

GUIDANCE ON GIFTS & HOSPITALITY

1. INTRODUCTION

- 1.1 This Guidance is for members of the Authority and independent and co-opted members (voting and non-voting).
- 1.2 The Guidance is to be read in conjunction with the Council's Code of Conduct (Members).

2. GENERAL CAUTION

- 2.1 Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally.
- 2.2 Your personal reputation and that of the Authority can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- 2.3 The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, have regard to how it might be perceived.
- 2.4 No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This Guidance is intended to enable you to make your own decision.

3. LIMITS OF GUIDANCE

- 3.1 This Guidance does not apply to:
 - Gifts and hospitality you may receive from family and friends (as birthday or other festive presents) that are not related to your position as a member. You should however question any such gift or hospitality offered from an unusual source.
 - The acceptance of facilities or hospitality provided to you by the Authority.
 - Gifts given to the Authority that you accept formally on the Authority's behalf and are retained by the Authority and not by you personally.

However, if you accept a gift and pass it, for example to the Chairman's Charity, then you must disclose it.

4. MEANING OF GIFTS AND HOSPITALITY

4.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. Gifts and hospitality include:

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

4.2 Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets. Members should however be cautious when purchasing anything, when additional services, privileges or advantages are offered, which might be related to their position as a member.

5. PRINCIPLES TO APPLY IN RELATION TO GIFTS AND HOSPITALITY

5.1 In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:

- Do not accept any gift 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 or hospitality is an inducement or reward you must decline it
- "Reward" includes remuneration, reimbursement and fee.
- Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:

(a) From parties involved with the Authority in a competitive

- (b) tendering or other procurement process.
 - (c) From applicants for planning permission and other applications for licences, consents and approvals.
 - (d) From applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - (e) From applicants for benefits, claims and dispensations.
 - (f) From parties in legal proceedings with the Authority.
- Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
 - Do not solicit any gift or hospitality and avoid giving the perception of so doing.
- 5.2 Consider the Code of Conduct- Gifts & Hospitality – Good Practice List at Schedule A to this guidance.
- 5.3 Consider whether it is appropriate to register Gifts and Hospitality rejected (this is to protect you and the Council).

6. REGISTRATION OF GIFTS AND HOSPITALITY

Gifts and Hospitality £25 and over

- 6.1 Under the Code of Conduct you must complete the Register of Interests Form for gifts and hospitality of £25 or more and return it to the Monitoring Officer within 28 days of the date of receipt of the gift of hospitality.
- 6.2 You must also disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the authority at which business is considered to which the interest relates (i.e. business relating to the interests of the person or body giving the gift or hospitality). The disclosure requirement does not however apply to gift and hospitality interests registered more than 3 years ago.

Gifts and Hospitality below £25

- 6.3 There is no obligation under the Code of Conduct to make a disclosure in relation to gifts and hospitality on the register that are below £25 in value.

However the Council's guidance is that such gifts and hospitality should be registered (within 28 days), by obtaining and completing the Gifts and Hospitality Notification Form from Democratic Services.

7. REPORTING OF INAPPROPRIATE GIFTS AND HOSPITALITY OFFERED

- 7.1 It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you doing or forbearing to anything as a member of the Authority.
- 7.2 You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.
- 7.3 In the above circumstances you may thereafter be required to assist the Police.

8. LEGISLATIVE REQUIREMENTS & SANCTIONS

- 8.1 It is essential to remember that Members of local authorities are subject to the provisions of special legislation with onerous requirements imposing sanctions under the criminal law, designed to protect the public interest and public confidence. In consequence, the offer of gifts or hospitality, even on a modest scale, needs to be approached with caution. The particular legislation is contained in:-
- the Bribery Act 2010
 - the Local Government Act, 1972 (Section 117(2))
- 8.2 The legislation provides that anyone who corruptly gives, promises or offers any gift, loan, fee, reward or advantage to any person as an inducement to or reward for any Member, (or Officer or servant) of a public body for doing or forbearing to do anything in respect of any matter or transaction is guilty of a criminal offence. Similarly, a criminal offence is committed by anyone who corruptly solicits, receives or agrees to receive for themselves or any other person such an inducement or reward.
- 8.3 It is particularly to be noted that the giving or acceptance of any money, gift or other consideration is deemed to have been given or received corruptly as such an inducement or reward unless the contrary is proved. This represents a departure from the general principle that a person is deemed innocent until proven guilty.

- 8.4 The question of what is and what is not acceptable is not precisely defined, although many local authorities and other public bodies have their own internal rules and requirements to report and record all offers of hospitality. Modesty should never be exceeded and as a measure of this it is appropriate to consider whether the scale of provision is such that it could be reasonably returned by the recipient at public expense on a subsequent occasion. It is also appropriate to consider whether either the hospitality or the scale of it would cause embarrassment to either the giver or the receiver were it to become public knowledge.
- 8.5 It is not possible to list all the activities which might constitute an offence under the legislation. But the essential message is that those dealing with Members of local authorities and other public bodies must do so against the background and purpose of the above statutory restrictions and should always act within the spirit and framework of the legislation. It needs to be remembered that any offer or receipt of hospitality is prima facie a criminal offence, unless the contrary is proved.
- 8.6 The special legislation is additional to the general provisions of the criminal law governing conspiracy, fraud etc. It should also be borne in mind that the commission of a criminal offence or even conduct falling short of such an offence which is contrary to the internal rules of an authority may result in an otherwise legal enforceable contract or arrangement being declared unenforceable.