

Tendring **District Council**



MEMBERS' GIFTS AND HOSPITALITY POLICY MARCH 2016

Introduction:

This Policy has been approved by the Council's Standards Committee and sets out elected Members' obligations to declare gifts and hospitality received in their capacity as members of the Council and to provide guidance on those obligations. A breach of this Policy amounts to a breach of the Council's Code of Conduct and a complaint can be reported to the Monitoring Officer and dealt with in accordance with the Members' Complaints Procedure.

The Code and Legislation:

Paragraph 3.7 of the Code of Conduct states:

Compliance with the Law and the Authority's Rules and Policies

You must:

- (b) comply with the provisions of the Bribery Act 2010 or similar;
- (c) comply with the Authority's Gifts and Hospitality Policy.

Paragraph 6.1 states:

"You have a Non-Pecuniary Interest in any business of the Authority where it relates to or is likely to affect –

- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.

Section 2 of the Bribery Act 2010 ('the Act') makes it a criminal offence for a person to request, agree to receive or accept a financial or other advantage, to improperly perform or not perform, whether by her/ himself or another, a relevant function or activity. In the context of the council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust.

Prosecution under the Act could lead to a criminal conviction and an unlimited fine or up to 10 years imprisonment (or both).

The Policy:

This Policy aims to provide:

- (a) a clear set of **Rules** for the protection of both Councillors and the Council and sets out:
- (b) the **General Principles** you should apply whenever you decide whether it would be proper to accept any gift or hospitality; and
- (c) the **Procedure** for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

This Policy does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council, in your role as a Councillor.

This Policy applies to all Members including, the Chairman and Vice-Chairman of the Council. It is inevitable that during the holding of either office, the opportunity to receive gifts and hospitality offered may be greater, hence office holders must be ensure openness and transparency by declaring any offer or acceptance.

(a) THE RULES

- You must register *every* individual gift or item of hospitality received that is over £50 in value.
- Your registration must be made *within 28 days of the date you received it*, by completing and sending the attached form for the attention of the Council's Monitoring Officer;
- You must declare the:
 - *value and details* of the gift or hospitality received on the form;
 - whether the donor has or has had in the past or likely to have in the future, *dealings with the Council*;
 - whether the gift or hospitality has been *accepted*; and
 - the *reason* for that acceptance.
- The form must be signed by you *personally*. Forms will be checked and returned if not completed properly.
- Even if all members, or a large number of them, received the same gift or were invited to the same event, they must each make *individual* notifications.
- Failure to comply with these rules is a breach of the Members' Code of Conduct.
- The press and public have the right to inspect your gift and hospitality declaration forms. The Register is also public via the Council's web site at www.tendringdc.gov.uk (follow link to 'Councillors' page). Councillors and officers may also gain access through the Council's intranet (PING). You should have this in mind when completing declaration forms, as your comments will not be edited.

(b) 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

(i) Should I accept gifts and hospitality?

Registering and declaring gifts or hospitality received does not automatically mean it is appropriate or sensible to accept them in the first place.

Particular care should be taken in relation to gifts and hospitality offered by current or potential::

- contractors for the Council;
- developers within the district;
- businesses associated with the district.

In certain cases the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement then the matter should be reported in accordance with established procedures.

(ii) Never accept a gift or hospitality as an inducement or reward for anything which you do as a Member;

(iii) Only accept a gift if there is a commensurate benefit to the Council;

The only proper reason for accepting any gift or hospitality is that the councillor reasonably believes that there may be a benefit for the authority.

Unless the benefit to the authority is clear, and proportionate to the value of that gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

(iv) Never accept a gift or hospitality which 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 Council's reputation is based on ensuring it acts 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.

(v) Never accept a gift or hospitality which puts you under an improper obligation; and

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

(vii) Must I register all gifts and hospitality which I receive or am offered?

You **must register** any gifts or hospitality **worth over £50 that you receive & accept** in connection with your official duties as a Member.

Where the value of any gift or hospitality is **under £50 you may wish to** declare receiving it.

