

SECTION B – PROTOCOL FOR MEMBERS RELATING TO GIFTS AND HOSPITALITY

1. INTRODUCTION

- 1.1 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 Council as acting in the public interest and not for personal advantage. The principles of conduct in public life require all Councillors to act with openness, integrity and honesty.
- 1.2 A requirement to declare details of any person from whom Councillors receive gifts and/or hospitality with an estimated value of £50 or more as a Personal Interest is set out in the Council's Code of Conduct. Failure to declare such details is a breach of the Code of Conduct and could lead to a formal complaint being made against the Councillor concerned.
- 1.3 Furthermore, the Bribery Act 2010 makes it a criminal offence to request, agree to receive or accept a bribe and defines corruption as the dishonest influencing of actions or decisions. The corrupt acceptance of a gift or hospitality can lead to an unlimited fine or up to 10 years' imprisonment.

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2. AIMS OF THE PROTOCOL

- 2.1 This Protocol sets out:
- the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
 - a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
 - a procedure for declaring any gift or hospitality which you receive and in certain circumstances accounting to the Council for gifts received;
 - a procedure for accounting to the Council for any gift intended for the Council

3. LIMITS OF THE PROTOCOL

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

4. CONSEQUENCE OF BREACHING THE PROTOCOL

- 4.1 If you do not abide by this Protocol, you may put yourself at risk of being named in a report made to the Audit and Standards..
- 4.2 If you have any doubts about the application of this Protocol to your own circumstances you should seek advice from the Monitoring Officer or Deputy Monitoring Officer.

5. GENERAL PRINCIPLES

- 5.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:
- 5.2 **Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**
- 5.3 As a Councillor, you must act in the public interest and must not be swayed in the discharge of your 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.
- 5.4 The Bribery Act 2010 provides that if you request, agree to receive or accept a financial or other advantage intending that, in consequence, a function of a public nature should be performed improperly (whether by you or another person), you commit a criminal offence carrying a maximum term of imprisonment of 10 years. The Act defines improper performance as acting in breach of trust or failing to act either in good faith or impartially. 5.5 Further, the Council's Code of Conduct for Members provides that you must act in the public interest and not for personal advantage and must not conduct yourself in a manner which is likely to bring the Council into disrepute..
- 5.6 **You should only accept a gift or hospitality if there is a commensurate benefit to the Council.**
- 5.7 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
- 5.8 Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and the district at a meeting. Acceptance of a gift is much less likely to confer such an advantage. Therefore, unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit. In that case it should be declined.
- 5.9 As set out above, the Council's Code of Conduct Members provides that you must not use your position for your own personal advantage which would include acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit of the Council..
- 5.10 **Never accept a gift or hospitality if acceptance might be open to misinterpretation.**

- 5.11 The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- 5.12 Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
- 1) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
 - 2) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
 - 3) funding decisions, when the Council is determining a grant application by any person or organisation.
- 5.13 **Never accept a gift or hospitality which puts you under an improper obligation.**
- 5.14 Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have 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 Council.
- 5.15 **Never solicit a gift or hospitality.**
- 5.16. You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Protocol. You should also take care to avoid giving any indication that you might be open to such any improper offer.

6. CONSENT REGIMES

6.1 General Consent Provisions

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- 1) civic hospitality provided by another public authority
- 2) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits

- 3) tickets for sporting, cultural and entertainment events but only if these are sponsored by the Council
- 4) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you 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
- 5) a modest alcoholic or soft drink on the occasion of an accidental social meeting with an employee of a contractor or party with whom you have done business on behalf of the Council. In such cases, you should make reasonable efforts to return the offer where this is practicable
- 6) a modest working lunch not exceeding £15 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection and where this is required in order to facilitate the conduct of that business. 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 a head
- 7) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to that authority
- 8) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- 9) 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 following procedure:
 - (i) The Councillor must, as soon as practicable after the receipt of the gift, and in any event within 28 days pass it to the Monitoring Officer together with written statement setting out the information described in Paragraphs 6.2 below. [The Form attached to this Protocol as Appendix 2 can be used for this purpose]
 - (ii) The Monitoring Officer will write to the person or organisation making the gift thanking them on your behalf for it and informing them that you have donated the gift to a Charity of your choice on whose behalf it will be raffled or otherwise disposed of in due course.

