

GIFTS AND HOSPITALITY

GUIDANCE FOR COUNCILLORS

1. INTRODUCTION

- 1.1 Your role as a member of the Council means that you are brought into contact, as part of your work, with many people for many different reasons. From time to time you may encounter situations where individuals, or firms, companies and other public bodies will offer gifts or hospitality. The reasons for this will vary but such offers will usually be made as goodwill gestures, or for celebration or appreciation, or for helping networking or working together. Some Members who hold particular positions within the Council or who have to liaise with other public and private sector partners, may find themselves receiving offers of gifts and hospitality quite frequently.
- 1.2 The Council has adopted this guidance to regulate the acceptance of gifts and hospitality. This is because the acceptance of benefits such as gifts can affect the perception of whether Councillors and the Council are acting in the public interest. Councillors are in a position of significant influence over issues that affect people's lives and must always act in the best interests of the people of the Epping Forest District and not act in any way which undermines public trust in what they are doing.
- 1.3 Whilst most offers of gifts and hospitality are well meant and innocent, there have been, nationally, instances in the past of gifts and hospitality being offered to and accepted by Councillors for corrupt purposes to secure improper advantage. Whilst this is exceptional and rarely occurs, it is very damaging to public confidence in local government, damaging to the reputation of the authority and unlawful. Even in situations where there are no improper motives, the acceptance of gifts and hospitality can have a negative effect in terms of public perception.
- 1.4 This means that as a member of the Council you need to be very clear about the rules that apply to gifts and hospitality and you always need to bear in mind how the public might view your accepting them. Any offers should be treated with great care. You have a prime duty to ensure that there is no conflict of interest in the performance of your duties and this guidance aims to help you deal with situations where you are faced with offers of gifts and hospitality.
- 1.5 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.
- 1.6 The Council's Code of Conduct is underpinned by the Nolan principles of public life, some of which are particularly relevant to the receipt and declaration of gifts and hospitality:
 - **Integrity** - Members should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties
 - **Objectivity** - in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits; choices should be made on merit;
 - **Openness** - Members should be as open as possible about all the decisions and actions that they take; and

- **Honesty** - Members should declare any private interests relating to their public duties and take any steps to resolve any conflicts arising in a way that protects the public interest.

1.7 This guidance for Councillors on the receipt of gifts and hospitality 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.

1.8 This guidance does not apply to the acceptance of any facilities or hospitality, which may be provided to a Councillor by Epping Forest District Council. The guidance is intended to assist members to comply with their obligations and also to help them to avoid any situation where their integrity or objectivity might be called into question as a result of gifts and hospitality issues.

1.9 If you are unsure on the interpretation of any aspect of this guidance, you should seek advice from the Monitoring Officer.

2. GIFTS AND HOSPITALITY

(a) Gifts

2.1 A gift could be any item or service you receive free of charge, or which you are offered at a discounted rate or on terms not available to the general public. The general principle is that gifts should be refused.

2.2 However, when deciding whether or not to accept an offer of a gift, the context is very important. An offer of a gift from a company seeking to do business with the Council is unlikely ever to be acceptable and cash or monetary gifts should always be refused and the Monitoring Officer should be notified. Examples of gifts that, depending on the specific circumstances, it would be appropriate to accept, are set out later in Section 4(a) of this guidance.

2.3 If you receive any unsolicited gifts where it is not appropriate to accept them, but it would be impracticable to return them, or where refusal in the circumstances would cause offence, you must as soon as practicable after receipt of the gift, pass it to the Monitoring Officer together with a written statement explaining where it came from and the circumstances. The Monitoring Officer will record the details of the offer of the gift and will write to the person or organisation thanking them for the gift and informing them that it has been donated to the Chairman of Council's Charity or a charitable organisation nominated by the Chairman.

(b) Hospitality

2.4 Hospitality is the offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public. Common hospitality includes meals, refreshments, and tickets for cultural or sporting events. The general principle is that hospitality should ordinarily be refused other than on a modest scale. Examples of hospitality that, depending on the specific circumstances, it might be appropriate to accept, are set out later in this guidance.

