

PROTOCOL ON GIFTS, BENEFITS AND HOSPITALITY

1. INTRODUCTION

- 1.1 Whilst most offers of gifts, benefits and/or hospitality are well meant and innocent, there may be instances of gifts, benefits and/or hospitality being offered to secure improper advantage. Whilst this is exceptional and rarely occurs, it is damaging to public confidence in local government and damaging to the reputation of the Council. Even in situations where there are no improper motives, the acceptance of gifts, benefits and/or hospitality can have a negative effect in terms of public perception. Members must be very clear about the rules which apply and must always bear in mind how the public might view situations where gifts, benefits and/or hospitality are offered and accepted. Any offer should be treated with great care.
- 1.2 The [Member] Code of Conduct states ‘You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties. You should have regard to the guidance in the Council’s Protocol on Gifts, Benefits and Hospitality.’
- 1.3 This Protocol relates to any gift, benefit and/or hospitality that is made, given, or afforded to you in your capacity as a Member, which you accept. It is not intended to cover the ordinary social relationships you enjoy with friends, business partners or colleagues etc provided they are not applying to the Council for anything, seeking to do business with the Council, or involved in an ongoing business relationship with the Council.
- 1.4 Whilst the Protocol seeks to provide clear guidance about the type of gifts, benefits and/or hospitality that you should normally avoid, the question of whether to accept an offer of a gift, benefit and/or hospitality is your personal responsibility. When considering whether or not it would be appropriate to accept an offer of a gift, benefit and/or hospitality, you should carefully consider all the circumstances in which the gift, benefit and/or hospitality is being offered and what the value or cost would amount to. In particular, you should consider how a member of the public would view the nature of the gift, benefit and/or hospitality.
- 1.5 When considering whether an offer of hospitality is normal hospitality associated with duties as a councillor and which would reasonably be regarded as appropriate, Members will wish to consider all the surrounding circumstances, including the value of the hospitality offered. It is appropriate for Members to consider the nature of their role within the Council e.g. the normal hospitality associated with a councillor’s duties may be different to the normal hospitality associated with the duties of the Mayor or Leader of the Council.
- 1.6 This Protocol supplements the [Member] Code of Conduct.

2. MEANING OF GIFTS, BENEFITS AND HOSPITALITY

- 2.1 The expressions ‘gifts’, ‘benefits’ and ‘hospitality’ have wide meanings and no conclusive definitions are possible. Gifts, benefits and hospitality include:

- The gift of any goods or services;
- The opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
- The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.

2.2 'Gifts' include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.

2.3 'Hospitality' includes lunches, dinners or refreshments, accommodation or entertainment provided free of charge or heavily discounted.

2.4 'Benefits' include sponsorship and the offer by a supplier of a discount for the purchase of an item for personal use not generally available to the general public.

3. GENERAL CAUTION TO BE EXERCISED

3.1 The fundamental principle must always be that any offer of a gift, benefit or hospitality should be treated with great care. You must not accept any offer of a gift, benefit and/or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour or disadvantage to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift, benefit and/or hospitality received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would be perceived to influence your judgement.

3.2 You should consider carefully all the circumstances surrounding the offer of a gift, benefit and/or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors. Also, be sensitive to the timing of the offer in relation to decisions which the Council may be taking, affecting those making the offer and, if your position is prominent, whether just your attendance at an event might be open to interpretation as a signal of support.

The Bribery Act 2010 defines a bribe as 'a financial or other advantage'. Bribes can take many forms (money (or cash equivalent such as shares), expensive gifts, entertainment or hospitality, kickbacks etc). By way of example, the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on any Council decision in question, will be factors which will be considered in the event of an allegation of corruption - the onus would be on you to disprove corruption.

In deciding whether it is appropriate to accept any gift, benefit and/or hospitality, you must apply the following principles:

- do not accept a gift, benefit and/or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift, benefit and/or hospitality is an inducement or reward, you must decline it - 'reward' includes remuneration, reimbursement and fee.
- do not accept a gift, benefit and/or hospitality of significant value or whose value is excessive in the circumstances.
- do not accept repeated gifts, benefits and/or hospitality from the same source (factors to consider include the value of the gift, benefit and/or hospitality offered and the time period between the acceptance of the first offer and the second or subsequent offer).

