

TAMESIDE METROPOLITAN BOROUGH COUNCIL

GIFTS AND HOSPITALITY A PROTOCOL FOR COUNCILLORS AND EMPLOYEES

1. Introduction

1.1 The purpose of this guidance note is to provide a guide to employees and Councillors about:

- * The legal rules on gifts and hospitality and what may happen if they are breached
- * When gifts and hospitality may be accepted
- * The procedure to follow if you are offered a gift or hospitality
- * What to do if you think an employee or a Councillor has acted inappropriately

1.2 Persons in public service (both employees and elected officials) are expected to act in the interest of the public and to act impartially – and be seen to act impartially. Moreover, they should avoid putting themselves in a position where their integrity is called into question because of any financial or other obligation. As well as avoiding actual impropriety, the appearance of it should also be avoided. Council employees should not benefit personally in any way from their position as paid employees of the Council.

1.3 To quote from the judgment in a 1970s corruption case:

“People who take you to Wimbledon or to watch the Rugby are not doing it because they like you, it is because they want you to like them. It is because when you go to make a decision on a contract it is going to be based on friendship”.

2. The Legal Rules on Gifts and Hospitality:

Title of rule	Applies to	What the rule says	Consequences of breach
The Public Bodies Corrupt Practices Act 1889	Councillors and employees	Councillors and employees must not corruptly receive or agree to receive any gift, loan, fee, reward or advantage for doing or not doing something in connection with the work of the Council.	Criminal offence – prosecution – on conviction you can be sentenced to up to 7 years in prison
The Prevention of Corruption Act 1916	Councillors and employees	Where a gift, loan etc., is received by an employee or Councillor from a person seeking a contract with the Council then the gift or loan is deemed to have been received corruptly unless proved otherwise. This would place the giver and the receiver in the position of having to prove that they did not act dishonestly.	Criminal offence – prosecution – on conviction you can be sentenced to up to 7 years in prison
Local Government Act 1972	Employees only	S117 Local Government Act 1972 states that an employee of a local authority shall not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration.	Criminal offence - prosecution
Local Authority Employees Conditions of Service (“the Green Book”)	Employees only	Employees will maintain conduct of the highest standard such that public confidence in their integrity is maintained.	Breach of contract of employment – disciplinary action/ dismissal

Code of Conduct for Councillors	Councillors and co-opted members only	Councillors must not use or attempt to use their position as a Councillor improperly to confer on or secure for themselves or any other person, an advantage or disadvantage. Councillors must register with the Monitoring Officer the name of any person from whom they have received a gift or hospitality with an estimated value of at least £25.	Suspension or disqualification by Standards Committee or a Case Tribunal
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3. When gifts and hospitality may be accepted

3.1 The legal rules, and the potentially severe penalties for breaking them, mean that Councillors and employees must be cautious about accepting gifts or hospitality in the course of their duties.

Gifts

3.2 Employees and Councillors should usually refuse gifts offered to them or to a member of their immediate family by any person or body who has or seeks to have dealings with the Authority. Councillors must record all gifts and hospitality received with a value of £25 or more but employees must record all offers of gifts and hospitality regardless of value or whether accepted or not.

3.3 However, the following gifts may generally be accepted, although employees must obtain the permission of a Director before accepting:

- (i) A modest gift of a promotional/advertising character given to a wide range of people and not uniquely to the employee. The gifts would normally bear the Company's name and/or trademark/ logo and would be the sort of item that would be useful in the every-day working environment eg pens, calendars, diaries, note pads, desk sets, tape measures.
- (ii) A modest gift given to a teacher or a "carer". However, cash or monetary gifts should be refused – as should a legacy (a gift given under a will).
- (iii) From time to time, as part of a sales promotion drive, firms offer gifts or vouchers exchangeable for gifts, for ordering in excess of certain targets. When this happens Value for Money and the best interests of the Authority should always be uppermost in an employee's mind. Employees should not over order, over stock, or purchase items not forming part of the Authority's normal requirements.
- (iv) Modest gifts given in a lottery at Exhibitions, Conferences, Seminars etc., as part of a free raffle or draw.
- (v) Modest gifts of alcohol or non-perishable foodstuffs (which must be donated to the Mayor's Charity).

3.4 Where a gift is accepted with the permission of a Director but the gift is of no direct use to the Council, eg chocolates, alcohol, gift vouchers etc., it should be forwarded to the Civic Mayor's Secretary in order that it can either be the subject of a raffle with the proceeds going to a charitable fund of the Civic Mayor's choosing or donated to a suitable charity. Where this happens the employee who initially received the gift must complete a form to record the gift having been accepted has been donated to the Mayor's charity.

3.5 The Mayor's Secretary will write to the donor to thank them for the gift and tell them that, as employees cannot accept gifts, their gift has been donated to the Mayor's Charity. A copy of this letter will be sent to the employee who accepted or received the gift.

