

(G) Gifts and Hospitality – A Protocol for Members

1. Introduction

The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Members can get out of their position.

The rules on the acceptance of gifts and hospitality is set out in the Code of Conduct for Members (Part 5A of the Constitution) and in the Corruption Act. These requirements are then supplemented by the procedures which have been adopted by the Council, to provide a clear set of rules for the protection of both Members and the Council. 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 prosecution and disqualification from holding public office for a period of up to ten years (Representation of the People Act 1995). Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment, under the Corruption Act 1985.

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.

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

2. General Principles

In deciding whether it is proper to accept any gift or hospitality, Members should apply the following principles:

(a) **Never accept a gift or hospitality as an inducement or reward for anything done as a Member**

Members must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging these duties in a particular manner.

The Corruption Act 1985 provides that if Members obtain an advantage 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, they may commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Further, the Council's Code of Conduct for Members provides that Members 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 it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including themselves.

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

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.

Acceptance of hospitality can confer an advantage on the Council, 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 the Member's personal benefit.

As set out above, the Council's Code of Conduct provides that Members must not improperly confer any advantage on anyone, including themselves. Acceptance as a Member of a gift or hospitality for their 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 be open to misinterpretation**

The appearance of impropriety can be just as damaging to the Council and to a Member as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Members must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Council favours any particular person, company or section of the community or as placing either under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, a Member 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 Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- (ii) consideration of planning issues or applications, in respect of any person or organisation which stands to gain or to lose from the determination;
- (iii) funding decisions, when the Council is determining a grant application by any person or organisation.

(d) **Members should never accept a gift or hospitality which puts them under an improper obligation**

It should be recognised that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If Members accept gifts or hospitality improperly, it is possible that they may seek to use this fact to persuade Members to determine an issue in their favour. Equally, if others note that Members 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**

Members must never solicit or invite an offer of a gift or hospitality in connection with their position as a Member unless the acceptance of that gift or hospitality would be permitted under this Protocol. Members should also take care to avoid giving any indication that they might be open to such an improper offer.

3. Acceptance of specific gifts and hospitality

Subject to compliance with the general principles Members 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 their work.
- (iii) Tickets for sporting, cultural and entertainment events which are sponsored by the Council.
- (iv) Small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, calendars and diaries. However, Members 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 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. Members 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 should be within the terms of the Code ie “normal hospitality associated with your duties and which would reasonably be regarded as appropriate”.
- (vi) Modest souvenir gifts from another public authority given on the occasion of a visit by or to the authority.
- (vii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Members 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 Members and officers is to be no more than commensurate with the nature of the visit.
- (viii) Other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Member deals with the gift strictly in accordance with the following procedure: The Member must, as soon as practicable after the receipt of the gift, pass it to the Assistant Town Clerk together with a written statement identifying the circumstances in which the gift was received. The Assistant Town Clerk 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, the proceeds being devoted to the annual charitable cause chosen by the Mayor if appropriate).

4. Reporting

Where Members accept any gift or hospitality which they estimate to have a market value or cost of provision of £25 or greater, they must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Assistant Town Clerk. The Assistant Town Clerk 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 or pursuant to any statutory obligation.

