



**Gipuzkoako  
Foru Aldundia**  
Diputación Foral  
de Gipuzkoa

**INSTITUTIONAL INTEGRITY SYSTEM OF  
GIPUZKOA PROVINCIAL COUNCIL AND OF  
ITS PUBLIC SECTOR**

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At the end of the 20<sup>th</sup> century, the OECD unveiled its integrity framework model that sought to make integrity management workable in certain organisational contexts. Those frameworks included a series of instruments, processes and structures. The Codes of Ethics or of Conduct were one of the essential instruments, along with training actions or managing conflicts of interest. Moreover, it advocated creating processes or challenges to manage those Codes. And, in a nutshell, the guarantee authority (Ethics Commissions or Commissioners) were also a cornerstone of those integrity frameworks.

After the Provincial Council approved, during its meeting on 9 February 2016, the Document entitled "Commitment to an Efficient, Intelligent and Ethical Governance" which led to a Framework of Values and Principles of Good Governance and Institutional Integrity of the holders of provincial public office at Gipuzkoa Provincial Council, the following step – already referred to in that text – consisted of designing and implementing an Institutional Integrity System.

We should stress that an Integrity Policy has the prerequisite of constructing an Institutional System or Framework that provides coverage and credibility to those goals to reinforce the efficiency and conduct standards in the public arena.

It would be pointless, as has been the case on many other occasions and in other contexts (some which are nearby), to approve codes of ethics or of conduct that amount to no more than a mere wording of principles without enforcement requirements. Integrity and accountability in the conduct of public affairs requires a permanent commitment to action to support public ethics and a vocation to continuous improvement. This not only applies in the field of moral conduct, but also when exercising public management competencies.

It is, therefore, in line with what the OECD has driven (also as regards the civil service) or with what other advanced democracies have been doing, along with some immediate institutions such as the Basque Government, Gipuzkoa Provincial Council has opted to lay the foundations to construct an institutional integrity system, in which a Code of Conduct and Good Practices for Provincial Elected Officials will be inserted, along with other Codes that will be prepared in order to strengthen the ethical infrastructure of the institution overall, as the development of the Institutional Integrity System needs to be constructed in phases. Integrity cannot only be preached to the higher levels of the Provincial Administration and its public sector entities, but rather it is a value that must permeate the course of action of any institution and all the people that provide services in it.

Designing and giving impetus to an Institutional Integrity Policy in the Provincial Administration cannot just be mere compliance of the law, but should also take firm steps towards the construction and effectiveness of an institutional integrity framework and, likewise, towards the implementation and development of good practices in public management that improves the performance of the Administration for the benefit of the services that the general public receives.

The Institutional Integrity Policy is also a "work in process", which has a start but never an end. Institutional integrity and good practices in management are continuous improvement processes, where the initial standards must always be exceeded. It is, indeed, a permanent learning environment, as is accredited by the different advanced democratic countries that have implemented such integrity systems.



Gipuzkoa Provincial Council wishes to progress towards a far-reaching change both to the social action and to the forms of government of our society, so that the general public can perceive a communicative and sound policy that is resolutely committed to a new governance, that creates trust, expectations and hope among them. Our aim is to become an example of good governance, less based on hierarchies and control and which is committed to cooperation, where the processes, collaboration and trust are centre stage.

This Agreement is, therefore, the necessary link between driving an integrity policy of the provincial institution and its application on different levels or tiers of the Provincial Administration and its public sector entities.

With the creation of this Institutional Integrity System, where the ethical infrastructures will subsequently be engaged that are approved for different spheres and collectives of the Provincial Administration and of its entities of the public sector, Gipuzkoa Provincial Council has taken a firm and determine step forward to effectively give momentum to an Integrity Policy.

This institutional integrity system began by being defined and setting its objectives, to then consider the Codes as substantive elements of that Integrity Framework.

Allowing for a guarantee authority for the integrity system is of particular importance, particularly in those cases where the ethical management of certain codes of conduct or of good governance has to be carried out. Accountability and assessment of the integrity policy as an end mechanism for the model is also envisaged.

Furthermore, it is deemed to be necessary to pass the Code of Conduct and Good Practices of the members of the Provincial Council and of the senior officials and staff of a similar standing as a key ethical infrastructure establishing the firm commitment towards a change both in social action and in forms of government. It likewise serves as an example in the development of the service provision and executive activity to the public.



**INSTITUTIONAL INTEGRITY SYSTEM OF GIPUZKOA PROVINCIAL COUNCIL  
AND OF ITS PUBLIC SECTOR**

### **Definition of the Institutional Integrity System**

The Institutional Integrity System of Gipuzkoa Provincial Council is delivered through a set of objectives, principles, procedures and guarantee institutions, along with assessment, accountability and transparency mechanisms, that seek to forge an integrity policy and the construction of an ethical infrastructure of the Provincial Administration overall, as well as of its provincial public sector.

### **Objectives of the Institutional Integrity System**

The purpose of the Institutional Integrity System of Gipuzkoa Provincial Council is to develop and foster an integrity culture in the performance of their public duties by all the public sector managers and employees, as well as by those entities or individuals that take part in providing provincial public services, by effectively forging an ethical infrastructure, along with preventing the malpractices or inappropriate conduct that may affect the image of integrity, objectivity, efficiency, transparency and impartiality of the Public Administration and discredit it, along with its elected officials and civil servants, in the eyes of the general public.

The individual adherence to certain codes is likewise envisaged, along with the other elements of that institutional integrity framework, such as the systems to disseminate and prevent integrity, and the procedures, channels or courses to process the consultations, ethical dilemmas, complaints or grievances.

### **Codes of Conduct**

1.- Codes of Conduct are the basic tool of the Institutional Integrity System as self-regulation documents which are used to identify the values, principles and standards of conduct by which all those individual that directly or indirectly perform public duties in the Provincial Government and in its provincial public sector.

2.- The Codes of Conduct may also include good government or good governance principles, along with good practice standards or directives that should guide the performance of public management.

3.- A Code of Conduct and Good Practices of the members of the Provincial Council and of the senior officials and staff of a similar standing shall be approved. Staff of a similar standing shall be taken to be those that hold senior positions in the public sector arena dependent on, linked to or attached to the Provincial Administration.

4.- Impetus shall , furthermore, be given to approving a Code of Conduct, within the framework of public sector employment regulations, for the personnel working for the Provincial Administration and its public sector, in order to reinforce public values and the ethical infrastructure when performing their public

duties and carrying out their tasks. This process shall be participatory and trade union representatives of the public sector employees shall have an active presence in it.

5.- Whenever so required by the specialised areas of the posts, Codes of Conduct for areas of public activity of the Provincial Administration or of its entities of the public sector, which regulate the specific values, principles and standards of those collectives, to further enact the general Code of Conduct that is approved as applicable.

6.- Furthermore, compliance of the values, principles and rules of conduct, with the adjustments required in each case, may be extended through the relevant clauses or, where applicable, in the execution of the contract to the successful bidders, concessionaires and suppliers, provided that they supply public services to the general public or provide certain public goods.

7.- Likewise, compliance of certain conduct or ethical standards and values to be respected when carrying out the subsidised or contractual activity may be incorporated in the subsidy and contracting procedures.

#### **Individual adherence**

1.- Individual adherence to a Code of Conduct is an act where the person testifies to their desire to abide by the content of the values, principles and rules of conduct, in order to bring their conduct and activity in line with those values, principles and rules, thus safeguarding the image and integrity of the institution and the correcting exercising of their duties and tasks.