- do not accept a gift, benefit and/or hospitality if you believe it will put you under any obligation to the provider as a consequence.
- do not solicit any gift, benefit and/or hospitality and avoid giving any perception of doing so.
- do not accept cash or monetary gifts.
- do not accept a gift, benefit and/or hospitality, if acceptance might be open to misinterpretation - such circumstances will include gifts, benefits and/or hospitality from:
 - (i) parties involved with the Council in a competitive tendering or other procurement process;
 - (ii) applicants for planning permission and other applications for licences, consents and approvals;
 - (iii) applicants for grants, including voluntary bodies and other organisations applying for Council funding;
 - (iv) applicants for benefits, claims and dispensations;
 - (v) parties in legal proceedings with the Council;
 - (vi) Council owned companies (wholly-owned companies are separate bodies from the Council);
 - (vii) individuals or organisations who are seeking to do business or to continue to do business with the Council.

You should usually avoid hospitality in situations where you would be the sole guest or at the least, treat such situations with particular care.

3.3 You are personally responsible for all decisions connected with the acceptance of gifts, benefits and/or hospitality offered to you and for avoiding the risk of damage to public confidence in the Council and in local government. As a general guide, it is usually appropriate to refuse offers except:

- (i) isolated gifts of a trivial character, the value of which must not exceed £100;
- (ii) normal hospitality associated with your duties as a Councillor and which would reasonably be regarded as appropriate (refer to para. 6 of this Protocol); or
- (iii) civic gifts received on behalf of the Council (refer to para. 6 of this Protocol).

3.4 You must only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented.

3.5 If the Council seeks sponsorship for some of its activities or events, you must ensure that your involvement with the sponsors is limited to the event in question and does not damage public confidence in the relationship between the Council and the sponsors.

3.6 Where any gift, benefit and/or hospitality (no matter the value) is accepted, the donor should always be advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

3.7 It is a well-established and recognised rule that no councillor or other public servant should accept gifts, benefits and/or hospitality, or services from anyone, which would or might appear to place him/her under an obligation. If you are in doubt about what is proper, there are three particular matters you should bear in mind;

- DO err on the side of caution. If the thought of the acceptance of the gift, benefit and/or hospitality becoming public makes you uncomfortable, do not accept;

- DO consult the Monitoring Officer if you are still unsure;
- DO consider if you decide to go ahead to record with the Monitoring Officer that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with this Protocol.

4. REGISTRATION REQUIREMENTS

4.1 Within 28 days of offer and acceptance, you must register with the Monitoring Officer any gift, benefit and/or hospitality with an estimated/guide value of £100 or more offered to and accepted by you, in the conduct of the business of the Council, the business of the office to which you have been elected or appointed or when you are acting as representative of the Council. You must also register the source of the gift, benefit and/or hospitality.

You may have to estimate the value of the gift, benefit and/or hospitality.

4.2 The duty to notify the Monitoring Officer does not apply where the gift, benefit and/or hospitality comes within the description of gifts, benefits and/or hospitality referred to in para. 6 of this Protocol or as approved by the Council from time to time.

4.3 There is no requirement to register gifts, benefits and/or hospitality offered but declined. However, as a matter of good practice, it would be advisable to inform the Monitoring Officer. When gifts, benefits and/or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council.

4.4 You are encouraged to register with the Monitoring Officer, any gift, benefit and/or hospitality you receive which you estimate to be below the £100 threshold. Remember - always register a gift, benefit and/or hospitality if it could be perceived as something given to you because of your position.

4.5 The Gifts, Benefits and Hospitality Register maintained by the Monitoring Officer is open to public inspection.

5. PREJUDICIAL INTERESTS (see Annex)

5.1 You must consider whether a matter under consideration at a Council or committee meeting which you attend, is likely to affect the person who gave you the gift, benefit and/or hospitality which you have registered. You must ask yourself whether a member of the public, if he/she knew all the relevant facts, would think that your interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

5.2 If you consider that you have a prejudicial interest in the matter under consideration, you must still orally, disclose at the commencement of the meeting, or as soon as you become aware of the interest, the nature of the interest and unless you have a dispensation, you must not participate in any discussion of, or vote taken on, the matter at the meeting and withdraw from the meeting room in accordance with Standing Order 19.

