



APPENDIX 1

Gifts & Hospitality

Purpose and Scope

The acceptance of gifts and hospitality by officers of local authorities is not merely an administrative issue. It reflects directly upon the perception of the probity of the authority. Acceptance of a gift or hospitality in breach of this Policy will be a disciplinary matter and in certain circumstances it can be a criminal offence, including under the Bribery Act 2010. It is important that all officers of the authority operate according to a clear and consistent set of rules, for their own protection and for the protection of the authority.

This Policy sets out:

- (a) the principles which you should apply whenever you have to decide whether or not it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive or you decline, and for accounting for any gift to the authority which you accept

This Policy does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority e.g. legitimate and reasonable rewards by managers or Members as a thank you.

Applicable to:

ALL () Non-management (X) Management (X) Members ()

Policy

Remember- It is always best practice to declare any gifts or hospitality received irrespective of value.

1 General Principles

In deciding whether or not it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents in section 2(a) below, you should not accept it if it would be in breach of one or more of these principles:

- (a) **The presumption is that you should not accept any gift or hospitality in connection with the performance of your duties as an officer of the authority**

As an officer, you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community. You are paid by the authority for the performance of your duties, and Section 117(2) of the Local Government Act 1972 makes it a criminal offence for you, while conducting your duties, to accept any fee or reward whatsoever other than your proper remuneration i.e. pay. Acceptance of any gift or hospitality other than in

accordance with this Policy will be outside your proper remuneration, and will therefore be a criminal offence carrying a maximum fine of £2,500.

(b) Never accept a gift or hospitality as an inducement or reward for anything you do in your job

As an officer, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

Section 2 of the Bribery Act 2010 makes it an offence for a person to request, agree to receive or accept a financial or other advantage, to improperly perform or not perform, whether by her/himself or another, a relevant function or activity. 'Function or activities' include any function of a public nature.

Prosecution under the Act could lead to a criminal conviction and an unlimited fine or up to 10 years imprisonment.

~~The Public Bodies (Corrupt Offences) Act 1889 provides that acceptance of any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned is a criminal offence carrying a maximum term of imprisonment of 7 years. Under the Bribery Act 2010 gifts or hospitality which are not proportionate and reasonable given the type of work you do may be an offence under the Act~~

(c) You should only accept a gift or hospitality if it relates to the business of the Council and the business of the Council is likely to be facilitated in some beneficial, advantageous or helpful way.

The only proper reason for accepting any gift or hospitality is if you reasonably believe that there may be a benefit for the authority.

That benefit might come in many forms, such as an opportunity to progress the business of the authority expeditiously through a working lunch, to canvass the interests of the authority and its area at a meeting, or the opportunity to examine or test new products which the authority might wish to acquire.

Unless the benefit to the authority is clear, and proportionate to the value of that gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

(d) Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the authority and to the officer as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a

sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. This is particularly the case when you have a relationship with that person outside of work. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

It shall be for the appropriate officer (as identified in section 2(b) below) to decide, taking into account all the relevant circumstances, whether an acceptance of gift or hospitality under this general principle is appropriate.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer. Please note the criminal offences set out above.
- (ii) elections, in respect of any indication of favour for any particular candidate or party
- (iii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
- (iv) funding decisions, when the authority is determining a grant application by any person or organisation. (If you are unsure whether the authority is in the process of allocating a grant, please check with the Community Development Team)

(e) Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your work unless the acceptance of that gift or hospitality would be permitted under this Policy. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

(a) General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority or hospitality through attendance at relevant conferences and courses where it is clear the hospitality is corporate rather than personal;
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits;
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by this authority;
- (iv) small gifts of low intrinsic value below £50 branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such

branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;

(v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party or person associated with the same, with whom you have done business with on behalf of the authority if you meet accidentally in a public house, cafe or bar. If the offer can be refused without offence, it should be;

