

GIFTS AND HOSPITALITY PROTOCOL FOR MEMBERS

June 2016





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Background

1. Members may well be offered gifts or hospitality during the course of conducting Fire Authority business. This raises an initial question of deciding whether or not to accept. The acceptance of a gift or hospitality potentially creates a risk to the integrity and reputation of the Member as well as the Fire Authority itself. Members are strongly advised to be cautious and should consult the Monitoring Officer if they are in any doubt in a particular case.

Legal Position

2. The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Fire Authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.

The Members' Code of Conduct and Constitution

3. The Fire Authority's Members' Code of Conduct provides that you must serve the public interest, rather than acting in the interests of any particular individual or section of the community, and it is a breach of the Code to improperly confer any advantage or disadvantage on any person, including yourself.
4. You must register any gift or hospitality worth £25 or over that you receive in connection with your official duties as a Member and the source of the gift or hospitality. You should also register an accumulation of small gifts you receive from the same source over a period of time that add up to £25 or more
5. You must register the gift or hospitality and its source with the Monitoring Officer within 28 days of receiving it.
6. A Member automatically has a personal interest in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case you must declare at the meeting the nature of the gift or hospitality, the source who gave it to you and how the business under consideration relates to that source. You need to consider whether it is in fact a prejudicial interest. This requirement applies for 3 years after registration.

General Principles

7. In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if it would normally be appropriate to accept a small gift or hospitality under clauses **9** or **14** below, you should not do so if it 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 Member

You must not be influenced 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.

JUNE 2014

Approved by the Fire Authority on 25 June 2014 and reviewed June 2016 - document amended to gender neutral roles approved by the Fire Authority on 19 December 2022.



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

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Fire Authority that 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 through a working lunch.

Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Fire 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.

(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 Fire Authority and to you as a Member as actual impropriety. The Fire Authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must consider whether acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Fire Authority favours any particular person, company, organisation or section of the community or as placing you under any improper obligation to any person or organisation. If so, 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) competitive procurement processes;
- (ii) determinations of planning applications or planning policy;
- (iii) funding decisions

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

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, they may seek to use this fact to persuade you to determine an issue in their favour. 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 Fire Authority

(e) Never solicit a gift or hospitality

Never solicit or invite an offer of a gift or hospitality in connection with your position as a Member and you should also take care to avoid giving any indication that you might be open to any such improper offer



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Gifts

8. As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Fire Authority, or who need some decision from the Fire Authority. These rules also apply to discounts offered to an individual Member going beyond those offered to the general public (other than those available to all Members and Officers)
9. As general guidance, the following small gifts worth under £25 may occasionally be accepted (provided that they do not conflict with the General Principles):
 - (a) office equipment or stationery given by way of trade advertisements or for use in the office. Nothing more elaborate than calendars, pens or diaries would fall within this exception.

(NB: 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.)
 - (b) gifts of only token value given on the conclusion of an official courtesy visit, for example, a visiting delegation.

Gifts e.g. a box of chocolates or flowers of a value less than £25 provided they are given as a genuine show of appreciation of work undertaken but should never be accepted if it may give rise to an appearance of influence or reward.

Hospitality

10. Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused
11. Hospitality should only be accepted with the utmost caution, and on a scale appropriate, to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it, and might later be thought to have affected a Member's impartiality in dealing with official matters.
12. Some offers of hospitality are always unacceptable for example, offers of holiday accommodation. Others will need to be considered on their facts, for example, invitations to sporting fixtures, evenings at the theatre or similar entertainment should only be accepted when they are required for the conduct of Fire Authority business or can properly be considered to provide a commensurate benefit to the Fire Authority not the individual Member. Hospitality on a lower scale than this may also be unacceptable.
13. There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Fire Authority.
14. However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. Acceptable hospitality is that not exceeding £25 in value such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. The decision whether to accept or not must depend on the circumstances in each case but hospitality should never be accepted if it may give rise to an appearance of influence or reward.

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Wills and Bequests

15. If there is any connection between your work as a Member and being a beneficiary under a will, then you need to be cautious as the offer of any benefit will need to be considered carefully in accordance with the General Principles and if accepted, may need to be registered. You should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal

Sponsorship

16. Offers of sponsorship need to be treated carefully. If the offer is to sponsor the Fire Authority it should be referred to the Monitoring Officer who will consider the offer in accordance with the Fire Authority's usual processes.
17. If the offer is to sponsor you as an individual, it should be dealt with in the same way as an offer of a gift or hospitality. In some cases such offers may be acceptable for example, where colleagues or others are sponsoring you for a charitable purpose. In other cases they may not be acceptable for example, where they are related in some way to the work of the Fire Authority or your role as a Member; involve significant sums; or seek specific outcomes for the person or organisation making the offer. If in doubt you should consult the Monitoring Officer.