6. GIFTS, BENEFITS AND HOSPITALITY WHICH NEED NOT BE REGISTERED

There are some circumstances (as set out below), where you may accept gifts, benefits and hospitality without the need to register the gift, benefit and/or hospitality. Some situations will require the exercise of your personal judgement. You should always be

cautious, when additional services, privileges or advantages are offered, which might be related to your position as a Member. Remember - always register a gift, benefit and/or hospitality if it could be perceived as something given to you because of your position. IF IN DOUBT, DECLARE.

- (i) Official hospitality such as a civic reception or a working/business lunch in Council owned premises or hosted elsewhere, by a partner organisation of the Council.
- (ii) Civic hospitality provided by another public authority.
- (iii) Refreshment in connection with any meeting in the course of your work as a Member e.g. tea, coffee and other normal beverages and refreshments.
- (iv) Meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
- (v) Meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
- (vi) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.
- (vii) Drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.
- (viii) Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Council or bodies to which you have been appointed by the Council, and the tickets are offered in relation to that sponsorship or promotion.
- (ix) Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
- (x) Gifts and hospitality arranged and paid for wholly by your own political party.
- (xi) Gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a Member.
- (xii) Gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a Member.
- (xiii) Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g. a commemorative goblet for display in the Mayor's parlour.
- (xiv) Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
- (xv) Gifts made directly to the Mayor's charity appeal.
- (xvi) Gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
- (xvii) Gifts known to be available to all members of the Council e.g. badges and ties bearing the Council's coat of arms.
- (xviii) Souvenirs and gifts given at publicly held events or small value gifts given at town-twinning and other civic events (you might consider donating any high value gift to the Mayor's charity, if the gift could be perceived as something given to you because of your position).
- (xix) Hospitality known to be available to all members of the Council e.g. Annual Meeting/Mayor making refreshments.
- (xx) Hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
- (xxi) Hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
- (xxii) Hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
- (xxiii) Hospitality extended to you as an office holder rather than to you as an individual e.g. the role of Mayor is largely ceremonial and, as an ambassador of the Council, the role involves dispensing and receiving hospitality.

(xxiv) Trips in the UK or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants e.g. Tallinn hosted trips.

7. REPORTING OF THE OFFER OF INAPPROPRIATE GIFTS, BENEFITS AND/OR HOSPITALITY

You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift, benefit and/or hospitality has been offered to you. You may be required to assist the Police in providing evidence.

8. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

9. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

10. FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Adopted by the Standards Committee 4 July 2007: Min.No.10
Revised and adopted by the Audit Board 13 May 2013 [Min.No.5]

ANNEX

PREJUDICIAL INTEREST DEFINITION

A prejudicial interest means an interest (other than a Disclosable Pecuniary Interest) in any matter under consideration at any meeting which may reasonably be regarded as affecting your financial position or the financial position of a person or body you are associated with:-

- (a) - to a greater extent than other council tax payers, ratepayers or inhabitants of the Council's area; and
- (b) - where a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment.

You will not normally have a prejudicial interest if:

- (a) you are a tenant of the Council provided that the matter under consideration does not relate particularly to your tenancy or lease; or
- (b) you are a parent or guardian of a child in full time education, unless the matter under consideration relates particularly to the school which your child attends; or
- (c) you are in receipt of, or are entitled to the receipt of, statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992; or
- (d) as a member of the Council, you are given an allowance, payment or indemnity; or
- (e) as a member of the Council, you are being/have been bestowed a ceremonial honour by the Council; or
- (f) the Council is setting the council tax or a precept under the Local Government Finance Act 1992; or
- (g) you serve as a member of a body exercising functions of a public nature (e.g. other government agencies, other councils, public health bodies, school governing bodies), unless the matter under consideration relates particularly to the body.