

7. Gifts and Hospitality Protocol

Introduction

The public are entitled to demand of local government staff and councillors, conduct of a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives.

It is a serious criminal offence for staff or councillors to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in an official capacity. If an allegation is made in such circumstances, the burden of proof will fall upon the staff member or councillor to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for all employees and councillors.

This protocol is intended to assist staff and councillors in making a decision as to whether a gift or hospitality can be accepted. Staff will receive a copy of these rules and are being required to acknowledge receipt of them. Staff are reminded that breaches of the code may result in disciplinary action and in serious cases, could result in dismissal. Councillors are reminded that a breach of this guidance may result in a complaint against them to the Monitoring Officer.

Gifts

In general, gifts should be refused. A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the council or one who has an interest in a council decision.

In normal circumstances, only minor gifts of token value, such as promotional material, may be accepted. In some very special circumstances (where, for example, visiting dignitaries are involved), refusal may cause unintentional offence and this should be taken into consideration.

More substantial gifts must not be accepted under any circumstances. These may include, for example, cash, vouchers, bottles or cases of wine or hampers. In such circumstances, the gift should be returned in a courteous manner accompanied if appropriate by the following or similar statement:

“Thank you for your kind offer of [insert details of gift]. Unfortunately, the council has a clearly defined policy on receiving gifts or hospitality and I am unable to accept it. I therefore return the gift.”

For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.

If in doubt, staff should consult their Director before accepting any gift. Councillors should consult the council's Monitoring Officer.

Legacies

Staff may not accept legacies from clients. If it becomes known to any employee that they are likely to benefit from a legacy made by a former or existing client, they must inform their Director as soon as possible. The Director will then consider what action to take and if necessary consult the Head of Paid Service and Monitoring Officer. If the beneficiary is also a relative of the former client, it is advisable that they notify their Director as soon as they are aware of the legacy in order to avoid any misinterpretation.

Hospitality

The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the council, or where purchasing decisions may be potentially compromised.

Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the council's wider interest in the community. Staff may, for example, need to attend functions in support of local councillors. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.

The following criteria should be applied when deciding whether or not to accept offers of hospitality:

- (a) whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to an Island event which meets the criteria below may be appropriate.
- (b) whether the council's interest is better served by attendance.
- (c) whether the scale of the hospitality is appropriate to the circumstance.
- (d) whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
- (e) whether the hospitality is offered by a person or organisation who is not tendering or about to tender for council business.
- (f) whether councillors are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
- (g) whether it is more appropriate to bear the expense oneself.

Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant Director. In case of doubt, staff should consult their Director for guidance. In the case of councillors, an appropriate declaration should be completed in advance of the hospitality being accepted. In the event of doubt, the council's Monitoring Officer should be consulted for guidance.

If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the council with, if appropriate, the following or similar statement:

"Thank you for your kind offer of [insert details of hospitality]. Unfortunately, the council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."

Below are some examples of acceptable and unacceptable hospitality:

Acceptable

- (a) working lunches, provided their purpose is to continue the work underway in the meeting
- (b) attendance in an official capacity at functions to which invitations have been sent to other local authorities

Unacceptable

- (a) holidays or weekends away
- (b) the use of a company flat or suite
- (c) lunch with a developer who is applying for planning permission
- (d) tickets to a theatre, concerts or sporting events that are offered in order to influence decisions and which you would not attend in an official capacity

Recording of Gifts and Hospitality

Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each service's register maintained for such purposes. For councillors, the register is maintained by Democratic Services. Councillors only need to record gifts or hospitality that have a value in excess of £50, or those that, in aggregate, exceed £50 in any consecutive twelve months. The council has a prescribed format for the register, which includes the following detail:

- (a) employee's/member's name
- (b) job title (if staff)
- (c) name of company/organisation making the offer
- (d) relationship with council
- (e) nature of gift/hospitality offered
- (f) date offered
- (g) whether declined or accepted.

Registers of gifts and hospitality will be reviewed at least quarterly by the relevant Director. The Head of Paid Service will review the register of Directors. The Monitoring Officer will review the register of councillors' registrations and the register of the Head of Paid Service. All such reviews will be evidenced by signature and date.

Legislation in relation to Gifts and Hospitality

An outline of the legislation applicable to the acceptance of gifts and hospitality is given below.

Bribery Act 2010

The Bribery Act 2010 reformed criminal law, replacing the Prevention of Corruption Acts 1889-1916 by providing comprehensive scheme of bribery offences. The Act covers a wide range of both direct and indirect bribery offences, and includes offences committed by individuals and corporate bodies. Penalties for non-compliance are serious, with a maximum penalty for the most serious cases being ten years imprisonment. The Act created two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive, or acceptance of an advantage

Local Government Act 1972

It is a criminal offence under section 117(2) for council employees to accept any fee or reward other than their remuneration. An offender is liable on conviction to pay a fine.