2.- The Codes of Conduct which are approved by the Provincial Administration as applicable shall establish individual adherence systems.

3.- Adherence to the values, principles and rules of conduct of the Code in question shall be a requirement for the appointment or the contracting of the person or entity in case where the individual adherence is mandatory.

4.- The Code of Ethics or of Conduct that, as applicable, is approved for the personnel working of the Provincial Administration shall have the status of a Code of Practice and therefore mandatory for public sector employees, without any individual adherence being necessary. In any event, prior to the appointment or contracting of any public sector employees, they shall be given a copy of the aforementioned Code and training shall be arranged, as in the terms expressed in the following section, so that their scope and consequences can be precisely established.

#### **Institutional Integrity Prevention and Dissemination systems**

1.- The Provincial Administration shall establish prevention and dissemination systems for the values, principles and standards that make up the Institutional Integrity.

2.- Those Institutional Integrity dissemination and prevention systems shall mainly be structured through two lines of action:

a) Dissemination systems by means of training programmes, using internal communication and any other hardcopy or electronic media, along with the social networks. The Provincial Administration and the entities of its public sector shall include specific sessions on Public Ethics and Institutional Integrity for all the induction programmes for new elected officials and public

employees. Attendance at those programmes shall be mandatory and participants shall need to show that they have taken advantage of the sessions and taken on board and embraced the expertise. Such subject matter shall also be included in the annual continuous training programmes.

b) The Provincial Council, when proposed by the Institutional Ethics Commission or Commissioner, shall prepare an annual programme of prevention and dissemination measures aimed at reinforcing the ethical infrastructure of the Provincial Administration and of its entities in the provincial public sector. The actions included in that programme shall be of mandatory implementation by the provincial public official, staff of a similar standing and public sector employees.

### **Guarantee authority of the Institutional Integrity System**

1.- The Provincial Council shall create an independent body tasked with driving, promoting, overseeing and guaranteeing compliance of the values, principles and rules of conduct that are regulated in the Codes of Conduct that, as applicable, are approved. Furthermore, the main remit of that guarantee authority shall be to prevent any non-compliance or misconduct that could damage the image of the institution.

2.- That body may be a single member (Institutional Ethics Commissioner) or collegiate (Institutional Ethics Commission). Each specific Code shall establish the nature of the body and may, however, adhere to an already existing one.

3.- The remit of the guarantee authority shall affect the holders of public office and others of a similar standing, along with, as applicable, the personnel working for the Provincial Administration and the entities of its public sector. The remit shall include:

a) Fostering the dissemination, embracing and correct compliance of the values, principles and rules of conduct contained in the respective Codes.

b) Preventing and avoiding the appearance in the organisation of conduct not in keeping with the values, principles and rules of conduct, this safeguarding the image and the ethical climate of the institution.

c) Answering any queries and consultations and settling any ethical dilemmas that may be raised, by means of issuing resolutions, reports or notes.

d) Receiving grievances or complaints and processing them, along with settling them by means of decisions that may be in the form of proposals to the governing bodies or the bodies of the Provincial Administration or of their respective entities of the public sector that are competent to adopt the relevant resolutions.

e) Preparing application guides, periodic reports and documents on the activity of the body and proposing, as applicable, the amendment of the contents established in the Codes or the measures they deem appropriate.

### **Channels and procedures**

1.- The Provincial Council shall establish the grievance, complaint or consultation procedures, channels or courses regarding institutional integrity.

2.- Those consultation procedures, channels or causes should be preferably by electronic means, while at the same time respecting other channels.



3.- The public official or the public sector employee may request that any consultations they put to the guarantee authority by the regarding conduct or ethical queries, dilemmas or problems in the application of their respective Codes are treated as confidential.

4.- In the case envisaged in the above point, the guarantee authority shall ensure full compliance of the confidentiality and of the withholding of that information, which may be published once the personal data has been removed and when the identity of the person cannot be compromised directly or indirectly.

#### **Accountability and Assessment**

1.- Periodically, either in person or remotely, the provincial government, the department in question or, as applicable, the guarantee authority shall report on the management carried out to the general public and the media, without prejudice to the political accountability obligations of the provincial government and its members to the General Assemblies.

2.- The Provincial Council shall foster systems to set up Institutional Integrity Policies in which external institutional stakeholders and specialists in those tasks shall take part, with the aim of establishing the degree of implementation of the ethical infrastructures, compliance of the values and of the rules of conduct during equal periods.

3.- Using the different aspects of the transparency policy, the Provincial Administration and the entities of its public sector shall likewise regularly publish the results of the accountability and of the assessment of the institutional integrity policy.

#### **Review of the Institutional Integrity System**

In accordance with the assessment and accountability processes, and in keeping with the proposals of the guarantee authority or authorities, the Provincial Council shall adjust the content of this Agreement within a period of up to three years from its approval.

**CODE OF CONDUCT AND GOOD PRACTICES OF THE MEMBERS OF THE PROVINCIAL COUNCIL AND OF THE SENIOR OFFICIALS AND STAFF WITH A SIMILAR STANDING OF GIPUZKOA PROVINCIAL COUNCIL AND OF THE ENTITIES OF ITS PUBLIC SECTOR**

This Code of Conduct and Good Practices is part of the Institutional Integrity System of Gipuzkoa Provincial Council and of its public sector.

This Code has a series of specific features that must be duly highlighted.

The first is its nature and scope of application. The Code is a self-regulation mechanism in the sphere of the rules of conduct and of action of the holders of provincial public office , with those being taken to be those holders of public office that are freely appointed by the Governing Council or which hold senior positions in the entities of the public sector.

The structure of the Code is certainly unique compared to the one existing in other models compared. On the one hand, the Institutional Integrity Values are included and the rules of conduct linked to each of those Values are added. It is the part of the Code that can be described as “ethics or conduct”. Its moral aspect is undeniable.

On the other hand, a series of Principles of Good Practices or of Good Governance are inserted. A series of performance standards are also added to each of those Principles and which must guide the exercising of the duties and tasks of the holders of provincial public office in the sphere of public sector management. In this case, the management or instrumental aspect cannot be overlooked.

Yet those formulations of values, principles and standards would lose all their meaning if they were not accompanied by a series of scenarios to develop the integrity system and guarantee the applicability and effectiveness of their contents. Thus, there are a series of promoting and prevention measures, procedures, channels and courses for consultations, complaints or grievances, and a guarantee systems whose cornerstone with an Institutional Ethical Commission, with a specific compositions, as the external members of that Commission are three, while the internal ones with voting rights are cut to two. The aim is to avoid self-complacency and add an outside view that advocates reinforcing the conduct and management standards in the Provincial Administration and in its entities of the public sector.

The Code and the system created around that ethical management tools are based on the premise of constructing the Integrity Policy positively. Therefore, it places special emphasis on building a prevention system that avoids the appearance of malpractices. There is also a clear and firm commitment to disseminating and “internalising” the values, principles and rules of conduct and action by the holders of public office . The role of the Institutional Ethical Commission is, undeniably, stellar throughout this process. Nonetheless, in those situations where the prevention system or the correct internalisation of the values and rules fail, the Commission is granted a series of phased powers of reproach (according to the conducts that have occurred of their institutional consequences), which may even go as far as a proposal of dismissal to the authority that proposed the appointment of the provincial public official or member of staff of a similar standing.