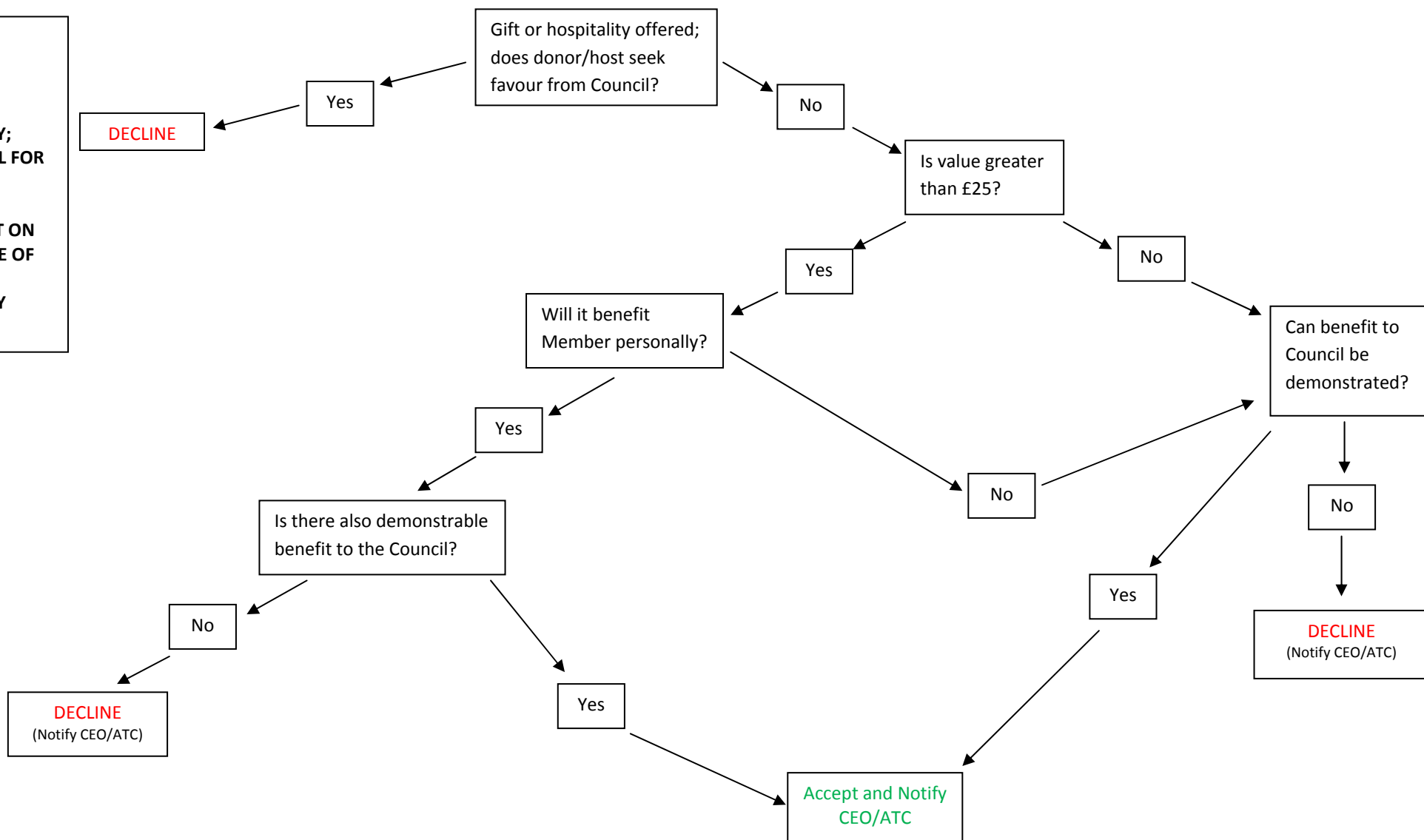
Even if the value of the gift or hospitality is less than £25, if Members are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

Where gifts and hospitality with a value or cost of provision of £25 or more are registered with the Assistant Town Clerk, the receipt of such gifts and hospitality may be a pecuniary interest whenever a matter relating to the person giving the gift or providing the hospitality is considered within a reasonable time of the date on which the gift or hospitality was registered. Consequently, it should be declared either before the matter is discussed or as soon as it becomes apparent that there is an interest. Members may need to consider whether in all the circumstances, they should seek advice on declaring an interest from the Assistant Town Clerk or the Chief Executive.

5. 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 authority. Members should not solicit any 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 Planning Agreements. If Members receive such an offer on behalf of the Council, they 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 dis-benefits). As Members do not have delegated authority to accept the gift, they should report the offer directly to the Assistant Town Clerk. The Assistant Town Clerk will then seek appropriate Committee authority, 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 Members 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, they should consult the Assistant Town Clerk or Chief Executive directly.

PART 5(G)
**GIFTS AND HOSPITALITY;
A PROTOCOL FOR MEMBERS**
FLOWCHART ON ACCEPTANCE OF GIFTS AND HOSPITALITY



Members are personally responsible for all decisions connected with the acceptance *or offer* of gifts and hospitality, and for avoiding the risk of damage to public confidence in the Council. The offer of gifts or invitations should always be reported to the Chief Executive or Assistant Town Clerk.