

Appendix D

Gifts and Hospitality: A Code of Conduct for Councillors

Introduction

This Guidance is intended to complement the Council's Members' Code of Conduct. It offers guidance to Councillors with regard to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the Council itself. The intention of the Guidance is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.

This protocol sets out Councillors' obligations to declare gifts and hospitality received in their capacity as Members of the Council and to provide guidance on those obligations. A breach of this protocol amounts to a breach of the Council's Code of Conduct and a complaint can be reported to the Monitoring Officer or the Standards Committee and dealt with in accordance with the Members' Complaints Procedure.

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

What are the rules?

1. Prior to accepting **any** gift or hospitality with a value of **£25** or more, a Councillor must seek authorisation from the Monitoring Officer. Only once consent has been given should the Councillor take ownership.
2. You must register *every* individual gift or item of hospitality received that is over £25 in value.
3. Members should be aware of serial givers or repeat offers of hospitality as these may indicate a pattern of behaviour which may result in a breach of the Code of Conduct for Councillors.
4. Your registration of the gift or hospitality must be made *within 28 days of the date you received it*, by completing and sending the attached form to the Member Services Officer(s) (working on behalf of the Monitoring Officer).
5. You must declare the *value (or estimated value)* and details of the gift or hospitality received on the form, as well as whether the donor of the gift

- has or has had in the past or is likely to have in the future, dealings with the Council.
6. You must declare, if the gift or hospitality has been accepted, the reason for that acceptance.
 7. The form must be signed by you *personally*.
 8. An invitation that appears over-generous should be declined; it could be seen as an inducement to affect a Council decision.
 9. Even if all Members, or a large number of them, received the same gift or were invited to the same event, they must each make *individual* notifications.
 10. Failure to comply with these rules is a breach of the Members' Code of Conduct and could lead to a complaint being reported to the Monitoring Officer or the Standards Committee.
 11. The press and public have the right to inspect your gift and hospitality declaration forms. The Register is also public via the Council's web site at **XXXX**. (follow link to 'Councillors' page). (You should have this in mind when completing declaration forms, as we cannot edit your comments.)

Should I accept gifts and hospitality?

Registering gifts or hospitality received under the Code of Conduct does not automatically mean it is appropriate or sensible to accept them in the first place. The general test of caution is one of common sense. Would the public question the appropriateness of hospitality or gifts received by the Councillor? If you are concerned the acceptance could be misinterpreted you should decline it or declare it.

You must never solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts you under any obligation. On the other side of the coin, Councillors often do not wish to cause offence by rejecting a gift or offer of hospitality.

Particular care should be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement then the matter should be reported in accordance with established procedures.

The Bribery Act 2010, which came into force on 1 July 2011, creates offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery).

The offences consist of “promising, offering or giving” or “requesting, agreeing to receive or accepting an advantage (financial or otherwise)” in circumstances involving the improper performance of a relevant function or activity. In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years imprisonment or an unlimited fine for these offences.

In considering whether to accept gifts or hospitality Members should have regard to the following general principles:

1. Never accept a gift or hospitality as an inducement or reward for anything which you do as a Councillor;
2. Only accept a gift if there is a commensurate benefit to the Council;
3. Never accept a gift or hospitality which might be open to misinterpretation;
4. Never accept a gift or hospitality which puts you under an improper obligation; and
5. Never solicit a gift or hospitality.

Must I register all gifts and hospitality which I receive or am offered?

You must register any gifts or hospitality worth over £25 that you receive in connection with your official duties as a Member. Where the value of any gift or hospitality is under £25 you may wish to declare receiving it. You should register any offer of gift and/or hospitality over £25 which you have declined, since this protects both your position and that of the Council.

Only gifts and hospitality offered to you in your official capacity must be registered. Gifts and hospitality offered to you in your private capacity, of whatever value, should not be registered at all. You do not need to register gifts and hospitality which are not related to your role as a Member. However, you should always consider whether any gifts or hospitality could be seen as being connected with your public role as a Member.

What is the value of the gift/ hospitality?

