

MEMBERS' PROTOCOL FOR GIFTS AND HOSPITALITY

The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority and whether they see them, properly, as acting in the public interest, or improperly as acting for their personal advantage or that of their friends and family

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Prevention of Corruption Acts. Under the Code of Conduct, the acceptance of any gift or hospitality with an estimated value of £25 or more constitutes a personal interest, on which you must refer to section 3 'Reporting' below.

These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a criminal conviction and a heavy fine or up to 7 years' imprisonment.

This Protocol sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

This protocol applies to the Chairman and Vice-Chairman of the Council as much as it does to other Members. It is inevitable that during the holding of either office, the amount of gifts and hospitality provided will be greater, hence office holders must be scrupulous in declaring any offered or received.

1 General Principles

In deciding whether 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 set out below, you should not accept it if to do so would be in breach of one or more of these principles:

(a) **Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act only 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.

The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept 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, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Further, the authority's Code of Conduct for Members provides that 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, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that the councillor reasonably believes that there may be a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage.

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

As set out above, the Members' Code of Conduct provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code of Conduct.

(c) 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 you as a Councillor 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. 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 does not arise.

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.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.

(d) Never accept a gift or hospitality which puts you under an improper obligation

Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality contrary

to the principles of this Protocol, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

(e) Never solicit a gift or hospitality

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

2 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) light refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks, biscuits and, if appropriate for the time of day, sandwiches or other similar light refreshment;
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority or by another public body;
- (iv) small gifts of low intrinsic value below £25, 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 soft drink or modest alcoholic drink (such as a pint of beer or a small glass of wine) on the occasion of an unplanned social encounter in a public house, café or bar, with an employee of a contractor or party with whom you are aware the Council has done or may do business. It is proper that you make reasonable efforts to return the offer;
- (vi) a working meal not exceeding £25.00 per head associated with a meeting or visit with a party with whom the authority has an existing business connection. The purpose of the hospitality should be to facilitate the conduct of that business. The member or officer attending the meeting or visit should notify the other party of this maximum level of expenditure, wherever possible in advance of the meeting. In the event of reasonable doubt as to the exact value of the meal, it should be registered;
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority;
- (viii) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:

The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Chairman of the Council via Committee Services. Committee section 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 otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

If a councillor is in any doubt as to whether accepting a particular gift or hospitality would breach the general principles of this Protocol, the councillor should always seek guidance from the Monitoring Officer, in writing if necessary. Nothing in this consent regime excludes the Councillors obligation to register the gift or hospitality.

3. Reporting

(a) Gifts and hospitality Worth £25 or more

Under the Code of Conduct, you have a personal interest in any Council business which relates to, or is likely to affect, the interests of any person from whom you have received a gift or hospitality with an estimated value of £25 or more.

You must register any such gift or hospitality within 28 days of receiving it, by either writing to or e-mailing the Monitoring Officer with the necessary details, or by completing an 'Update of Interests' form which is obtainable from the Monitoring Officer. Gifts and hospitality to a cumulative value of £25 or more from the same source should be included. In either case, the details will be retained in a register which will be available for public inspection, as required by law.

You must also disclose, as a personal interest, the existence and nature of the gift or hospitality at any meeting at which business that relates to, or is likely to affect, the donor of that gift or hospitality is considered. You need not disclose the interest if it was registered more than three years before the date of the meeting.

(b) Gifts and hospitality worth less than £25

Even if the value of the gift or hospitality is less than £25 and you are concerned that its acceptance might be misinterpreted, particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the Council's Register of Gifts and Hospitality. The register is available for public inspection.

In particular, it has been accepted in the Planning Code of Conduct that a lower threshold of £10 is appropriate for registration in relation to planning matters, in view of their particular sensitivity.

Any gift or hospitality between the value of £10 and £25, which could be construed as relating to any planning matter, should be notified similarly to the Monitoring Officer for inclusion in the Council's Register of Gifts and Hospitality, even though it will not constitute a personal interest under the Code of Conduct.

- (c) Gifts and hospitality that have been refused

The Council's Register of Gifts and Hospitality has provision also for showing where a gifts or hospitality has been offered but you have refused it. Although there is no legal* or other requirement to notify such an offer/refusal (whether above or below £25), you are able to register it if you prefer to put your refusal on the public record. (*See section X of the 2007 code of conduct – correct title...)

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).

If you do not have delegated authority to accept the gift, you should report the offer , together with your recommendation, directly to the Monitoring Officer who has such delegated authority,. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that, if it is accepted, , the gift is properly applied for the benefit of the authority. 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. Definitions

- (a) "Gift or hospitality" includes:
- (i) the gift of any goods or services.
 - (ii) 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.
 - (iii) the opportunity to obtain any goods or services which are not available to the general public.
 - (iv) 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.
- (b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration;
- (ii) 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, less the cash sum of any contribution which you would be required to make toward that price to the person or organization providing or offering the gift or hospitality.