
  - risk offending others in the workplace;
  - if made public, reflect badly on the council, or
  - be for personal commercial gain.
- Blackberry phones issued by the council provide access to the Internet for business purposes and as a result are subject to the conditions of use and penalties for abuse prescribed by the council's Internet and Email Guide.
- Mobile phones should not be left ringing or unattended as this can cause a disturbance to other members of staff. Where practicable mobile phones should be programmed to silent mode.
- Mobile phones should be switched off during meetings, training courses etc. except in very exceptional circumstances where it is vital to receive an urgent business call. In such circumstances it is courteous to alert colleagues to the fact that an urgent call is expected and where possible, the phone should be kept on 'silent'.
- If calling a mobile phone, always check if it is safe and convenient for the other person to talk, if not call back.
- When making and receiving calls on a council mobile phone guidelines must be followed to ensure calls are handled in a professional and efficient manner. A summary of those guidelines can be found in the council's Customer Care Charter.

- Mobile Phones issued by the organisation should not be used when dealing with issues of a sensitive nature. In particular text messages should not be used as a substitute for important discussion between manager and employee.
- Oral or written messages and still or moving images made or stored on mobile phones issued by the organisation are not private to the individual employee and may, if appropriate, be monitored to check compliance with the policy.
- Similarly individuals' use of mobile phones issued by the council will be monitored centrally. All highest spend handsets and highest numbers called are monitored and recorded with Audit.
- Whilst employees will not be prevented from customising council issue mobile phones with ring tones/backgrounds, users should ensure that the content is not of a nature, which may cause offence intentional or otherwise to colleagues or service users alike.
- All personal calls made on council mobile phones must be paid for promptly by the employee in accordance with Appendix B.

In the event that any employee of North Lincolnshire Council using a mobile phone which has been supplied to them by the council, is in breach of the guidelines set out above, this may result in action being taken against them in accordance with the council's Disciplinary procedure.

#### **i) Withdrawal of mobile phones**

The authority may withdraw mobile phones at any time if it is found that the criteria for issuing a phone are no longer met, health and safety concerns around the use of mobile phones arise or where there has been recognised misuse of the phone.

In the event that an employee is suspended from work pending investigation any mobile phone issued to them by North Lincolnshire Council should be returned to the line manager for the duration of the suspension.

### **7. THE USE OF PERSONAL MOBILE PHONES**

Personal mobile phones should not normally be used within the work environment, however where employees need to make urgent private calls they should be kept to a minimum and conducted so as not to disturb or distract colleagues. Personal mobile phones should normally be switched to 'silent' or turned 'off' during working hours.

Employees may issue a council landline telephone number for personal emergency contact purposes.

Many teams/buildings will have local rules regarding the use of mobile phones, and these must be respected and adhered to at all times.

Personal mobile phones should not normally be used to make business calls. The council does not undertake to refund any business calls made unless they are authorised by the relevant Service Director.

**Appendix A**

**North Lincolnshire Council**

**Declaration of use by a mobile phone user**

***Signing this declaration confirms that you have read and will comply with North Lincolnshire Council's Mobile Phone Policy.***

Service: \_\_\_\_\_ Job title: \_\_\_\_\_

Mobile phone number issued: \_\_\_\_\_

I \_\_\_\_\_ declare that:  
(Print name)

I have been issued with a copy of North Lincolnshire Council's Mobile Phone Policy, which I have read, understand and will comply with.

I agree to return the mobile phone when leaving the employment of the council or earlier should a request be made in accordance with the policy.

I agree to repay the costs of all my private calls and text messages and acknowledge that I may be liable for costs relating to loss and/or damage due to my own negligence and any costs arising from the non-return of the mobile phone in accordance with the policy.

I understand that I may be liable to disciplinary action should I fail to comply with the policy.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Employee)

I confirm that I have issued the above handset to the above employee.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(On behalf of IT Services)

Print name: \_\_\_\_\_

**Appendix B**

**Payment of mobile telephone bills**

North Lincolnshire Council Internal Audit and HM Inspector of Taxes have requested that all users highlight their calls and ensure that the amount, plus 15% VAT is paid.

It is requested that all users complete this Declaration form and hand in completed to their Line Manager to keep for Auditing purposes.

**DECLARATION OF PRIVATE USE OF COUNCIL OWNED MOBILE TELEPHONES**

**NAME:** \_\_\_\_\_

**SERVICE AREA:** \_\_\_\_\_

Mobile phone bill for the period: \_\_\_\_\_

<b>Total personal calls/texts</b>	
<b>VAT @ 15%</b>	
<b>Total amount to pay</b>	

I certify that I have identified all private telephone calls and text messages above and that the remaining calls were made on North Lincolnshire Council business.

**Please pass this completed form to your line manager.**

Cost code  
(Please look on your statement in the left hand corner next to your name)

Expense code

Job reference

If there are no personal calls, please submit this as a nil return

Signed: ..... Date: .....

**Bill payments**

- Please complete the declaration sheet with your personal calls
- Give the Declaration sheet to your line manager
- Your line manager will keep these for auditing purposes
- Pay the monies owed to the council as per your declaration sheet
- Please pay at any NLC cashier office
- Please pay this into the cost code as noted on your bill next to your mobile number
- Please pay into expense code 9026 and quote reference mobile

**PLEASE DO NOT SEND ANY MONEY THROUGH THE POST, PLEASE PAY AT CASHIERS OFFICE AND OBTAIN AND KEEP THE RECEIPT**

Should your details be incorrect please e-mail the itservicedesk@northlincs.gov.uk with the correct details