You **should register** any offer of gift and/or hospitality **over £50 which you have declined**, since this protects both your position and that of the Council.

Only gifts and hospitality offered to you in your official capacity must be registered. Gifts and hospitality offered to you in your private capacity, of whatever value, should not be registered at all. You do not need to register gifts and hospitality which are not related to your role as a Member. However, you should always consider whether any gifts or hospitality could be seen as being connected with your public role as a Member.

DETERMINING THE VALUE OF THE GIFT/ HOSPITALITY?

You may have to estimate how much a gift or some hospitality is worth. The form requires you to give an estimate of the value. It is suggested that you take a common sense approach, and consider how much you reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result you estimate that the value is greater than £50, then you should declare receipt.

Where hospitality is concerned, you can disregard catering on-costs and other overheads, e.g. staff and room hire. If the sandwiches or your meal, including drinks and alcohol, would cost £50 in a comparable establishment providing food of comparable quality, register it.

If you are not certain whether the value is under £50, the safest course is to register it and give an approximate value.

What about gifts of low value?

There is no requirement to declare gifts of a value of less than £50. However, in order to be transparent, if you receive a series of related gifts in connection with your role as a Member which are all under £50, but together total above £50, then you should register them if they are from the same person. If the

small gifts received from different persons are connected in some way, it is *good practice* to register them.

(viii) Gifts which have been considered acceptable by the Standards Committee

Decisions on declarations must be made by individual members. The Standards Committee has however agreed that in appropriate circumstances members may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- modest refreshments received in the ordinary course of duties as a member e.g. at formal meetings or when in contact with constituents;
- Tickets for sporting, cultural events which are sponsored or supported by the Council;
- Small gifts of low intrinsic value i.e. below £50 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc);
- Modest souvenir gifts with a value below £50 from another public body given on the occasion of a visit by or to that body;
- Hospitality received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by officers rather than the members who will be benefiting and hospitality should be commensurate with the nature of the visit; and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases you may wish to pass the gift to the Chairman's charitable fund.

Receipt of gifts and hospitality of this type is still subject to the requirements of the Policy regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £50 in value. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere fact that a gift or hospitality does not have to be notified under the Policy does not necessarily mean that it is appropriate to accept it

(C) PROCEDURE FOR REGISTRATION & DECLARATION

(i) How do I register gifts and hospitality I receive?

You must give Member Support (working on behalf of the Monitoring Officer) written details about the gifts and hospitality you are offered. The Standards Committee endorses the use of a standard form for this purpose, which is available on the Council's website.

The best advice is to get into the habit of registering things as soon as possible, and if in doubt, register receipt. The appropriate form is available on the Council's website.

(ii) How do I declare gifts and hospitality with an estimated value of £50 or over.

You must also disclose, as a Declarable Non-Pecuniary Interest, the existence and nature of the gift or hospitality at any meeting at which business that relates to, or is likely to affect, the donor of that gift or hospitality is considered.

You need not disclose the interest if it was registered more than 6 years before the date of the meeting. You should follow the provisions of paragraphs 7 and 10 of the Members' Code of Conduct on how you treat this interest in a meeting.

(iii) Gifts and hospitality that have been refused

The Council's Register of Gifts and Hospitality for Councillors has provision for showing where a gifts or hospitality has been offered but you have refused it. Although there is no legal or other requirement to notify such an offer/refusal, you are able to register it if you prefer to put your refusal on the public record.

Definitions

(a) "Gift or hospitality" includes:

- i. the gift of any goods or services.
- ii. the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event, free of charge or at a reduced rate.
- iii. the opportunity to obtain any goods or services which are not available to the general public
- iv. 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.

(b) References to the "value" or "cost" (estimated or actual) of any gift or hospitality are to be assessed against 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.

Further assistance

It is each Member's own individual responsibility to observe this Policy, but the Monitoring Officer and their staff will assist where possible. If you have any questions at all please contact Member Support, the Monitoring Officer or Deputy Monitoring Officer for advice and assistance.

Monitoring Officer