3.6 Where perishable gifts eg cakes, biscuits, flowers are received or accepted, whilst these remain the property of the Council and not the individual, they may be accepted and shared

amongst the Service/Office as appropriate. Where this happens the employee who initially received the gift must complete a form to recording the gift having been accepted and shared around the relevant office.

Hospitality

- 3.7 Hospitality should in general be declined. Employees should never accept any hospitality without the consent of a Director.
- 3.8 The following are examples of what is generally ACCEPTABLE:
- (i) A working meal provided to allow the parties to discuss or continue to discuss business. Employees are reminded they must not claim subsistence unless money has actually been expended by them on paying for their share of the meal or purchase of drinks. Employees should endeavour to pay their share of the cost where practicable; for example where the meal is taken in a café/restaurant.
 - (ii) An invitation from an established or prospective trading partner to a function that is part of a wider gathering eg conference lunches or dinners, where other local government employees connected with the service provided by the trading partner are also invited.
- 3.9 The following would never be acceptable:
- (i) Holidays or free accommodation.
 - (ii) Offers of hotel vouchers, theatre tickets, free travel etc (this should be treated as a gift)
 - (iii) Tickets for football matches or other sporting events; and
 - (iv) Use of a company flat or hotel suite
- 3.10 If you are unsure then you should contact the Borough Solicitor or (in the case of employees) the Director responsible for your service.
- 3.11 When a firm is participating in a tendering exercise or in a dispute with the Council about an existing contract then clearly offers of hospitality should be refused even if in normal times they would be acceptable.
4. **The procedure for responding to offers of gifts or hospitality**
- 4.1 The form must be completed as soon as the offer has been received. Employees must complete the form even if the offer is rejected.
- 4.2 Councillors must return the form to the Borough Solicitor within 28 days from accepting the gift or hospitality.
- 4.3 Employees must not accept the gift or hospitality without the written permission of a Director. They must therefore complete the form and give it to the Director responsible for their service. Once the Director has made a decision he or she will send a copies of the form to the Borough Solicitor and the employee.
- 4.4 The Borough Solicitor will ensure that everyone who offers a gift or hospitality will receive a letter drawing their attention to this policy.
- 4.5 The register of gifts and hospitality will be open to inspection by Standards Committee and by Internal Audit.
5. **What should I do if I think that someone isn't following this procedure?**
- 5.1 If you have a concern that any gifts or hospitality are being inappropriately accepted then you should raise it with the Borough Solicitor or Internal Audit.

APPENDIX 1

REGISTRATION OF OFFERS OF GIFTS AND HOSPITALITY

Councillors are required to register all hospitality received where the gift or hospitality:

- has an estimated value of £25 or more; and
- is received in connection with the carrying out of the councillor or officer's duties (including whilst representing the council on an outside body)

Registration must be completed within 28 days of receiving the gift or hospitality.

Councillors are also encouraged to voluntarily register all offers of gifts and hospitality - whether or not accepted.

Advice about what has to be registered is available from the Borough Solicitor or one of her team.

Name of Councillor receiving offer of gift or hospitality:

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Details of hospitality or gift received/ or offered

Date hospitality or gift received	Name of person or body giving the hospitality	Description of what was received	Estimated value	Have you or will you accepted this gift or hospitality?*
				YES/NO
				YES/NO
				YES/NO

Information given on this form will be used for the purpose of promoting and maintaining good standards of probity and will be placed on the register of interests which is available to the public.

Declaration

The information on this form is true and complete to the best of my knowledge

Signed.....

Dated.....

Once complete this form should be sent to the Head of Democratic Services.

APPENDIX 2

REGISTRATION OF OFFERS OF GIFTS OR HOSPITALITY

Council employees must not accept gifts or hospitality without the prior permission of a Director.

All offers of gifts and hospitality must be recorded on this form, even if an employee has refused the offer or does not want to accept it.

This form must be completed before any gift or hospitality can be accepted.

Advice about what has to be registered is available from the Borough Solicitor or one of her team.

Name of Employee receiving offer of gift or hospitality:

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Details of hospitality or gift received or offered

Date hospitality or gift offered	
Name of person or body making the offer	
Description of what has been offered	
Estimated value	
Reason for offer	
The current situation is:	<input type="checkbox"/> This form is for information only because the offer has already been refused <input type="checkbox"/> The offer is of non-perishable food/drink/vouchers and I seek authority to donate it to the Civic Mayor's Charity. <input type="checkbox"/> I request guidance on how to respond to the offer

Information given on this form will be used for the purpose of promoting and maintaining good standards of probity and may be made available to the public.

Declaration

The information on this form is true and complete to the best of my knowledge

Signed.....

Dated.....