From that perspective, the Provincial Government, after having approved the agreement creating the Institutional Integrity System of Gipuzkoa Provincial Council and of its Public Sector, shall proceed to approve a Code of Conduct and Good Practices of holders of provincial public office.

## **1. GENERAL RULES**

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### **1.1 Object and Purpose**

1.- This Code, as a self-regulation mechanism for its Senior Management, is inserted in the Institutional Integrity System of Gipuzkoa Provincial Council and of its public sector.

2.- This Code establishes values, principles and, in the framework of them, rules of conduct or of action, which must be observed and fostered by the provincial public official in the exercising of their public or, where applicable, private duties and activities, provided that they can impact the image of the institution in which they render their services.

2.- This Code likewise seeks to be an initial stage in the construction of an ethical infrastructure system of the Provincial Administration and of the entities of its provincial public sector.

### **1.2 Nature of the Code**

1.- This Code is a self-regulating framework that is binding for all holders of provincial public office and staff of a similar standing by means of their signing the relevant adherence undertaking.

2.- By signing the undertaking, they acquire the duty and obligation to fully respect the values, principles and rules of conduction and of action set out in the Code in the exercising of their public responsibilities, as well as, where applicable, in those private activities that many have a public impact.

3.- All the holders of public office, prior to their appointment and contracting, shall sign up to this Code. Whoever is in the post when the Code is approved shall have a month from its publication to formally adhere to it.

4.- The individuals subject to this Code shall, likewise, always respect the obligations envisaged in law or in the provincial legislation or regulations regarding conflicts of interest, incompatibilities or any other relating to the status of the holders of public office or of staff with a similar standing.

5.- This Code is a living instrument that shall be periodically adjusted to the requirements of any given moment according to the reports and proposals issued by the guarantee authority.

6.- The updating or review of its content shall require in any event the approval of the Council of the Provincial Government.

### **1.3 Sphere of Application**

1.- The Code is applicable to the following holders of public office or posts of a similar standing:

a) Provincial Council Chairman or Chairwoman and Provincial Councillors.

b) General Managers.

c) Directors and Managers of the entities of the provincial public sector.

- d) Members of the Boards of Directors of the provincial public corporations.
- e) Members of the government bodies of the Consortiums answering to the Provincial Council.
- f) All the holders of public office absorbed in the above in their incorporation decree or in their appointment.
- g) Temporary employees with advisory roles.

2.- Holders of public office shall be taken to mean, for the purposes of this Code, all those senior positions listed in the above point.

3.- Under no circumstances shall this Code apply to public sector employees working for the Provincial Administration or for its public sector entities, without prejudice to, where relevant, those employees, in the same way as the general public, being able to lodge complaints or grievances with the relevant guarantee authority.. In the case of filing clearly unfounded or irresponsible complaints or grievances, the guarantee authority may request that disciplinary proceedings be initiated.

## **2. INSTITUTIONAL INTEGRITY VALUES**

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### **2.1 Institutional Integrity Values**

Institutional Integrity Values are taken to mean those concepts arising from the special nature of the organisation where the holders of provincial public office perform their duties, which should serve as guidance for their conduct, likewise influencing the selection of the ends and means in the implementation of their public and, where applicable, private actions, provided that the latter may affect the institution.

### **2.2 Identifying the Institutional Integrity Values**

The institutional integrity values to which the holders of public office have to adjust their conduct are as follows:

#### **1.- Representation**

The holders of provincial public office shall perform their organic representation duties, both internally and externally, with the required dignity and the necessary standard of behaviour required by the image of the institution. When performing their duties, they shall act with full responsibility and on behalf of the institution, being aware that such institutional activities not only represent the electorate who have voted for the political party or parties that underpin the Provincial government, but also the citizens of Gipuzkoa overall.

## **2.- Integrity**

When carrying out their public tasks, the holders of provincial public office shall always act with impeccable ethical behaviour, both in the carrying out of their public duties and in any aspect of their private life that could affect their institutional role. Furthermore, their actions shall be coherent with the proposals made and shall always ignore any internal or external pressure that can negatively influence the upholding of the other values and principles envisaged in this Agreement, as well as in the Code of Conduct and Good Practices.

## **3.- Exemplariness**

The actions of the holders of provincial public office represents for the citizens of Gipuzkoa the mirror reflecting the image of the institution. Consequently, their private and public conduct shall be guided by exemplary behaviour. Any lack of exemplariness that impacts the institutional image of the Provincial Council and destroys or damages the public reputations or social capital that the institution represents, shall be correct in accordance with what is set out in the Code of Conduct and Good Practices (or Good Governance).

## **4.- Honesty and Disinterest**

Holders of provincial public office shall act exclusively with the objective of full compliance for the public interest and of the interest of the citizens of Gipuzkoa overall. In case of conflict or appearance of such conflict between private and public interests, the holders of public office shall immediately inform the relevant authority or, where applicable, the Ethics Commission. Depending on the circumstances or on the recommendations made, holders of public office shall abstain from directly or indirectly participating in adapting of the decision in question or in the relevant body or procedure. Neither shall they accept any gift or benefit that may raise questions about their honesty, conditions or may given the appearance of conditioning the decision taking or the participation in them. Any doubt in that respect shall be submitted to the competent authority using the established channels.

## **5.- Objectivity**

When performing their public duties, the holders of provincial public office shall act with the objectivity required in the general interest, the carrying out of public functions and the tasks inherent to the public sector serving the general public. That objectivity shall be particularly intense when they have to adopt decisions or take part in those concerning certain appointments, public procurement, the granting of subsidies or the compliance of principles and rules that are in place to safeguard the impartiality when the public authorities have to come to certain decisions.

## **6.- Professionalism**

Holders of provincial public office shall perform their duties, in the area that have assigned, according to criteria of high professionalism. Therefore, in order to ensure that professionalism, the appointment processes shall assess beforehand that the people to take up those posts

accredit the professional skills required for the appropriate performance of those responsibilities. Furthermore, the holders of provincial public office shall develop their professional skills through the training programme that the Provincial Council puts in place for Senior Public Management in order to improve their professional management profile, along with the aim of ensuring an optimum performance of their duties and tasks.

#### 7.- Efficiency

The resources management and the economic-financial management of the holders of provincial public office shall be imbued with efficiency, so as not to commit any type of wastage in the use of public resources or good and optimising their use. That efficiency objective shall be driven by means of continuous improvement or innovation processes and where the appraisal of the public policies is one of the essential pillars. Special attention shall be played to guaranteeing the financial sustainability of the Provincial Council and to not mortgaging the action of following governments or future generations.

#### 8.- Coexistence and Respect

By means of performing their duties and their own personal conduct, holders of provincial public office shall foster the strengthening of a society where tolerance, solidarity and coexistence fully prevail, by giving impetus to mutual respect, diversity and solidarity between people. Furthermore, they shall treat the general public, the people working for the Public Administrations, the executive staff and the other holders of public office in a courteous and proper manner, with the due respect and dignity that any person deserves. They shall, therefore, abstain from any type of conduct or actions that involves the use of derogatory terms or any type of discrimination (gender, beliefs, ideology, sexual orientation, race, disability or any other).