You may have to estimate how much a gift or some hospitality is worth. The form requires you to give an estimate of the value. It is suggested that you take a common sense approach, and consider how much you reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result you estimate that the value is greater than £25, then you should declare receipt.

Where hospitality is concerned, you can disregard catering on-costs and other overheads, e.g. staff and room hire. If the sandwiches or your meal, including drinks and alcohol, would cost £25 in a comparable establishment providing food of comparable quality, register it.

If you are not certain whether the value is under £25, the safest course is to register it and give an approximate value.

What about gifts of low value?

There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if you receive a series of related gifts in connection with your role as a Member which are all under £25, but together total above £25, then you should register them if they are from the same person. If the small gifts received from different persons are connected in some way, it is *good practice* to register them.

How do I register gifts and hospitality I receive?

You must give the Member Services Officer(s) (working on behalf of the Monitoring Officer) written details about the gifts and hospitality you are offered using the standard form for this purpose. The best advice is to get into the habit of registering things as soon as possible, and if in doubt, register receipt. The appropriate form is available on the Council's website or from Strategic Support.

Which organisation do I make declarations to?

As mentioned, anything received in your private capacity is not declarable. However, what is your "*official capacity*"? So far as the Council is concerned it is when you do any of the following -

- a) When acting as a representative of the Council;
- b) At briefing meetings with officers and members of the public;
- c) When corresponding with the authority other than in your private capacity.

How to deal with the issue of when things are received in different capacities or where there are overlapping roles:

Only use the Council's gifts and hospitality registration declaration form for things received in your capacity as a West Berkshire District Councillor, and send it to the Member Services Officer(s) (working on behalf of the Monitoring Officer).

If you receive things in another capacity, i.e. arising from holding another public office, register in accordance with whatever code is in place for that other body. If a particular body does not actually require you to register anything, then you do

not need to do anything in respect of the receipt of a gift or hospitality directly attributed to your role within that organisation.

If you cannot decide what capacity you received something in, provided you declare the gift/ hospitality *at least once* with the body that appears to be the most appropriate, you will have fulfilled your duties. The overriding purpose is public transparency.

What happens if I do not register a gift or hospitality?

Failure to notify the Monitoring Officer of the receipt of a gift or hospitality is a breach of this protocol and consequently also a breach of the Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer or Standards Committee which could result in the matter becoming the subject of an investigation.

Gifts which are more likely to be considered acceptable

It is up to individual Members to decide whether or not to declare gifts and hospitality

The Council has however agreed that in appropriate circumstances members may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- modest refreshments received in the ordinary course of duties as a councillor e.g. at formal meetings or when in contact with constituents;
- Tickets for sporting or cultural events which are sponsored or supported by the Council;
- Small gifts of low intrinsic value i.e. below £25 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc);
- Modest souvenir gifts with a value below £25 from another public body given on the occasion of a visit by or to that body;
- Hospitality received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by officers rather than the members who will be benefiting and hospitality should be commensurate with the nature of the visit; and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases you may wish to pass the gift to the Chairman's Charity.

Receipt of gifts and hospitality of this type is still subject to the requirements of the protocol regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £25 in value. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere

fact that a gift or hospitality does not have to be notified under the protocol does not necessarily mean that it is appropriate to accept it.

Will the register be open to the public?

Yes, the register is available to the public in the same way as the register of disclosable pecuniary interests is. It is open for inspection and also available on the Council's website.

Regular updates of declarations will be reported to the Standards Committee as part of the quarterly performance monitoring reports.

Further assistance

It is each Member's own individual responsibility to observe this protocol, but the Monitoring Officer will help where possible. If you have any questions at all please contact the Monitoring Officer, Deputy Monitoring Officer(s) or the Democratic and Electoral Services Manager for advice and assistance.

Definitions

"Gift or hospitality" includes:

- (i) the free gift of any goods or services
- (ii) 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.
- (iii) the opportunity to obtain any goods or services which are not available to the general public.
- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

Reference to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration;
- (ii) 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 case 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.