
Meeting: Standards Committee
Date: 17 July 2009
Subject: Review of Gifts & Hospitality Code
Report of: Monitoring Officer
Summary: To review the Gifts and Hospitality Code with a view to making any recommendations to the Constitution and Governance Working Group for consideration.

Contact Officer: Mrs Barbara Morris, Assistant Director Legal & Democratic/Monitoring Officer
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Public/Exempt: Public

Wards Affected: All

Function of: Non-executive

Reason for urgency
(if appropriate) N/A

RECOMMENDATIONS:

That the Committee review and make any suggested additions/amendments to the Gifts and Hospitality Code as set out at Appendix "A" to this report for consideration by the Constitutional and Governance Working Group.

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1. Members will be aware that Councillors are required to declare gifts and hospitalities received in their course of business as a Councillor. In order to assist this process a Gifts and Hospitality Code is included within the Council's Constitution. The current Gifts and Hospitality Code was reviewed by the Constitution and Governance Working Group on 1 December 2008. This was then subsequently included within the Council's Constitution in the Ethical Handbook Section. The Constitution was approved by full Council on 26 March 2009.
 2. The Committee are asked to consider and review the Code which is attached at Appendix "A" to this report and to make any additions/amendments/recommendations to the Constitutional and Governance Working Group.
 3. Members will be aware that Members' Register of Interest Declarations in respect of gifts and hospitality are open to public inspection. This Code is a key document to guide Members to ensure that declarations are correctly made.

CORPORATE IMPLICATIONS

Council Priorities:

Contributes to all Council priorities to ensure good governance

Financial:

None

Legal:

To ensure high ethical conduct within the Council in accordance with the requirements of the Ethical Framework as set out in the Local Government Act 2000

Risk Management:

N/A

Staffing (including Trades Unions):

N/A

Equalities/Human Rights:

N/A

Community Development/Safety:

N/A

Sustainability:

N/A

Location of papers: Priory House, Chicksands

Part 1: Guidance on Gifts and Hospitality

1. Introduction

- 1.1 This guidance is for members of the Council and independent and co-opted members (voting and non-voting).
- 1.2 The acceptance of gifts and hospitality by members is not merely an administrative issue. It reflects directly on the perception of members and of the Council.
- 1.2 The law on the acceptance of gifts and hospitality is set out in the 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 the Council to provide a clear set of rules for the protection of both members and the Council. 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 imprisonment.
- 1.3 Guidance for members on the receipt of gifts and hospitality is set out below.

2. General Caution

- 2.1 Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally, or to your immediate family.
- 2.2 Your personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance by you or your immediate family of a gift or hospitality.
- 2.3 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.
- 2.4 No hard and fast rules can be laid down about what is or is not appropriate in every circumstance. This guidance is intended to enable you to make your own decision.

3. Criminal Law

- 3.1 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

- 4.1 This guidance does not apply to:-
- 4.1.1 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 of the Council. You should however question any such gift or hospitality offered from an unusual source.
- 4.1.2 The acceptance of facilities or hospitality provided to you by the Council.
- 4.1.3 Gifts given to the Council that you accept formally on the Council's behalf and which are retained by the Council and not by you personally.

5. Meaning of Gifts and Hospitality

- 5.1 The expressions "gifts" and "hospitality" have wide meanings and no conclusive definition is possible. Gifts and hospitality include:-
- 5.1.1 The free gift of any goods or services.
- 5.1.2 The opportunity to acquire any goods or services at a discount or at terms not available to the general public.
- 5.1.3 The opportunity to obtain goods or services not available to the general public.
- 5.1.4 The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event.
- 5.2 Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets.
- 5.3 Members should be cautious when purchasing anything, if additional services, privileges or advantages are offered, which might be related to their position as a member.

6. Appropriate Gifts and Hospitality

- 6.1 There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member:-
- 6.1.1 Civic hospitality provided by another public authority.

- 6.1.2 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).
- 6.1.3 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.
- 6.1.4 Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens).
- 6.1.5 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).
- 6.1.6 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.
- 6.1.7 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

- 7.1 In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:-
 - 7.1.1 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.
 - 7.1.2 “Reward” includes remuneration, reimbursement and fee.
 - 7.1.3 Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
 - 7.1.4 Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - 7.1.4.1 From parties involved with the Council in a competitive tendering or other procurement process.
 - 7.1.4.2 From applicants for planning permission and other applications for licences, consents and approvals.

- 7.1.4.3 From applicants for grants, including voluntary bodies and other organisations applying for public funding.
- 7.1.4.4 From applicants for benefits, claims and dispensations.
- 7.1.4.5 From parties in legal proceedings with the Council.
- 7.1.5 Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.
- 7.1.6 Do not solicit any gift or hospitality and avoid giving any perception of so doing.

8. Gifts received and donated to the Chairman's Appeal

- 8.1 Some members receiving gifts of value may prefer not to retain these personally but to pass them to the Chairman's Office for use in relation to the Chairman's Appeal. Members should indicate this intention to the provider and make this clear in the register of interests.

9. Registration of Gifts and Hospitality

- 9.1 The Code of Conduct for Members and Co-opted Members provides that:-

“You have a personal interest in any business of your authority 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.”
- 9.2 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.
- 9.3 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.
- 9.4 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

- 10.1 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.
- 10.2 You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.
- 10.3 You may thereafter be required to assist the Police in providing evidence.

11. Enforcement

- 11.1 The Standards Committee has responsibility for overseeing compliance with this guidance.
- 11.2 Allegations of any failure to meet the guidance must be made in writing to the Monitoring Officer.