

GUIDANCE ON GIFTS AND HOSPITALITY

1. INTRODUCTION

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.

2. 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. 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 heavy fine or up to 7 years' imprisonment.

3. This guidance sets out:

(a) the principles which should be applied whenever a Councillor has to decide whether it would be proper to accept any gift or hospitality;

(b) a procedure for obtaining consent to accept a gift or hospitality when a Councillor considers that it would be proper to accept it;

(c) a procedure for declaring any gift or hospitality received and for accounting for any gift to the Authority; and

(d) circumstances where acceptance of gifts and hospitality is appropriate.

4. This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by Epping Forest District Council.

2. GENERAL PRINCIPLES

1. In deciding whether it is proper to accept any gift or hospitality, Councillors should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, such an offer should not be accepted if to do so would be in breach of one or more of these principles:

Principle 1 - Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

2. Councillors 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.

3. The Public Bodies (Corrupt Offences) Act 1889 provides that if Councillors 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.

4. Further, the Authority's Code of Conduct for Members provides that Councillors 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.

Principle 2 - Hospitality should only be accepted if there is a commensurate benefit to the Authority.

5. The only proper reason for accepting any hospitality is that there is a commensurate benefit for the Authority which would not have been available but for the acceptance of that 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. However, acceptance of hospitality for a member's own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code of Conduct.

Principle 3 – You should only accept gifts in very limited circumstances

Acceptance of a gift is much less likely to confer such an advantage to the Council the presumption being that the gift or hospitality is purely for the member's personal benefit.

7. As set out above, the Authority's code provides that members must not improperly confer any advantage on anyone, including themselves. Acceptance by a Councillor of a gift for your own benefit or advantage, rather than for the benefit to the Authority, would be a breach of the Code of Conduct.

8. The Council has a general presumption against the acceptance of gifts even if the benefit to the Authority is commensurate with its value. The only gifts which may be accepted are listed in Section 3(a) below.

Principle 4 - Never accept a gift or hospitality if acceptance might be open to misinterpretation

9. The appearance of impropriety can be just as damaging to the Authority and to Councillors as actual impropriety. The Authority's ability to carry out its functions rests upon its reputation for acting fairly and in the public interest. Members must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Authority favours any particular person, company or section of the community or is placing them under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, the gift or hospitality must be refused or appropriate steps taken to ensure that such a misunderstanding cannot arise.

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

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

Principle 5 - Never accept a gift or hospitality which puts you under an improper obligation

11. Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If a gift or hospitality is accepted improperly, it is possible that they may seek to use this fact to persuade 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 Authority.

Principle 6 - Never solicit a gift or hospitality

12. 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 Guidance. They should also take care to avoid giving any indication that they might be open to such any improper offer.

3. GENERAL CONSENT TO ACCEPT GIFTS AND HOSPITALITY

(a) Cases where there is a general consent to accept

1. The Council has agreed that members may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another public authority;
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits;

- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Authority;
- (d) 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, a 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;
- (e) 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 a Councillor has done business on behalf of the Authority who is met accidentally in a public house, cafe or bar: in such cases, you should make reasonable efforts to return the offer where this is practicable;
- (f) a modest working lunch not exceeding £10 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. 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 per person;
- (g) modest souvenir gifts with a value below £25 from another public Authority given on the occasion of a visit by or to the Authority;
- (h) hospitality received in the course of an external visit or meeting which has been duly authorised by the Authority. 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;
- (i) 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 procedure set out in (b) below.

(b) Procedure for gifts under Paragraph 1(i) above

2. A Councillor must, as soon as practicable after the receipt of a gift meeting the description under (a)(1) above, pass it to the Head of Research and Democratic Services/Chairman of the Council together with a written statement identifying the information set out in Paragraphs 3(c) below. A letter will then be sent to the person or organisation making the gift thanking them for the gift and informing them that it has been donated to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, with the proceeds being donated to a charitable cause chosen by the Chairman.

(c) Cases where special consent to accept can be obtained

3. If a member wishes to accept any gift or hospitality which is in accordance with the General Principles set out in Section 2, but is not within any of the general consents set out in Section 3, they may only do so if they have previously obtained specific consent in accordance with the following procedure.

4. The Councillor must make an application in writing to the Monitoring Officer, setting out:

- (a) the nature and their estimate of the market value of the gift or hospitality;
- (b) who the invitation or offer has been made by or on behalf of;
- (c) the connection which the member has 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;
- (d) 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;
- (e) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper.

4. You must not accept the gift or hospitality until you have received the appropriate consent.

5. The Monitoring Officer will enter details of any approval 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. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Section 4, below.

4. REPORTING

1. Where a Councillor accepts any gift or hospitality which is estimated 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 in Paragraphs 2(b) above. A form for this purpose is available, but this can be sent by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection.

2. Even if the value of the gift or hospitality is less than £25, and the member is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, a Councillor may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

5. GIFTS TO THE COUNCIL RATHER THAN A COUNCILLOR

1. 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. Councillors 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.

2. If a Councillor receives 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, and whether there is a real benefit to the Authority which would outweigh any dis-benefits).

3. Members should report the offer to the Monitoring Officer 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 Authority. If a Councillor has 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, they should consult the Monitoring Officer directly.

6. DEFINITIONS

1. "Gift or hospitality" includes:

(a) the free gift of any goods or services;

(b) 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;

(c) the opportunity to obtain any goods or services which are not available to the general public;

(d) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

2. References to the "value" or "cost" of any gift or hospitality are references to the higher of:

(a) your estimate of the cost to the person or organisation of providing the gift or consideration;

(b) 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 organisation providing or offering the gift or hospitality.

**Adopted by Epping Forest District Council on
(Minute)**

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