(vi) a modest working lunch not exceeding £50 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection, where this is required in order to facilitate the conduct of that business. When arranging any such meeting, you should make it clear to the other party that such a lunch must not exceed a value of £50 a head;

(vii) modest souvenir gifts with a value below £50 from another public authority given on the occasion of a visit by or to the authority;

(viii) Hospitality received in the course of a Members' visit or meeting which has been duly authorised by the authority. When organising such visits or meetings, you should make it clear that any such hospitality for Members and officers is proportionate to the nature of the visit;

(ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the officer deals with the gift strictly in accordance with the following procedure: The officer must, as soon as practicable after the receipt of the gift, pass it to the Chairman of the Council or their Secretary together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman. The Chairman's Secretary works in Democratic Services.

Where the unsolicited gift is perishable it will be for the appropriate officer's discretion under the special consent provisions as to how to dispose of the gift. Where the gift is minor in nature, for example chocolates or cakes, the usual practice will be to share amongst a team so no one individual is seen to benefit. The Special Consent Form (see below) must be used to record this.

(b) Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may normally only do so unless you have previously obtained specific consent in accordance with the following procedure:

You must make an application using the Gifts & Hospitality **Special Consent Form** to the appropriate officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality;
- (ii) who the invitation or offer has been made by or on behalf of;
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved;
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority;
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper;

The appropriate officers are as follows:

- (i) for the Chief Executive, the Monitoring Officer or, in his/her absence, the Chief Financial Officer
- (ii) for Strategic Directors, the Chief Executive or the Monitoring Officer
- (iii) for Heads of Service (other than the Monitoring Officer), their Strategic Director or, in his/her absence, the Monitoring Officer
- (iv) for the Monitoring Officer, the Chief Executive or the Chief Financial Officer
- (v) for all other officers, their Head of Service

You must not accept the gift or hospitality until you have received the appropriate consent. In exceptional circumstances an appropriate officer may retrospectively consent to the gift or hospitality where it is in accordance with this policy and it was not practicable in all the circumstances to obtain Specific Consent in advance.

The appropriate officer will send copies of any such applications and consents to the Monitoring Officer who will retain them in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year.

3 Reporting

Where you are offered or accept any gift or hospitality which you estimate to have a value of over £50, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing in your directorates' Register of Gifts and Hospitality, setting out the information set out in Paragraphs 2(b) above. The register will be available for public inspection until the approval of the authority's accounts for the year in question. Each Directorate will decide who is to hold the register for their area and ensure staff with the directorate are aware of its location.

Even if the value of the gift or hospitality is under £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner as above to ensure that there is nothing secret or underhand about the gift or hospitality.

4 Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits).

You should report the offer directly to the appropriate decision maker, together with your recommendation. The appropriate decision maker should write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, and as soon as possible after acceptance of any gift, take the necessary steps to ensure that this is recorded in the Council's ownership or properly applied for its benefit. The appropriate decision maker will ensure that the Council retains all relevant records for audit purposes. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

5 Gift and Hospitality Registers

Each Directorate shall hold a Gift and Hospitality Register for officers within their directorate. The Register shall include all declarations made and Special Consents approved or refused under paragraph 2(b) above. This Register shall be reviewed by the Monitoring Officer on a six monthly basis in January and July each year.

6 Definitions

(a) "Gift or hospitality" includes:

- (i) the free gift of any goods or services including those won in prize draws;
- (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
- (iii) the opportunity to obtain any goods or services which are not available to the general public;
- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event, free of charge or at a reduced rate;

(b) References to the "value" or "cost" (estimated or actual) of any gift or hospitality are to be assessed against the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public.

Any dispute over the value or cost of the gift or hospitality shall be resolved by obtaining an average of 3 open market prices obtained from any 3 high street or internet retailers



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For further advice contact :

Employee Relations Officer
Employee Relations Manager
Corporate Human Resources
Manager
Monitoring Officer

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December 2012

To be reviewed no later than :

December 2014

Policy Sponsor :

Monitoring Officer