

GIFTS AND HOSPITALITY POLICY FOR COUNCILLORS

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 or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These legal requirements are supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. This policy is to be read in conjunction with the Council's Code of Conduct for Members.

This Guidance sets out:

- (a) the principles which you should apply whenever you have 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 you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council

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

The Council does operate within the commercial world and aims to act transparently but there may be times when published information is redacted to reflect the sensitivities of the Council's business affairs.

1. General Principles

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 in Section 2, you should not accept it if to do so would be in breach of one or more of these principles:

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

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.

The Bribery Act 2010 makes it an offence for an individual to bribe another person or to accept a bribe. The maximum penalty for a conviction for one of these offences is up to 10 years imprisonment. There is an additional offence which applies to organisations of failing to prevent bribery. On a conviction for

this offence the organisation could face an unlimited fine.

Further, the Council's Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

(b) You should only accept a gift or hospitality if there is a benefit to the Council

The only proper reason for accepting any gift or hospitality is that there is a benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.

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 its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But 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.

As set out above, the Council's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might reasonably be open to Misinterpretation

The appearance of impropriety can be damaging to the Council and to you as a Councillor. The Council's ability to govern rests, in part, 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 reasonably 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 consider whether to refuse the gift or hospitality or what appropriate steps to take to reduce the likelihood of such a misunderstanding.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.

- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.
- (iii) funding decisions, when the Council is determining a grant application by any person or organisation

(d) Never accept a gift or hospitality which puts you under an improper obligation

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.

(e) Never solicit a gift or hospitality

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 Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

(a) General consent provisions

For clarity, the Council has agreed that, provided the General Principles set out in Section 1 are not breached, you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public body
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (iv) small gifts of low intrinsic value, 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
- (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 you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable

- (vi) a modest working lunch in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business.
- (vii) modest souvenir gifts with a value from another public authority or given on the occasion of a visit by or to the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council.
- (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 following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Mayor of the Council together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

b) 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:

You must make an application in writing to the Monitoring Officer (MO), 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 Council

- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

The MO 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 Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below. Any approval will also be placed on the Council's website.

3. Reporting

Where you accept any gift or hospitality, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the MO, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The MO will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

4 Gifts to the Council

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. 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 public musical and theatrical performances and developers' contributions under Section 106 Agreements. 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, whether there is a real benefit to the Council which would outweigh any disbenefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the MO, together with your recommendation. The MO will then write back 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 Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the MO directly.

5 Definitions

(a) "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.
- (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.

(b) 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.

FAILURE TO FOLLOW THIS POLICY COULD LEAD TO A CODE OF CONDUCT COMPLAINT OR CRIMINAL PROCEEDINGS UNDER THE BRIBERY ACT 2010

IF YOU ARE IN DOUBT WHETHER TO ACCEPT A GIFT AND/OR HOSPITALITY YOU ARE ADVISED TO CONTACT THE MONITORING OFFICER OR LEGAL SERVICES

Declaration of Receipt of Gifts or Hospitality

| | |
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| Name | |
| What was the gift or hospitality? | |
| Who provided it? | |
| When and where did you receive it? | |
| Does it come within one of the general consents set out in the Policy? 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: |

Please return to the Democratic Services Team at Havant Borough Council