- 2.5 Offers of complimentary or reduced-price tickets for concerts, the theatre, or sporting events should be treated with caution and accepted only when these are part of the life of the community or where the Council should be seen to be represented. It is important to ensure that there is a proper reason for acceptance of hospitality and it is particularly important to consider how the public, when viewing your Register of Interests might perceive your acceptance of this type of hospitality. The advice of the Monitoring Officer should always be sought before hospitality of this type is accepted. The following are examples of hospitality which it would not be appropriate to accept:
- (a) a holiday or business trip paid for by a business contact of the Council;
 - (b) the use of a flat/hotel suite provided by a business contact of the Council;
 - (c) paid for corporate invites for evenings out or similar, with representatives from a company or organisation who have dealings with the Council, or who are likely to in the future.

3. GENERAL GUIDANCE ON THE ACCEPTANCE OF GIFTS AND HOSPITALITY

- 3.1 You are only required to register and declare gifts and hospitality that you have received in your official capacity as a Member of the Council. The following are examples of when you are acting in such official capacity:
- (a) when you conduct the Council's business;
 - (b) when you conduct the business of the office of Councillor;
 - (c) when you act as a formal representative of the Council on another body.
- 3.2 In considering any offer of gifts and hospitality, you should always ask yourself, would I have been offered this if I was not a Councillor? If you are in any doubt, it is recommended that you register the offer of gifts and hospitality or speak to the Monitoring Officer. You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. However, you should always register a gift or hospitality if it could be perceived as something given to you (or a member of your family) because of your position.
- 3.3 The registration of gifts or hospitality does not automatically mean that it is appropriate or advisable to accept the gift or hospitality in the first place. The need to consider whether it is appropriate to accept a gift or hospitality always applies, whatever the value of the gift or hospitality.
- 3.4 You should always treat with extreme caution any offer of a gift, favour or hospitality that is made to you personally in your capacity as a Member of the Council. The person or organisation making the offer may be doing business or seeking to do business with the Council, might be applying to the authority for planning permission or could be involved in some other kind of decision. The appearance of impropriety can be just as damaging to the Council and to you as a Councillor, as actual impropriety. Therefore, a helpful question in deciding whether any gift or hospitality should be accepted, is whether a member of the public knowing the facts, would think that you might be improperly influenced by the gift or hospitality.
- 3.5 Regardless of whether a gift or hospitality is above or below the value threshold set by the Council, you must first consider whether it is appropriate for you to accept it at all. After you have considered whether it is appropriate for you to accept it, you then need to consider the requirements and guidance in relation to the registration of the gift or hospitality.

3.6 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:

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

3.7 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.

3.8 The Bribery Act 2010 creates offences of bribing another person and of being bribed. In summary, 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. A relevant function for the Council's purposes is any function of a public nature, where there is an expectation that the function/activity is carried out in good faith, or an expectation that the function/activity is performed impartially, or where the person performing it is in a position of trust by virtue of performing it. Individuals can be fined or imprisoned, or both, for offences under the Bribery Act 2010.

3.9 The Council'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.

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

3.10 The only proper reason for accepting any hospitality is that there is a commensurate benefit for the Council, which would not have been otherwise available. Acceptance 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.

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

3.11 Acceptance of a gift is much less likely to confer such an advantage to the Council, the presumption being that the gift is purely for the member's personal benefit. Acceptance by a Councillor of a gift for their own benefit or advantage, rather than for the benefit to the Authority, would be a breach of the Code of Conduct.

3.12 The only gifts which may be accepted, are listed in Section 4(a) below.

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

3.13 Members must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Council favours any particular person, company or section of the community or is placing them under any improper obligation to any person or organisation. The gift or hospitality must be refused unless appropriate steps can be taken to ensure that such a misunderstanding does not arise.

3.14 Members must be careful in any of the following circumstances:

- (a) where the Council is going through a competitive procurement process, so as to avoid any indication of favour for a particular tenderer;
 - (b) the determination 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 including cases where the authority is determining a grant application.
- (e) Principle 5 - Never accept a gift or hospitality which puts you under an improper obligation**

3.15 It is recognised 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.

(f) Principle 6 - Never solicit a gift or hospitality

3.16 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.

