

Guidance for Members Relating to Gifts and Hospitality

1. INTRODUCTION

- 1.1 The acceptance and recording receipt of gifts and hospitality by Councillors is not simply 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. Paragraph 2.6 of Wycombe District Council's Code of Conduct for Members contains an obligation to "use your position as a member in the public interest and not for personal advantage".
- 1.2 "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, irrespective of the terms;
 - (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, and
 - (v) the opportunity to attend any cultural, sporting or entertainment event.
- 1.3 A requirement to register details of gifts and/or hospitality received which have an estimated value of £50 or more is also set out at Paragraph 5 of the Council's Code of Conduct for Members. 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.
- 1.4 The Bribery Act 2010 also makes it a criminal offence to bribe or attempt to bribe another person, or to request, agree to receive or accept a bribe. It 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.

2. AIMS AND LIMITS OF THE GUIDANCE

- 2.1 This Guidance sets out the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality. It does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council.

3. CONSEQUENCE OF BREACHING THE GUIDANCE

- 3.1 If you do not abide by this Guidance, you may put yourself at risk of a complaint being made against you or in extreme cases, criminal action.
- 3.2 If you have any doubts about the application of this Guidance to your own circumstances you should seek advice from the Monitoring Officer or Deputy Monitoring Officer.

4. GENERAL PRINCIPLES

- 4.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles.

Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

- 4.2 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.
- 4.3 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.
- 4.4 The Council's Code of Conduct for Members also 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.

You should only accept a gift or hospitality if there is a commensurate benefit to the Council.

- 4.5 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.
- 4.6 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.
- 4.7 As set out above, the Council's Code of Conduct for Members provides that you must not use your position for your own personal advantage or that of a family member or close associate, which would include acceptance as a Councillor of a gift or hospitality for your own or their benefit or advantage, rather than for the benefit of the Council.

Never accept a gift or hospitality if acceptance might be open to misinterpretation.

4.8 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.

4.9 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.

Never accept a gift or hospitality which puts you under an improper obligation.

4.10 You should 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, now or in the future. Also, if others believe 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.

Never solicit a gift or hospitality.

4.11. 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.

5. WHEN GIFTS AND HOSPITALITY MAY BE ACCEPTED

For clarity, you may accept gifts and hospitality in the following circumstances:

- 1) civic hospitality below £25 in value provided by another public authority as part of your work as a Councillor;
- 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 per 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 should make it clear to the other party that such a lunch must not exceed a value of £15 per 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 should 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 refuse or 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 information as to why it was impracticable to refuse or return the gift;
 - (ii) The Monitoring Officer will write to the person or organisation making the gift thanking them on the Councillor's behalf and informing them that the gift has been donated to a Charity of the Councillor's choice on whose behalf it will be raffled or otherwise disposed of in due course.

6. DECLARATION OF GIFTS

- 6.1 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 should accept such gift or hospitality in accordance with this Guidance, in order to comply with the Code of Conduct 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 and make the necessary addition to your Register of Interests in the modern.gov system including details of the person from whom the gift or hospitality was received. The Register of Interests is available on the Council's website.
- 6.2 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 lacking transparency about the gift or hospitality.
- 6.3 If at any time you require further advice, you should consult the Monitoring Officer or Deputy Monitoring Officer.