### **3. RULES OF CONDUCT LINKED TO INSTITUTIONAL INTEGRITY**

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#### **3.1 Representation**

a) Institutional representation is a responsibility of the provincial public official where the objective aspect of preserving the image and reputation of the institution can never be called into question by the subjective action of the person performing those duties.

b) Institutional representation implies that the provincial public official assumes that, when performing those duties, they represents all the citizens of the province, beyond the people that have voted for the political party that, in each case, are in power.

c) Holders of provincial public office represent that institution overall and shall carry out that role with the dignity required and the necessary respect, so that the image that the general public has of the institution is positive and it is never unfavourably affected or damaged by actions or omissions, conduct or behaviour, of the person in that role.

d) When performing their representative duties, they shall act with full responsibility and on behalf of the institution, taking particular care not to commit any type of conduct or use any verbal or

non-verbal expression that are not in keeping with the dignity of the public post that they have voluntarily assumed and cause, as a result of that, tangible or intangible harm to the institution.

### 3.2 Integrity

- a) Provincial public official when performing their public duties shall act in an appropriate ethical way that is fully in keeping with the values and rules of conduct established in this Code.
- b) Furthermore, they shall pay particular care to those aspects of their private life that may have a public impact and affect, directly or indirectly, the Provincial Council or entities of its public sector in which they work. To that end, they shall refrain from any actions or behaviour in their private activities that may call into question or erode the confidence of the general public in the provincial institution.
- c) Their actions shall likewise be coherent with what is proposed and what is decided, and they shall always ignore any external pressure that may negatively condition or influence the decision-making process.
- d) In order to safeguard the performing in full of their duties, the holders of provincial public office shall justify their decisions and resolutions, along with their policy proposals and priorities, objectively and with competent technical reports that endorse, where appropriate, those processes.
- e) In particular, they shall avoid any external interference that may impact their public decisions and raise reasonable doubts about the integrity of the action of the public official in the performing of their duties. In particular, they shall overlook any action that can raise suspicions of favouritism to certain individuals or entities.
- f) Furthermore they shall fundamentally discard or shall avoid any advantage, directly or indirectly, proposed by any person or entity or which they may obtain due to the public office that they hold.

### 3.3 Exemplariness

- a) Holders of provincial public office shall always be aware that they represent the image and the mirror that reflects the institution to the general public.
- b) Their private and public conduct shall always be underpinned by exemplary behaviour, shall be seen in their specific strategies and actions.
- c) Holders of provincial public office have to display ethical leadership in their respective organisations.
- d) To that end, they shall foster in their organisations an ethical climate and shall act as benchmarks in that area for the people who work there, and shall under no circumstance behave or act in a way that may harm or damage the image of the institution.
- e) In any event, they shall ensure that through their private or public conduction, the institution they represent reinforces its legitimacy and shall, likewise, avoid that it suffers the least damage or erosion, and shall be accountable from any outcomes of **such an impact**.

- f) Holders of provincial public office, in order to safeguard the exemplariness and image of the institution, shall always refrain from any improper use of the goods and services that the Provincial Administration or their respective entities place at their disposal due to their post. They shall likewise incur in any type of counterproductive type of conduct that impairs their performance and provides, where applicable, a distorted image of the exercising of their duties.
- g) The official title of the holders of provincial public office shall be Sir or Madam.
- h) Should a provincial public official be involved in pre-trial investigation stage, either in the public or private sphere, they shall inform the guarantee authority so that, after the case has been analysed, it may propose the relevant measures to the competent authority.
- i) The carrying out of duties that involve the holding of management or organic office in associations or other type of entities may only be assumed by a provincial public official when that does not lead to a conflict of interest or to the appearance of such conflict. Any involvement in those duties or responsibilities shall be immediately reported to the guarantee authority so that the relevant measures are adopted as necessary.
- j) The participation of the holders of provincial public office in the media and social media shall be coherent with and proportionate to the assumed institutional responsibilities, along with the necessary alignment with governmental policy. Any serious discrepancy shall be addressed internally in order to preserve the image of the unity of government and of the institution itself, without prejudice to the exercising of the freedom of expression and information by the public official that, in the case of being exercised, shall assume the breakdown in trust and shall resign from their post, on the grounds of personal and institutional coherence. Any doubt in that regard shall be put to the guarantee authority, which shall issue the relevant recommendation.
- k) Holders of provincial public office shall not have institutional credit cards. Any costs or expenditure incurred due to their office shall be first paid for by the provincial public official and shall then be subsequently settled by the entity in which they perform their duties, once the expense has been duly processed. However, exception to the above rule, which shall be duly justified, as regards institutional journeys and acts of the same nature.
- l) Records shall be kept of all the institutional journeys and meals of the holders of provincial public office, indicating their purpose and cost.
- m) Holders of provincial public office may only use official car, after send a request to the vehicle fleet, for institutional journeys and according to the rules established by the Provincial Council.

### **3.4 Honesty and Disinterest**

- a) Holders of provincial public office shall act exclusively with the objective of full compliance for the public interest and of the interest of the citizens of Gipuzkoa overall.
- b) In case of conflict or appearance of such conflict between private and public interests, the holders of public office shall immediately inform the institution or the relevant authority. They may likewise submit a consultation in that regard with the guarantee authority.
- c) In any event, should any of the circumstances indicated in the above letter occur, they shall refrain from participating, whether directly or indirectly, in the adopting of the decision in question.

- d) There is a conflict of interest when the provincial public official intervenes in decisions related to affairs where interests of their public post overlap or may overlap with own private or public interests of direct relatives, common-law spouse or interests shared with third parties, along with companies and entities where those persons or groups have had any type of relation.
- e) Appearance of conflict of interest exist when the provincial public official considers that their action or intervention in decisions related to affairs of their competence does not affect their personal interests or of relatives or of third parties linked to the official, companies or entities where those persons have had any type of relation, but from an objective point of view, that action or intervention may directly and seriously damage the image of objectivity that the general public has of the institution.
- f) Neither shall they accept any gift, invitation, trip, meals, economic compensation for public speaking nor participation in media for activities linked to the performing of their duties or benefit that may call in question their honesty, conditions or may give the appearance of condition the decision making or the participation in it. The guarantee authority, through the consultations or complaints, shall establish case by the case the situation where such gifts, compensation or benefits may or may not be acceptable. Such exception shall be expressly set out in the Application Guide of this Code.
- g) In any event, the holders of provincial public office in order to safeguard the image of the institution shall turn down the offers of gifts, invitations or conferences of those companies or individuals that have been contracted or may be objectively so in the specific sphere of their public responsibilities. If the gift or invitation were delivered, it shall immediately be handed over to the Provincial Administration or the entity of the public sector so that it is appropriately addressed.
- h) The holders of provincial public office shall likewise adopt all the necessary measure to guarantee that their immediate family circle or common-law spouse does not receive any gifts and invitations in the terms envisaged in letters f) and g).
- i) The public official shall submit any doubt in that regard to the guarantee authority by the established channels and may request, where appropriate, for the request to be treated confidentially.