4. GENERAL CONSENT TO ACCEPT GIFTS AND HOSPITALITY

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

4.1 Members may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority;
- (ii) modest refreshments in connection with any meeting, such as tea, coffee, soft drinks and biscuits;
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority;
- (iv) small gifts of low intrinsic value below £50.00, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. (Note: 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);
- (v) 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. (Note: a Councillor should make reasonable efforts to return the offer where this is practicable);
- (vi) a modest working lunch not exceeding £15.00 a head in the course of a meeting in the offices with any organisation or individual with whom the authority has an existing business connection in order to facilitate the conduct of business. (Note: 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 £15.00 per person);

- (vii) modest souvenir gifts with a value below £50.00 from another Council or similar public body during a visit;
- (viii) hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. (Note: Councillors should request officers to settle the detailed arrangements, with officers under an instruction to make it clear that any such hospitality is to be commensurate with the occasion; and
- (ix) 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) Cases where special consent to accept can be obtained

- 4.2 If a member wishes to accept any gift or hospitality, which is in accordance with the General Principles set out in Section 3 of this guidance, but is not within any of the general consents set out at paragraph 4.1 above, they may only do so if they have previously obtained specific consent in accordance with the following procedure.
- 4.3 The Councillor must make an application in writing to the Monitoring Officer, setting out full details of the offer and must not accept the gift or hospitality until they have received the appropriate consent.
- 4.4 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. This does not however relieve the Councillor of the obligation to register the receipt of gifts and hospitality in accordance with Section 5 of this guidance.
- 4.5 You must always consider whether it is appropriate to accept a gift or hospitality, regardless of the value. While gifts and hospitality with an estimated value of above £50.00 must be registered, you may wish to declare the receipt of gifts and hospitality where the value is under this amount. While it may be appropriate to accept a token gift or gift of low value on one occasion, it is recommended that you should refuse repeated gifts from the same source, even if these are individually not of a significant value.

What if I do not know the value of a gift or hospitality?

- 4.6 The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth, by considering how much you reasonably think it would cost a member of the public to buy the gift or provide the hospitality in question.

What do I need to do if I have declined a gift or hospitality?

- 4.7 It is recommended that you should register any offer of a gift or hospitality which you have declined, as this helps to protect both your position and that of the Council.

5. REGISTRATION OF GIFTS AND HOSPITALITY

- 5.1 The receipt of any gift or hospitality with an estimated value of £50.00 or more that you have received in connection with your official duties as a Member must be registered in writing with the Monitoring Officer within 28 days.
- 5.2 Any such registration must be notified to the Monitoring Officer as an amendment to your Register of Interests declaration. It is best to get in the habit of registering your

personal interests, including the receipt of gifts and hospitality, as soon as possible. Only gifts and hospitality in connection with official duties of councillors should be registered.

- 5.3 The appropriate Register of Interests declaration form can be obtained from the Democratic Services Manager, who administers the Register of Interests on behalf of the Monitoring Officer. The information contained within your form will be published on the Council's website as part of your Register of Interests, which is open to public inspection.
- 5.4 If you are dealing with any Council business, (for example, you are part of a Council meeting and you have a personal interest in that business, because 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 £50.00 and you have not already declared that gift/hospitality to the Monitoring Officer on your Register of Interests, you must do so within 28 days. You should also declare your interest to the meeting.
- 5.5 Any gift or hospitality that is registered in accordance with the above requirements will automatically constitute a personal interest in any matter considered by the Council, which is likely to affect the person who gave the gift or hospitality. The personal interest must be declared at all meetings and consideration given to whether the interest is a prejudicial one. After a period of two years from the date of receipt of the gift or hospitality, the duty to disclose ceases.
- 5.6 If the value of the gift or hospitality is less than £50.00, but you are concerned that its acceptance might be misinterpreted, particularly where it has been offered a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

6. GIFTS TO THE COUNCIL RATHER THAN A COUNCILLOR

- 6.1 Councillors should not solicit any gift on behalf of the authority except where it has formally identified the opportunity for participation by an external party, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements.
- 6.2 If Councillors receive such offers on behalf of the authority, they must first consider whether it is appropriate for it to accept and report the offer to the Monitoring Officer together with their recommendation. The Monitoring Officer will then write 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.

7. MONITORING OFFICER

- 7.1 The Monitoring Officer can be contacted at:

monitoringofficer@eppingforestdc.gov.uk