Registering Gifts, Hospitality and Sponsorship

18. If you are offered gifts, hospitality or sponsorship worth £25 or over, you need to decide, taking into consideration the general principles, whether to accept or decline any such offer.
19. If you are in any doubt as to whether to accept or decline any gift, hospitality or sponsorship then you are advised to seek the Monitoring Officer's advice before doing so. In order to do this you will need to advise the Monitoring Officer of the following:
 - (i) The nature and your estimate of the market value of the gift or hospitality;
 - (ii) The name of the person or company offering the gift or hospitality;
 - (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 that you are aware that the person or organisation making the offer or invitation may seek from the Council;
 - (v) Any special circumstances that lead you to believe that acceptance would not be improper.
20. The Monitoring Officer will give you advice in writing wherever possible but it will be a matter for you to make the decision as to whether to accept or decline. Your decision and the reasons for it should then be entered into the Register of Members' Interests
21. Where you do accept any gift or hospitality of £25 or over you must within 28 days of receiving the gift or hospitality make a declaration in writing to the Monitoring Officer, setting out the information on the form for registration of gifts, hospitality and sponsorship. The Monitoring Officer will retain a copy of



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any such declaration in the Register of Members' Interests that will be available for inspection by the public

Voluntary Declarations

22. You can always make a voluntary declaration to be entered on the Register of Gifts and Hospitality, even if you have declined the gift or hospitality or the value of the gift or hospitality is less than £25. If you are concerned that an offer or its acceptance might be misinterpreted you may make such a voluntary declaration to ensure that there is nothing secret or underhand about the gift or hospitality or your actions

Gifts to the Fire Authority

23. You may at some time be offered a gift for the Fire Authority as opposed to a gift to you in your individual capacity as a Member. Such gifts could take several forms, for example: land, buildings, goods, services, either for the Fire Authority to retain or test with a view to future acquisition; offers to carry out works, or provide services; or sponsorship of a Fire Authority-supported or organised function or activity. In such cases you should report the offer on receipt to the Monitoring Officer who will consider and determine in accordance with normal Council processes whether the Council should or should not accept the gift.

The Monitoring Officer will notify the person or the organisation offering the gift, whether it is accepted or not and will:

- Record the acceptance or non-acceptance;
- Record the outcome for audit purposes;
- Ensure the gift, if accepted, is properly applied for the benefit of the Fire Authority.

Gifts to the Chair

24. Gifts received by the Chair in his or her official capacity are deemed to be gifts to the Fire Authority. The Chair will record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they may be used for the benefit of the Fire Authority

Review of this Protocol

25. This Protocol was reviewed by the Monitoring Officer in June 2016

Frequently Asked Questions

What is the general rule about gifts and hospitality?

Answer: The presumption is that you should not accept any gift or hospitality in connection with the performance of your duties as a Member. You must act in the public interest, serving the Fire Authority and the whole community, rather than acting in the interests of any particular individual or section of the community.

What's wrong with being rewarded for performing my duties as a Member well?

Answer: You should never accept a gift or hospitality as an inducement or reward for anything you do in your duties as a Member.



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As a Member, 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. Otherwise you could breach the Code of Conduct for Members and be liable under criminal law.

Are there any circumstances in which I could accept a gift or hospitality?

Answer: Only if there is a commensurate benefit to the Fire Authority. The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Fire Authority that would not have been available but for the acceptance of that gift or hospitality. That benefit might come in many forms, such as an opportunity to progress the business of the Fire Authority expeditiously through a working lunch.

What do I need to consider in terms of the reputation of the Fire Authority when I am made an offer of a gift or hospitality?

Answer: Never accept a gift or hospitality if acceptance might be open to misinterpretation. The appearance of impropriety can be as damaging to the Fire Authority and to the Member as actual impropriety. The Fire 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 Fire 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.

As long as it is registered is it alright for me to accept a gift or hospitality?

Answer: No, you must comply with the Protocol and decide first whether you should accept the gift or hospitality. You should never invite or encourage a gift or hospitality in connection with your duties as a Member.

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

Why is there a minimum amount of £25 in the policy?

Answer: There is a mandatory provision in the Members' Code of Conduct, which requires you to register the receipt of gifts or hospitality worth £25 or more. You will need to consider whether it would be appropriate to accept the gift or hospitality in the first place. You may also register any offer of, or the receipt of a gift or hospitality worth less than £25, on a voluntary basis.

What is the definition of hospitality?

Answer: Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

What do I need to declare at a meeting?

Answer: If a matter under consideration at a meeting is likely to affect a person who gave you a gift or hospitality then you must declare the existence and nature of the



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gift or hospitality, the source who gave it to you and how the business under consideration relates to that source.

Will the register be open to the public?

Yes, the register is available to the public in the same way as the register of Disclosable Pecuniary Interests is. It is open for inspection.



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To: the Monitoring Officer

Declaration of Receipt of Gifts or Hospitality

| | |
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| Name | |
| What was the gift or hospitality? | |
| What is your best estimate of its market value or cost ? Is it more than £25.00? | |
| Who provided it? | |
| When and where did you receive it? | |
| 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 |