### **3.5 Objectivity**

- a) Provincial public official in their public actions shall act with objectivity and in defence of general interests and those of the general public.
- b) To that end, they shall avoid when performing their duties any practices and actions that affect or cause any suspicion or appearance of that through them they may lead in a not targeted or motivated way to an activity that generates or which may cause a direct or indirect benefit to public or private entities or to specific people.
- c) In particular, that objective action shall permeate the appointment policy, public procurement, the granting of subsidies or compliance of any legal requirement in order to ensure the safeguarding of impartiality in the performing of their duties.
- d) Holders of public office may neither use their institutional position to obtain or to seek to obtain any type of advantage, however small, either from private or public entities.

e) The resolutions, actions and decisions of the holders of provincial public office shall be recorded and duly justified, when so necessary, in reports, studies, reviews, notes, projects or expert opinions, in order to fully safeguard the public interest and the role of the very institution. They shall therefore use the internal resources of the institution or, where applicable, of external advisors, pursuant to current legislation regarding administrative procurement.

### **3.6 Professionalism**

a) Holders of provincial public office of a lower rank than Councillor shall accredit that, prior to their appointment, have the minimum professional skills needed to perform the assigned duties.

b) From the approval of this Code, the holders of provincial public office of management level and similar shall be appointed after accreditation of the minimum professional skills required to perform their duties. The Provincial Council, by means of the Agreement, shall establish the system to accredit management skills and the competent authority to assess them.

c) The holders of provincial public office shall likewise assume the obligation and commitment to train and develop those professional skills in the areas where, after the relevant assessment or at the founded suggestion of their immediate superior, it is accredited that they do not achieve one or more of the minimum standards required by the Provincial Administration.

d) From the following term of office, the holders of provincial public office at management or similar level shall sign a management agreement with their respective departments in which the objectives to be achieved shall be established, the indicators shall be defined and their performance shall be assessed periodically. However, in the current term of office 2015-2019, a pilot-programme of management agreements in certain areas of the Provincial Council and of its public sector entities.

e) The information on the professional curriculum submitted to the Provincial Council or to the entities of the public sector by the public official must be truthful and verifiable. Any breach of this conduct implies serious harm to the image of the respective of the institution or entity, apart from the loss of reputation and credibility of the individual.

### **3.7 Efficiency**

a) Holders of provincial public office shall manage the public resources efficiency, avoiding any wastage or squandering in their use and optimising those resources efficiently.

b) The use of the public resources assigned to the holders of provincial public office is linked to the performing of their public duties. Barring exceptional needs that may be determined, they shall avoid the use of any of the public resources put at their disposal to meet private, personal, family or professional needs outside the public interests.

c) Holders of provincial public office shall permanently foster continuous improvement processes that represent effective savings, without jeopardizing the provision of the public services. To that end, they shall lead by example with their own actions for that purpose.

d) In the design, resolution and management of the public policies allocated in their sphere of responsibility, they shall safeguard and guarantee the financial sustainability of the Provincial Council.



### 3.8 Coexistence and Respect

- a) Respecting others is the basis of coexistence.
- b) By means of performing their duties and their own personal conduct, holders of provincial public office shall foster the strengthening of a society where tolerance, solidarity and coexistence fully prevail, by giving impetus to mutual respect, diversity and solidarity between people.
- c) Furthermore, their personal and institutional relations, whether with other holders of public office, persons in opposition, public employees or the general public, shall be underpinned by the idea of respect, courtesy, deference, correctness, empathy and serenity, and avoiding at any moment any treatment that may be inconsiderate towards the other person or be abuse or insulting.
- d) The proper use of language and self-control in the way of behaving, and in their character, is the most ideal way for the public official to relate to people.
- e) In terms of immediacy and continuity, dealings with public employees shall be particularly guided by what is envisaged in letter c), avoiding any situation of obvious harassment or, as applicable, bullying. Any such circumstances shall be immediately reported to the guarantee authority. If the complaint or the grievance, in the opinion of the guarantee authority, was unfounded, an information dossier may be opened in order to seek, as applicable, disciplinary proceedings.
- f) Holders of provincial public office shall, therefore, refrain from any type of conduct or actions that involves the use of derogatory terms or any type of discrimination (gender, beliefs, ideology, sexual orientation, race, disability or any other). Holders of public office shall avoid using non-verbal or verbal conducts, through actions or omissions, which may be damaging and degrading on the basis of gender or sexual orientation.
- g) Holders of provincial public office shall actively listen to the proposals or suggestions that are made by the general public or by entities, giving the reasons for whether or not they are to accept, for the purposes of safeguarding the credibility among the general public in its institutions.

## 4. GOOD PRACTICES PRINCIPLES

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### 4.1 Good Practices Principles

The good practices (or good governance) principles are a set of guidelines arising from the special nature of the organisation where the holders of provincial public office perform their duties, which should serve as guidance for their actions in the management sphere and the implementation of provincial public policies in order to obtain an institutional performance that improves the quality and efficiency of the public services provided to the general public.

## **4.2 Identifying the Good Practices Principles**

The Good Governance principles that the holders of public office have to follow in their public management and implementation of provincial public policies are as follows:

### **1.- Transformational and shared leadership**

Holders of provincial public office, as part of a Good Governance policy, shall exercise the transformational and shared leadership that Gipuzkoa society demands. They shall therefore foster and encourage all those interinstitutional and public-private partnership synergies that are necessary, particularly with the municipalities and the other local authorities of the province. They shall likewise promote the ongoing transformation and adaptation of the public policies and of their respective organisations to bring their objectives and structures in line with the change that society is demanding.

### **2.- Transparency**

The action of the holders of provincial public office shall be guided by the exercising of transparency in its broadest sense, always with respect to the fundamental rights of the citizens and in the framework of legality. Transparency shall have the essential purpose of providing the general public with all that relevant public information or which is required in accordance with current legislation, in order for it to be known how the provincial institutions are organised, in which way they carry out their duties and how they use their resources, for the purposes of building a relationship based on trust with the general public, strengthening the institutional legitimacy of the Provincial Council and of its public sector, along with facilitating accountability.

### **3.- Open Data**

Once an active publicity-transparency policy has been effectively developed, the holders of provincial public office shall give momentum to effective Open Data which makes an optimum transformation feasible of the information into knowledge aimed at improving the quality of life of the citizens of Gipuzkoa and to drive economic growth in the province.

### **4.- New innovation and management model**

The holders of provincial public office shall resolutely drive a New Organisational Model committed to mainstreaming and red-tape reduction, improves decision making, streamlines management that helps economic growth and investment activity, along with effectively developing e-government and uses information and communication technologies to simplify the procedures and formalities. They shall also involve the general public in the decision-making processes. Furthermore, they shall systematically foster innovation, both in its governmental and internal dimension, where they must be the main players, and in its external promotion in the business and service provision field.



#### 5.- Promotion and use of the Basque Language

The holders of provincial public office shall actively foster the use of the Basque language in the Provincial Council, in the development of the intra-organisational administrative-political work, in the inter-institutional relations with other public authorities or levels of government where Basque is the co-official language or recognise its use, as well as, in particular, in the relations with the general public or with its associative fabric. Furthermore, when carrying out their duties, they shall respect the linguistic co-official status and shall in any event avoid any conduct that implies discrimination on language grounds.

#### 6.- Social-economic cohesion and territorial balance

When carrying out their duties, holders of provincial public office shall foster economic and social cohesion, along with the territorial balance of Gipuzkoa society. In the economic sphere, they shall be committed to reinforcing the entrepreneurial and industrial fabric, develop infrastructures giving impetus to competitiveness, opening up new markets to internationalisation, along with driving the employment of skilled young people and long-term unemployed. In the social field, their actions shall be aimed at gradually eliminating social inequalities and safeguarding social inclusion, in a line of sustainability of the social welfare system. And, as regards territorial balance, they shall resolutely promote the infrastructures in the territory, the networking of local authorities and the reinforcing of the governance in the municipalities of Gipuzkoa, with the aim of the provision of public services to the general public are of proven quality and efficiency.

