

WORCESTER CITY COUNCIL

GIFTS AND HOSPITALITY

A GUIDANCE NOTE FOR COUNCILLORS

GIFTS AND HOSPITALITY - GUIDANCE TO COUNCILLORS - SUMMARY

It is very important that you read this guidance in detail. In doing so the following is a summary of the key points to bear in mind:-

- **There are 5 general principles that OVERRIDE any other consideration** set out in Section 1 of the Guidance. **Accordingly, you should:-**
 1. **Never** accept a gift or hospitality as an inducement or reward for anything you do as a employee of the Council.
 2. Where a gift or hospitality appears to come within the rules set out in this Guidance, before accepting it, **ensure** there is a commensurate benefit to the authority.
 3. **Never** accept a gift or hospitality if acceptance might be open to misinterpretation.
 4. **Never** accept a gift or hospitality which puts you under any improper obligation.
 5. **Never** solicit a gift or hospitality.
- **In addition, where a gift or hospitality meets the above principles, it must ALSO meet one or more of the 10 consent provisions** set out in Section 2 of the Guidance and it is important you study these carefully before accepting any gift or hospitality.
- **Remember to report** all instances of gifts or hospitality received or refused (where the offer appears to breach this Guidance) as set out in Section 3 of this Guidance.
- **Finally, it is equally important where you have any involvement with a gift given to the Authority**, you observe the safeguards set out in Section 4 of the Guidance. That is, although the gift is not directed at you personally, it is still very important it meets the criteria stated in the Guidance before it is accepted.

Gifts and Hospitality

Guidance 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 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.

The law on the acceptance of gifts and hospitality is set out in the authority's 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 this authority, to provide a clear set of rules for the protection of both Councillors and the authority. 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 up to 7 years' imprisonment.

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) circumstances in which the authority accept that it may be appropriate to accept a gift or hospitality
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

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

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 below, 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 Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Further, the authority's Code of Conduct for Members provides that you 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, including yourself.

- (b) **You should only accept a gift or hospitality if there is a commensurate benefit to the authority.**

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

Acceptance of hospitality 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. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority 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 authority'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 authority, would be a breach of the Code.

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

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority'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 authority 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.

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

- (i) occasions when the authority 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 authority 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 authority.

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

2. General consent provisions

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

- (i) civic hospitality provided by another public authority
- (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 authority
- (iv) small gifts which in total are 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
- (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 authority if you meet accidentally in a public house, café or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business and which is not regularly repeated. 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 £10 a head
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. 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
- (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 Mayor's Personal Assistant together with a written statement identifying the information set out below:
 - the nature and estimated value of the gift
 - who the gift was from
 - the connection which the Councillor has with the person or organisation making the gift
 - any work, permission, concession or facility which the Councillor is aware the person making the gift may seek from the Council

The Mayor's Personal Assistant 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 on whose behalf it will be raffled or otherwise disposed of in due course.

- (x) the Mayor may accept reasonable hospitality when carrying out the functions of Mayor and may accept gifts but these shall belong to the Council and not him or her personally and shall be entered in the Inventory maintained by the Mayor's Personal Assistant.

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 provisions above, you should first obtain advice from the Monitoring Officer or his Deputy.

3. **Reporting**

Where you accept (or refuse eg; because it does not meet the principles or provisions above) any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring

Officer. A form for this purpose is attached to this Code. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection.

Even if the value of the gift or hospitality is less than £25, 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 declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

4. **Gifts to the authority**

Gifts to the authority 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 authority. You should not solicit any such gift on behalf of the authority except where the authority 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 authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any disbenefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer 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 authority. If 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 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 of hospitality.

WORCESTER CITY COUNCIL
HOSPITALITY / GIFTS TO MEMBERS DECLARATION FORM

Please see the reverse of this form for details of the regulations governing this area

1	Member's name:
2	Name and company / organisation of offerer or provider of hospitality / gift(s):
3	What was offered or provided (please give as full a description as possible)?
4a	Was the hospitality / gift(s) accepted? Yes / No
4b	If 'yes' state reason(s) for acceptance:
4c	If 'no' give reason(s) for refusal:

I confirm that I am satisfied that my actions described above are in accordance with the Council's Code of Conduct and Constitution for Councillors and Employees Dealing with Planning Matters.

Signature: _____ Date: _____

Please return completed forms to Deputy Chief Executive and Monitoring Officer

For completion by Deputy Chief Executive and Monitoring Officer

Confirm that where an unsatisfactory answer is given above appropriate follow-up action has been taken:

Yes / No / Not applicable

Signature: _____ Date: _____

HOSPITALITY / GIFTS TO MEMBERS

Extract from: **WORCESTER CITY COUNCIL'S CODE OF CONDUCT**

Para. 16 – Registration of Gifts and Hospitality

A member must within 28 days of receiving any gift or hospitality over the value of £25 provide written notification to the Monitoring Officer of the responsible authority of the existence and nature of that gift or hospitality.

Extract from: **CODE OF CONDUCT FOR COUNCILLORS AND EMPLOYEES DEALING WITH PLANNING MATTERS**

Section 3: Hospitality and Gifts

- 3.1 The Members' Code of Conduct and the Employee's Code of Conduct have requirements relating to the registration of gifts and hospitality. Councillors and employees should be very careful about accepting gifts and hospitality and the presumption should be that any gift is refused.
- 3.2 During the course of carrying out their duties, employees may be offered hospitality from people with an interest in a planning proposal. If possible, such offers should be declined politely. If receipt of hospitality is inevitable employees should ensure that it is of the minimum level. All hospitality received (beyond a simple cup of tea or coffee) should be immediately notified in writing to the Council's Monitoring Officer who will keep a record of such hospitality.
- 3.3 Gifts (other than purely token and/or trade items such as calendars and diaries) delivered to Council offices in person or by post should be politely returned or given to Charity as the Head of Service may decide is most appropriate.