



<b>Title:</b>	<b>Constitution of the Council (Part 5D: Gifts &amp; Hospitality Code)</b>
<b>Owner:</b>	<b>Angela Wakefield</b>
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**Adopted by Full Council on 20<sup>th</sup> June 2016**



# GIFTS AND HOSPITALITY

## A CODE OF CONDUCT FOR COUNCILLORS

### 1 INTRODUCTION

- 1.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.
- 1.2 The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These requirements are then supplemented by these procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. Corrupt acceptance of a gift or hospitality can lead to a heavy fine &/or up to 10 years' imprisonment.
- 1.3 This Code of Conduct sets out:
  - 1.3.1 the principles which a Councillor should apply whenever they have to decide whether it would be proper to accept any gift or hospitality;
  - 1.3.2 a procedure for obtaining consent to accept a gift or hospitality, when a Councillor considers that it would be proper to accept it;
  - 1.3.3 a procedure for declaring any gift or hospitality which a Councillor receives and for accounting for any gift to the Council.
- 1.4 This Code does not apply to the acceptance of any facilities or hospitality which may be provided by this Council.

### 2 GENERAL PRINCIPLES

- 2.1 In deciding whether it is proper to accept any gift or hospitality, the Councillor should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, they should not accept it if to do so would be in breach of one or more of these principles.

## **NOT ACCEPTING A GIFT OR HOSPITALITY AS AN INDUCEMENT OR REWARD FOR ANYTHING DONE AS A COUNCILLOR**

- 2.2 As a Councillor, they must act in the public interest and must not be swayed in the discharge of their 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.
- 2.3 The Bribery Act 2010 provides that if a Councillor accepts any bribe, they commit a criminal offence carrying a maximum term of imprisonment of 10 years &/or a heavy fine.
- 2.4 Further, the Council's Code of Conduct for Councillors provides that they must act in the public interest, serving the Council 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 themselves.

## **ACCEPTING A GIFT OR HOSPITALITY IF THERE IS A COMMENSURATE BENEFIT TO THE COUNCIL**

- 2.5 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
- 2.6 Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council 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 personal benefit.
- 2.7 As set out above, the Council's code provides that a Councillor must not improperly confer any advantage on anyone, including themselves. Acceptance as a Councillor of a gift or hospitality for their own benefit or advantage, rather than for the benefit of the Council, would be a breach of the Code.

## **NOT ACCEPTING A GIFT OR HOSPITALITY IF ACCEPTANCE MIGHT BE OPEN TO MISINTERPRETATION**

- 2.8 The appearance of impropriety can be just as damaging to the Council and to a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Council favour any particular person, company or section of the community or as placing them under any

improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, they must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

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

- 2.9.1 occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- 2.9.2 determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
- 2.9.3 funding decisions, when the Council is determining a grant application by any person or organisation.

## NOT ACCEPTING A GIFT OR HOSPITALITY WHICH PUTS A COUNCILLOR UNDER AN IMPROPER OBLIGATION

2.10 It is recognised that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If a Councillor accepts a gift or hospitality improperly, it is possible that the donor may seek to use this fact to persuade the Councillor to determine an issue in their favour. Equally, if others note that a Councillor has 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 Council.

## NOT SOLICITING A GIFT OR HOSPITALITY

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

## 3 GENERAL CONSENT PROVISIONS

3.1 For clarity, the Council has agreed that Councillors may accept gifts and hospitality in the following circumstances:

- 3.1.1 Civic hospitality provided by another public authority.
- 3.1.2 Modest refreshment in connection with any meeting in the ordinary course of their work, such as tea, coffee, soft drinks and biscuits.

- 3.1.3 Tickets for sporting, cultural and entertainment events which are sponsored by the Council.
- 3.1.4 Small gifts of low intrinsic value below £25 such as pens, pencils, mouse pads, calendars and diaries. If these are branded with the name of the company or organisation making the gift, the Councillor 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.
- 3.1.5 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 with whom you have done business on behalf of the Council if you meet accidentally in a public house, café or bar. In such cases, the Councillor should make reasonable efforts to return the offer where this is practicable.
- 3.1.6 A modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head.
- 3.1.7 Modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority.
- 3.1.8 Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request Officers to settle the detailed arrangements, and Officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit.
- 3.1.9 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 Democratic Services Team together with a written statement identifying the information set out in Paragraph 4 below. The Democratic Services Team will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that it has been donated to the Mayor'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 Mayor.

## 4 SPECIAL CONSENT PROVISIONS

- 4.1 If a Councillor wishes to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 2, but is not within any of the general consents set out in Paragraph 3, they may only do so if they have previously obtained specific consent in accordance with the following procedure.
- 4.2 The Councillor must make an application in writing to the Monitoring Officer, setting out:
  - 4.2.1 the nature and their estimate of the market value of the gift or hospitality;
  - 4.2.2 who the invitation or offer has been made by or on behalf of;
  - 4.2.3 the connection which the Councillor has with the person or organisation making the offer or invitation, such as any work which they have undertaken for the Council in which they have been involved;
  - 4.2.4 any work, permission, concession or facility which they are aware that the person or organisation making the offer or invitation may seek from the Council; and
  - 4.2.5 any special circumstances which lead them to believe that acceptance of the gift or hospitality will not be improper.
- 4.3 Councillors must not accept the gift or hospitality until they have received the appropriate consent.
- 4.4 The Monitoring Officer will enter details of any approval in a register which will be available for public inspection. This does not relieve the Councillor of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 6, below.

## 5 MAYORAL DUTIES

- 5.1 The duties of the Mayor's office give rise to many social activities, a number of which involve hospitality.
- 5.2 It will be sufficient for the nature of Mayoral arrangements to be recorded by the Mayor's Secretary in the Mayor's Diary.
- 5.3 When gifts are presented to the Mayor to be received on behalf of the Council, advice should be sought from the Chief Executive as to their use.
- 5.4 Gifts presented to the Mayor in their personal capacity are covered by the same rules as for other Councillors.

## 6 REPORTING

- 6.1 Where a Councillor accepts any gift or hospitality which they estimate to have a market value or cost of provision of £25 or greater, they must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 4 above. A form for this purpose is attached to this Code. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection.
- 6.2 Even if the value of the gift or hospitality is less than £25, if a Councillor is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## 7 GIFTS TO THE COUNCIL

- 7.1 Gifts to the Council 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 Council.
- 7.2 Councillors should not solicit any such gift on behalf of the Council except where the Council 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.
- 7.3 If a Councillor receives such an offer on behalf of the Council, they must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits). If they do not have delegated authority to accept the gift, they should report the offer directly to the Monitoring Officer who has such delegated authority, together with their recommendation. 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 the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

## 8 DEFINITIONS

- 8.1 "Gift or hospitality" includes any:

- 8.1.1 free gift of any goods or services;
  - 8.1.2 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;
  - 8.1.3 opportunity to obtain any goods or services which are not available to the general public;
  - 8.1.4 offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- 8.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:
- 8.2.1 the Councillors estimate of the cost to the person or organisation of providing the gift or hospitality; and
  - 8.2.2 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 the Councillor would be required to make towards that price to the person or organisation providing or offering the gift or hospitality.

To: The Monitoring Officer

### Declaration of Receipt of Gifts or Hospitality by Councillor

Name	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any Officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date