#### 7.- Relational government and active listening of the citizens

In the framework of relational government as a substantive core area of a Good Governance policy, the holders of provincial public office shall reinforce the two-way active listening and the connection with the citizens of Gipuzkoa, by fostering participation and civic commitment in a public action based on co-creation and in the private-public synergies. To that end, in the sphere of design, implementation, adoption or assessment of provincial public policies, they shall constantly and actively foster communication channels with the general public and with the business and associative fabric of the territory, by means of collaborative transparency formulas or by means of generating networks or institutional structures and participation procedures, always with the goal of guaranteeing and safeguarding the general interests, along with the financial health of the public accounts.

#### 8.- Accountability

When performing their duties, the holders of provincial public office shall always act responsibly. That means paying special attention to the assigned duties, always assessing the interests and positions that each decisions involves, justifying them and, in any event, they shall assume the consequences arising from the performing of such duties, and of their own conduct. As part of their accountability, the provincial officials shall periodically report to the general public. The accountability for carrying out the public activity is part of the essence of the democratic system, it shall be conveyed to the appropriate bodies and it is the only means to reinforce the credibility in the eyes of and the trust of the general public in its institutions, and in the people that hold that public office.



## 5. GOOD PRACTICES RULES OF ACTION

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### 5.1 Transformational and shared leadership

- a) Holders of provincial public office, as part of a Good Governance policy, shall exercise the shared leadership that Gipuzkoa society demands, without projective to the public responsibilities that they must assume due to their formal authority.
- b) They shall exercise leadership based on empathy, conviction by means of arguments, exemplariness and the correct alignment between policy and management.
- c) They shall, likewise, foster and encourage private-public partnership in the design and determination of public policies, but particularly in their management.
- d) They shall drive leadership committed to transformation, adaptability and innovation, by likewise fostering leadership within the chain at middle level and responsibilities.
- e) They shall encourage the creation and cohesion of work team in shared projects, by assuming their direction and guidance, along with assessing the performance of each person in those programmes.
- f) They shall likewise deploy, in the framework of multi-level governments, the necessary inter-institutional and proper cooperation, particularly with the municipalities and other local authorities of the province, and with the Basque Government and the Autonomous Community of Navarra.

### 5.2 Transparency

- a) When performing their duties, holders of provincial public office shall always be guided by the principle of transparency, and always respecting the law and fundamental rights and, particularly, the right to the protection of personal data. In this regard, the agendas of the highest authorities shall be made public, with information on the meetings and acts that they attend.
- b) The principle of transparency shall impact the internal management of the department, management unit or entity that is the responsibility of the provincial public official, implying an improvement of the public management and of the culture of the organisation.
- c) Their transparent action shall be aimed at improving the relation of trust of the general public in its institutions, enable the citizens to have democratic control of them and guarantee accountability.
- d) The holders of provincial public office shall drive effective transparency in the field of active publicity, with the aim of gradually exceeding the legal requirements and those arising from provincial legislation.
- e) They shall likewise adopt all the measures at their disposal for the effectiveness of exercising the right of access to public information in those areas of their competence. They shall examine the causes for non-acceptance and the material limits with restrictive criteria in order to allow for the exercising of the right to know of the general public.

- f) They shall guarantee, from a management perspective, the effective and rapid responses to any request for public information.
- g) Special emphasis shall be placed on the use of the Basque Language in the carrying out of the obligations arising from transparency and the right of access to public information, as well as in other aspects of transparency.

### **5.3 Open Data**

- a) As part of their duties, holders of provincial public office shall encourage effective open data, while always respecting the protection of personal data and the fundamental rights of the person.
- b) They shall likewise drive the reuse of public information, in order to improve economic growth and employment.
- c) Holders of provincial public office shall acquire mandate and annual commitments to fulfil the challenges set out in the previous two sections, both as regards open data and their reuse.
- d) They shall likewise foster the assessment of those commitments.

### **5.4 New management model and public innovation**

- a) Holders of provincial public office shall decisively push for a New Organisational Model that is committed to mainstreaming and cutting red tape, in order to improve decision-making and make it more efficient.
- b) They shall likewise give impetus to streamlining procedures and formalities to grow the economy and eliminate bureaucratic hurdles.
- c) Special emphasis shall be placed on using information and communication technologies, along with e-government in the daily performing of their duties.
- d) They shall systematically promote innovation, both in its governmental and internal aspect, where they shall be the main players, and in its external promotion in the service provision and business sphere.
- e) They shall particularly promote the innovation culture in their own department, management unit or entity, by driving creativity and nurturing the experimentation leading to new forms of public management that imply improvements or at least try out management formulas involving collective learning.
- f) They shall likewise develop a culture of ongoing and permanent adaptability and transformation to the new methods and challenges that arise at any given time.

### **5.5 Promotion and use of the Basque Language**

- a) The holders of provincial public office shall actively foster the use of the Basque language in the Provincial Council in interinstitutional relations with other public authorities or levels of government that have the Basque language as a co-official language or recognise its use, as well as in particular in the relations with the general public and their associative fabric.
- b) They shall preferably use spoken and written Basque in their professional capacity, except in those acts or relations where the other parties do not have sufficient knowledge of the Basque language.
- c) In any event, without prejudice to the above, they shall act with full respect of the linguistic co-officialdom.

### **5.6 Social-economic cohesion and territorial balance**

- a) When carrying out their duties, holders of provincial public office shall foster economic and social cohesion, along with the territorial balance of Gipuzkoa society.
- b) In the economic sphere, they shall be committed to reinforcing the entrepreneurial and industrial fabric, develop infrastructures giving impetus to competitiveness, opening up new markets to internationalisation, along with driving the employment of skilled young people and long-term unemployed.
- c) In the social sphere, their actions shall be aimed at eliminating or reducing gradually the social inequalities and avoid social exclusion in a line of sustainability of the social benefit system.
- d) In the territorial sphere, in order to improve the services of the general public, they shall foster networking with the Basque Government, the Autonomous Community of Navarra, with the other provinces, with cross-border entities or the Euro-city space, along with the municipalities of Gipuzkoa.

### **5.7 Relational government and active listening of the citizens**

- a) Holders of provincial public office shall actively promote in the performing their duties relational government as part of a Good Governance policy.
- b) They shall likewise drive and keep active effective citizen participation channels in the driving designing, implementation, decision making and assessment of provincial public policies, while always guaranteeing and safeguarding the general interests, along with the financial health of the public accounts.
- c) They shall also develop smart use of the information and communication technologies, along with the social networks, when carrying out their duties and in their relations with society.
- d) The holders of provincial public office shall reinforce the active presence and connection with the citizens of Gipuzkoa, by fostering participation and civic commitment in a public action based on co-creation.

e) In their relations with the citizens and private and public entities, the holders of public office shall ensure careful and active listening to the demands and positions that each person or entity puts to them, and examine them, without prejudice to, as appropriate, they are deemed to be materially impossible.

f) In particular, they shall show a particular empathy towards the most disadvantaged groups of Gipuzkoa society, and develop constructive and efficient communication tools for that purpose and to provide the necessary support.

g) Citizen participation shall channelled through the mechanisms and channels established by the rules, along with the collaborative transparency instruments and any other means, for the propose of focusing on and involving the general public and the entities in which it is grouped in the driving, design, execution or assessment of provincial public policies, particularly sectoral ones.