6.2 Special Consent Provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

- 1) You must make an application in writing to the Monitoring Officer, setting out:
 - (i) the nature and your estimate of the market value of the gift or hospitality
 - (ii) who the invitation or offer has been made by or on behalf of
 - (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
 - (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
 - (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

[You may use the Special Consent Application Form attached to this Protocol as Appendix 1]

- 2) You must not accept the gift or hospitality until you have received the appropriate consent.
- 3) If consent is refused you will decline the gift or hospitality and confirm to the Monitoring Officer that you have done so.
- 4) The Monitoring Officer will record all applications received under this part of the Protocol and all refusal made or consents granted in a register kept for that purpose which shall be open to public inspection. [Note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 7, below]
- 5) If consent is granted and the offer is a gift, you will accept it for and on behalf of Chiltern District Council and hand it to the Monitoring Officer who shall immediately take the following steps:
 - (i) issue you with a receipt for the gift;
 - (ii) add the gift to the Councils inventory; and
 - (iii) consult with the Chief Financial Officer and Chairman of the Council as to what measures are appropriate for the protection and/or use of the gift to ensure that it is properly applied for the benefit of the Council.

7. DECLARATION OF GIFTS

- 7.1 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, regardless of whether you are authorised to accept such gift or hospitality by the General or Specific Consent provisions set out in Paragraph 2 above, you must, as soon as possible after receipt of the gift or hospitality, and in any event within 28 days of receipt notify the Monitoring Officer by email to monitoringofficer@chiltern.gov.uk and make an addition to your Register of Personal Interests to record details of the person from whom the gift or hospitality was received.. The Register of Interests is available for public inspection and published on the Council's website.

[NB Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary disclosure in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.]

8. GIFTS TO THE COUNCIL

- 8.1 Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. The following principles will govern the issue of gifts to the Council:-
- 1) You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of musical and theatrical performances and developers' contributions under Section 106 Agreements.
 - 2) If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation and whether there is a real benefit to the Council which would outweigh any dis-benefits).
 - 3) You do not have delegated authority to accept a gift on behalf of the Council and so you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation.
 - 4) The Monitoring Officer will write back to the person or organisation making the offer to record the acceptance or non-acceptance of the gift and if accepted, record the gift for audit purposes by adding it to an inventory and consult with the Chief Financial Officer and Chairman of the Council to ensure that the gift is properly applied for the benefit of the Council.

- 5) If at any time you have 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, you should consult the Monitoring Officer.

9 DEFINITIONS

- 1) "Gift or hospitality" includes any:
 - (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.
- 2) References 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 cash 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.

APPENDIX 1

Application for a Special Consent to accept a Gift or Hospitality not authorised by the General Consent Provisions of the Protocol For Members Relating to Gifts and Hospitality

Name	
Ward	
What is the nature of the gift or hospitality offered or invited?	
What is your best estimate of its market value or cost?	
Please give details of the person or organisation who has made the offer or invitation?	
What connection do you have with the person or organisation making the offer?	
So far as you are aware, please give details of any work, permission, concession or facility that the person or organisation making the offer or invitation has sought or is seeking from the Council.	
Are there any special circumstances that might justify the acceptance of the gift or hospitality offered or invited?	
<p>DECLARATION</p> <p>I understand that if this application relates to the offer of a gift and the Monitoring Officer gives his consent to my acceptance of it, the gift will be belong to Chiltern District Council and I will account to the Monitoring Officer for it in accordance with Paragraph 2 (2) (e) of the Protocol relating to Gifts and Hospitality</p> <p>Signed..... Date</p>	

APPENDIX 2

Declaration of Receipt of Gifts or Hospitality by Councillors

Name	
Ward	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Protocol? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date