



Report to: Overview & Scrutiny Committee Cabinet Standards Committee Council

Date: 13 August 2007 26th July 2007 31st July 2007 5th September 2007

Subject: **Guidance for Members on Gift and Hospitality**

Report of: DIRECTOR OF LEGAL AND PROPERTY SERVICES

Contact officer: Mrs S D Lowe (Telephone: 01942) 244991 extension 2027

Purpose/summary: To propose a Protocol giving guidance on gifts and hospitality

Alternative options considered and reason for selecting the one recommended: The alternative option is to have no Protocol. The draft Protocol is suggested so that Members have some guidance on the issue

Recommendation/decision: That the Overview and Scrutiny Committee, Standards Committee and Cabinet recommend the adoption of the Protocol to Council and that Council adopts the Protocol

Key decision: This report does not involve a key decision.

Risks/Implications:

Financial: Within existing resources

Staffing: Within existing resources

Policy:

Equal Opportunities – has a Diversity Impact Assessment been conducted? Not necessary

Wards affected: All

Special Interest Members - Which have been consulted None

Has the Director of Legal and Property Services confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? **Yes**

Has the Director of Finance and IT confirmed that any expenditure referred to within this report is consistent with the Council's budget? **Yes**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

For Cabinet reports only:

Categorisation of the report:	X		
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Discussion leading to a decision	
Monitoring	
Sharing for corporate understanding	

Discussion	X
Decision	
Information	

Tracking/Process:

Standards Committee	Consultation	Ward Members	Partners
31 st July 2007			
Panel	Overview & Scrutiny	Cabinet	Council
	13 August 2007	26 th July 2007	5 th September 2007

There are no Background Papers to this Report within the meaning of Section 100D of the Local Government Act 1972.

Proper Officer Susan D Lowe

Date 25.6.07

1. The receipt of gifts and hospitality is now a registerable and declarable interest under the Code of Conduct
2. The acceptance of a gift or hospitality may be a criminal offence if its purpose is to corruptly influence a Councillor's conduct. The onus lies on the Councillor receiving the gift or hospitality to prove that it was not corrupt.
3. Members may find it helpful to have a Protocol which gives advice on when a gift or hospitality may be accepted and when it should not. The enclosed Protocol is suggested. It is based on Bradford's Protocol which is a document published on the internet.

Susan D. Lowe
Director of Legal and Property Services

25.6.07

Guidance for Members on Gifts and Hospitality

1. Introduction

This guidance is for members of the Council and independent and co-opted members (voting and non-voting).

2. General Caution

Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally.

Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

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, having regard to how it might be perceived.

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. Criminal Law

It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council.

The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from the Council.

4. Limits of Guidance

This guidance does not apply to:

- Gifts and hospitality you may receive from family and friends (as birthday or other festival 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 Council.
- Gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally.

5. Meaning of Gifts and Hospitality

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.

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.

6. Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member.

- Civic hospitality provided by another public Council.
- Normal and modest refreshment in connection with any meeting in the course of your work as a member (e.g. tea, coffee and other normal beverages and refreshments).
- Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Council or bodies to which you have been appointed by the Council, and the tickets are offered in relation to that sponsorship or promotion.
- Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens.).
- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Council business (e.g. inclusion in a round of drinks after a meeting).
- Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom the Council has a business connection.
- Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events).

7. Principles to Apply in Relation to Gifts and Hospitality

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

- Do not accept a 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 Council in a competitive tendering or other procurement process.
 - b) From applicants for planning permission and other applications for licences, consents and approvals.
 - c) From applicants for grants, including voluntary bodies and other organisations applying for public funding.
 - d) From applicants for benefits, claims and dispensations.
 - e) From parties in legal proceedings with the Council.
- 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 any perception of so doing.

8. Gifts Received and Donated to the Mayor’s Charity

Some members receiving gifts of value may prefer not to retain these personally but to pass them to the Mayor’s Secretary for use in relation to the Mayor’s Charity.

Members should indicate this intention to the provider and make this clear on the register of interests.

9. Registration of Gifts and Hospitality

The Code of Conduct for Members and Co-opted Members provides that 'You have a personal interest in any business of your Council where it relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.'

This interest must be registered in the register of members' interests. You should register the interest as soon as possible after acceptance of the gift or hospitality. The registration should include the source and nature of the gift or hospitality.

You must disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the Council 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.

Whilst the registration requirement in the code is limited to gifts or hospitality over the value of £25, members are encouraged to register any significant gift or hospitality they receive below this value. There is no obligation to make a disclosure in relation to gifts and hospitality on the register which are below £25 in value.

10. Reporting of Inappropriate Gifts and Hospitality offered

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 for doing or forbearing to do anything as a member of the Council.

You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.

You may thereafter be required to assist the Police in providing evidence.

11. Enforcement

Allegations of any breach of the Code of Conduct (see para 9) may be referred to the Standards Board for England. As an alternative the Monitoring Officer may be advised. The Monitoring Officer will contact the Member concerned and request him/her to make the appropriate registration.