### **5.8 Accountability**

a) Provincial public official shall perform their duties with diligence, dedication and always assuming the responsibilities arising from their management.

b) Without prejudice to fostering citizen participation, holders of provincial public office are ultimately responsible for the success or failure of the public policies of their respective area or their remit.

c) In their daily management, the holders of provincial public office shall work by means of programming goals and objectives temporally as part of the Strategic Management Plan, as well as by means of determining indicators that may assess the results.

d) Holders of provincial public office shall periodically report on their performance and shall always justify, giving reasons, the decisions adopted, the resources used and the hypothetical deviations or beaches that may have occurred. The accountability may be performed by telematic means or in hearings. The accountability shall be to the General Assemblies, the media and, in particular, in open sessions, to the general public and entities or associations.

e) All the events organised by Gipuzkoa Provincial Council shall be recorded and, wherever possible, shall be broadcast live in order to monitor and control them.

f) The accountability may likewise be through electronic means and via the Transparency Portal, with instruments being established that enable an ongoing monitoring of each activity.

g) In the case of serious and unjustified breach of the proposed objectives under the sole responsibility of the provincial public official, the latter shall offer their resignation to the authority that appointed them.



## 6. PROMOTION, PREVENTION AND GUARANTEE SYSTEMS

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### 6.1 Promotion and prevention measures

#### 6.1.1 Fostering the values, principles and rules of conduct and action. Integrity Prevention Measures

a) The Provincial Administration shall disseminate the values, principles and rules of conduct and action through an annual programme of actions, which shall contain, workshops, training programmes, an internal and external communication campaign, along with any other measure that helps to develop an ethical climate and prevent any type of conduct not in keeping with what is established herein.

b) The main objective of the programme established in the above section shall be to improve the ethical infrastructure and public management good practices in the performing of the duties and tasks of the holders of provincial public office.

c) Holders of provincial public office shall be required to take part in all those activities that come under that programme and comply with or fulfil the commitments, objectives or challenges that are set in each case.

#### 6.1.2 Incentives for management and ethical excellence

a) The Provincial Administration may establish prizes of management and ethical excellence in their respective management unit or in those of the linked or dependent public sector.

b) With the agreement of the Provincial Council, the terms and conditions of those prizes shall be approved, along with the compensation or recognition given to each person or unit.

c) The prizes for ethical excellence shall particular highlight the exceeding of the minimum standards regulated in this Code as regards the Rules of Conduct, by means of the ongoing behaviour or a specific action.

d) The prizes to management excellence shall impact on improvement or innovation projects that the different management units and the staff in them have driven during the assessment period.

e) The assessment of those good practices shall always be conduct by an expert or experts outside the Provincial Administration, who shall be able to have the view or the opinion, as regards ethical excellence, of the guarantee authority.

## **6.2 Guarantee authority**

1. The guarantee authority shall be the Institutional Ethics Commission.

## **7. ACCOUNTABILITY, ASSESSMENT AND TRANSPARENCY**

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### **7.1 Accountability**

1.- The Provincial Council, as part of the accountability processes and in the periods that are generally established, without prejudice to the immediate accountability that may be performed remotely as applicable, shall explain the set of promotion and prevention measures that have been put in place to apply this Code, and shall also send the specific actions to be included in the annual report to be prepared by the Institutional Ethics Commission.

2.- Furthermore, it shall report, as applicable, on the calls for nominations for the prizes of excellence in integrity and in management good practices announced or which are in the pipeline.

### **7.2 Assessment**

1.- The Provincial Council shall agree an external assessment system for its institutional integrity policy and particularly of the measures contained in this Code.

2.- This assessment process shall be performed every two years by external entities, that accredit professional solvency, impartiality and experience in this type of assessment processes..

### **7.3 Transparency**

1.- All the information that is provided as the consequence of the application of this Code shall have the status of important public information and shall be published in the Transparency Portal of the Provincial Council.

2.- The proposals of the Institutional Ethics Commission that imply reproof, along with calls for dismissal, shall be public, in the terms established as applicable in provincial legislation, which may, thus, establish an exception to the limits envisaged in data protection and transparency legislation.

3.- The other information that directly affects personal data shall be conditioned, regarding its publication, to the public interest override in its dissemination and to the prior hearing of the person in question.

3.- Under no circumstance shall confidential consultation or complaints be made public.

4.- Any breaches of the obligations envisaged herein shall be published through the Transparency Portal, but shall only contain – as regards personal data – the identifying data of the individual and the post held.

#### **7.4 Application Guide**

The Institutional Ethics Commission shall prepare and submit for the approval of the Government Council annually a guide on how to apply this Code, which shall detail the scope of the Rules of Conduct according to the consultations and resolutions adopted during that time period. That Guide shall be public.

#### **7.5 Time application of the obligations and commitments of the Code**

1.- The obligations and commitments established herein shall be applicable from the appointment to the time that the public official no longer holds the post..

2.- Such obligations and commitments, except to the extent that they can affect conflicts of interest arising from "ex ante" situations, do not extend to previous relations of the public official with the institution or ex post activities that the person conducts after their service and organic relations with the Provincial Administration have ended. In those cases, the provincial regulations or legislation regarding conflicts of interest shall apply.

3.- In any event, the parties who put forward the appointment of the holders of public office and others of a similar standing shall assume the responsibility of assessing the integrity of the candidates beforehand.. What is established herein shall apply in the case of lying, concealment or serious errors in the professional career or curriculum of the candidates for an appointment.

4.- In order to foster the embracement of the values and rules of conduct envisaged herein, during the first year it is in force, the Ethics Commission may only issue reproof resolutions and not propose the dismissal of the holders of public office . However, should an objective situation occur that requires a person to be removed, it shall be so recorded in the resolution and leave it up to the provincial public official to decide whether to continue in the post or submit their resignation. In the latter case, it should be assessed by the competent authority to appoint the official.

5.- In any event, the reproofs received during the first year shall account for the proposals that, as appropriate, the Commission must make due to accumulation.

**INSTITUTIONAL ETHICS COMMISSIONS OF THE PROVINCIAL PUBLIC SECTOR  
OF THE PROVINCE OF GIPUZKOA**

**Article 1. Creation and secondment.**

1. By means of this provincial decree, the guarantee authority envisaged in the Code of Conduct and Good Practices of holders of public office and staff of a similar standing of Gipuzkoa Provincial Council and other entities making up the provincial public sector are hereby created with the name of the Institutional Ethics Commission.
2. The Institutional Ethics Commission shall act with functional independence and full autonomy.
3. The Institutional Ethics Commission shall be seconded, for the sole purposes of having the necessary legal, personal and technological resources, to the Department of Governance and Communication with Society or, failing that, the department that assumes its competences.

**Article 2. Purpose**

1. The purpose of the Commission shall be to promote and guarantee the disseminate, embracing and correct compliance of the values, principles and rules of conduct established in the Code of Conduct and Good Practices of the holders of public office and staff of similar standing of Gipuzkoa Provincial Administration and of the other entities of the provincial public sector.
2. Therefore, the Commission shall perform the duties listed in Article 3 in matters related to the following holders of public office or staff of similar standing:
  - a) Provincial Council Chairman or Chairwoman and Provincial Councillors.
  - b) General Managers.
  - c) Directors and Managers of the entities of the provincial public sector.
  - d) Members of the Boards of Directors of the provincial public corporations.
  - e) Members of the government bodies of the Consortiums answering to the Provincial Council.
  - f) All the holders of public office absorbed in the above in their incorporation decree or in their appointment.
  - g) Temporary employees with advisory roles.

**Article 3. Functions.**

The functions of the Institutional Ethics Commission shall be as follows:

- a) Preventing the hypothetical appearance of non-appropriate conducts in the performing of the duties of the holders of public office and, thus, preserve and safeguard the image and ethical climate of the institution.
- b) Answering any queries and consultations and settling any ethical dilemmas that may be raised, by means of issuing resolutions, reports or notes.
- c) Processing and solving the complaints and grievances received regarding breach of the values, principles and rules of conduct set out in the Code of Conduct and Good Practices. The resolutions that it issues may have the status of proposals to the Provincial Council or to the competent government bodies of the other entities of the provincial public sector, in order for them to adopt the relevant agreements.
- d) Preparing an annual report on the activity of the Commission and propose, as appropriate, the amendment of the contents established in the Code of Conduct and Good Practices or the measures deemed appropriate.
- e) Preparing and proposing the approval of the Application Guide for the Code of Conduct and Good Practices, where, on an annual basis, the rules of conduct shall be detailed and specified, based on empirical evidence, the consultations and the resolutions that the Commission has adopted during each financial year.
- f) Proposing public ethics skills-building and training programmes.

**Article 4. Composition.**

1. The Institutional Ethics Committee shall be made up of the following members:

- a) Chair: Provincial Councillor for Governance and Communication with Society, or of the department tasked with those functions.
- b) Members:
  - A public official of Provincial Council with the rank of general manager or similar.
  - Three people from outside the Provincial Council that meet the requirements established in Point 4 of this article.
- c) Secretary: Whoever is heads the Legal System General Directorate of Gipuzkoa Provincial Council, who shall have the right to speak but not to vote.

2. In the case of a vacancy, absence or illness and, in general, when there is a justified reason for doing so, the members of the Commission may be replaced by their deputies, when that is the case.

3. The members of the Institutional Ethics Commissions shall be appointed as agreed by the Provincial Government Council, at the proposal of the person in charge of the Department of Governance and Communication with Society.

4. The appointment of the external people shall be entrusted to those people with accredited experience and a proven track record in their professional sphere and which at the time of their appointment did not have an organic link with the Provincial Administration and with the other entities of the provincial public sector.

Those persons shall only receive compensation for their service and, as appropriate, per diem expenses for attendance in the terms that are established by Provincial Council.

5. The members of the Institutional Ethics Commission have a duty of confidentiality regarding all the information to which they come into contact while performing their duties; in particular, regarding the facts examined, the content of the investigations and deliberations and the decisions adopted, as well as personal data. Furthermore, they shall not make any private or public statement relating to the above and regarding the proceedings before that Commission.

They may only published the final decisions regarding the proceedings, once the interest person or persons have been notified and in the terms established in Articles 6 and 7 of this provincial decree.

6. A balanced representation of men and women shall be guaranteed in the composition of this Commission.

7. The Provincial Administration shall provide the Commission with the technical or instrumental support or measures that it requires, and shall provide, as applicable, the necessary legal, personal and technological resources for the Commission to carry out its duties appropriately.

#### **Article 5. Functioning.**

1. The Commission shall met at least once every six months, after being convened by the Chair through the Secretary.

In any event, a meeting shall be convened where there is a matter or consultation that requires its expertise.

2. The sessions that the Commission holds may be held with the members present or by electronic means.

3. If not otherwise specifically envisaged in this provincial decree, the functioning of the Institutional Ethics Commission shall be governed by the rules established by the collegiate authorities of the public administrations.

#### **Article 6. Proceedings of the procedures.**

1. The consultation, complaint or grievance procedures with the Institutional Ethics Commission shall be streamline and without any special formal requirements. Only the identification of the party formalising the consultation, complaint or grievance shall be required. As appropriate, the procedure shall be treated as confidential when obviously necessary, pursuant to what is envisaged in the Code of Conduct and Good Practices.

2. The Provincial Council, at the proposal of the Institutional Ethics Commission, may establish a protocol to process the consultations, complaints or grievances.

3. The consultation, complaint or grievance procedures shall be processed, preferably, by electronic means, except that is not pertinent on confidentiality grounds.

4. The contents of any oral consultant shall be recorded in writing, without prejudice to maintaining the requested confidentiality.

5. In the consultations put to the Commission regarding doubts, ethical or conduct dilemmas or problems pursuant to the Code, the parties may request that they are treated confidentially; in particular, when fundamental rights of the party in question or of their family environment which must be preserved are at play.

The Commission shall ensure full compliance of the confidentiality and of the withholding of that information, which may be published once the personal data has been removed and when the identity of the person cannot be compromised directly or indirectly.

#### **Article 7. Processing and resolution of complaints and grievances.**

1. The Institutional Ethics Commission may act ex officio or by means of a complaint or grievance.

2. If no type of breach of what is envisaged in the Code of Conduct and Good Practices is observed in the proceedings, the Commission shall issue an order to shelve the complaint or grievance, with the grounds being given in any event.

3. Should any conduct be observed that involves breach by the public official of the values, principles and rules of conduct or action envisaged in the Code, after a hearing of the person in question, the Commission shall issue a resolution in the following terms:

a) Should the breach have consequences deemed to be barely relevant, the resolution shall be a reproof and shall be published on the Transparency Portal of the Provincial Council.

b) Should the breach have consequences deemed to be relevant, the resolution shall be a warning and reproof regarding the responsibility incurred, and shall be sent to be put on record by the authority responsible for the appointment and dismissal of the public official in question.

c) Should the breach have consequences deemed to be very relevant and with particularly serious institutional impacts, the resolution shall contain the relevant proposal for the dismissal of the public official in question and it shall be put to the competent body.

4. When classifying a breach due to its consequences as barely relevant, relevant or very relevant with particularly serious institutional impacts, apart from the personal conduct or behaviour, the objective damage to the institutional image that the conduct has supposed shall be taken into account. In any event, the principle of proportionality shall be followed in the application of that graduation.



5. Two reproof resolutions in a single term of office shall require the Commission to issuing a warning and reproof resolution. The third shall lead to resolution proposing the dismissal of the public official in question.
6. Two warnings and reproof resolutions shall mean a resolution proposing the dismissal of the public official in question.
7. The resolutions adopted by the Institutional Ethics Commission shall establish the benchmark parameter for the decision making by the competent authority.
8. In those cases where the conduct may deserve a criminal or administrative sanction, the competent authority shall be notified immediately.

**Transitional provision. Transitional regime of the resolutions.**

1. 4.- During the first year it is in force, the Ethics Commission may only issue reproofs and not propose the dismissal of the holders of public office . However, should an objective situation occur that requires a person to be removed, it shall be so recorded in the resolution and leave it up to the provincial public official to decide whether to continue in the post or submit their resignation. In the latter case, it should be assessed by the competent authority to appoint the official.
2. 5.- In any event, the reproofs received during the first year shall count for the proposals that, as appropriate, the Commission must make due to accumulation.

**Final provision. Effective date.**

This Provincial Decree shall come into force on the day following its publication in the Official Gazette of Gipuzkoa.