

Haywards Heath Town Council

Gifts and Hospitality

1. Legal Position

Particular legislation is contained in:

- The Public Bodies Corrupt Practices Act 1889
- The Prevention of Corruption Act 1906
- The Prevention of Corruption Act 1916 and in addition for local authorities
- The Local Government Act 1972, Section 117 (2)
- The Local Government Act 2000 Part III

The legislation provides that anyone who corruptly gives, promises or offers any gifts, reward or advantage to any person as an inducement to or a reward to any member, officer or servant of a public body for doing or refraining from doing anything in respect of any member or transaction is guilty of a criminal offence.

Similarly a criminal offence is committed by anyone who corruptly solicits, receives or agrees to receive for themselves or any other person any such inducement or reward.

It should be noted that the giving or acceptance of any money, gift or other consideration is deemed to have been given or received corruptly as such an inducement or reward unless the contrary is proved.

Also under Section 117(2) of the Local Government Act 1972 it is an offence for an officer of a local authority, in his/her office or employment, to accept any fee or reward whatsoever other than his/her proper remuneration.

The Local Government Act 2000 covers the conduct of members. The Council has adopted a Members' Code of Conduct under this legislation, and members have a duty to comply with the provisions of this code. The members' code imposes a registration obligation in respect of gifts and hospitality accepted (see section 6 below). The Members' Code also imposes general obligations which could be broken if gifts and/or hospitality are inappropriately accepted. The risk that an obligation of the statutory code will be broken will be reduced if the guidance set out in this Code of Practice is followed.

2. Gifts

Staff must treat with extreme caution any offer or gift, the acceptance of which is a dangerous practice. (Staff should be informed of how this could affect their Contract of Employment).

The general rule should be to refuse and return to the donor all such offers and gifts from organisations or persons who do, or might, provide work, goods or services to the Council, or who might be applying to the Council for some kind of decision e.g. planning permission.

The best course of action is to politely and tactfully refuse stating that "it is against Council policy" and that "you are not allowed to accept presents".

The only exceptions to the rule are:

- Trivial articles and items of small intrinsic value – e.g. office equipment or stationery given by way of trade advertisements to a range of officers or for use in the office. This would include calendars, pocket diaries, blotters, place mats, memo pads

- Small gifts of any token value given during official courtesy visits, or attendance at seminars or conferences

3. Hospitality

Modest hospitality is an accepted courtesy of a business relationship. However, Members and staff should exercise the utmost discretion in accepting offers of hospitality from contractors or their representatives, or any organisation concerned with the supply of goods and services to the Council.

Members and staff in contact with contractors should be on their guard against accepting hospitality and should not allow themselves to reach a position whereby they might be deemed by others to have been influenced when making a business decision.

The frequency and scale of hospitality should not be significantly greater than the Council would be likely to provide in return.

Working lunches and other special occasions arranged or organised by the Council may in certain circumstances be a proper and legitimate way of doing business provided no extravagance is involved.

Acceptance or provision of such hospitality should only be done on the full and prior knowledge of the Clerk.

Should any invitations arise spontaneously, members and staff must exercise judgement in the matter based on what has been described above.

When it is not easy to decide between what is and what is not acceptable, the offer should be declined and advice sought.

Staff must report any case where an offer of hospitality is pressed.

Some offers of hospitality are unacceptable e.g. offers of holiday accommodation, tickets to prestigious events and perhaps seminars in exotic locations. Invitations to sporting events, theatre and dinner evenings may be acceptable only when they are required for the conduct of Council business.

Examples of acceptable hospitality would include:

- Official hospitality at a function organised by a public authority/seminar
- A drink and a sandwich following a site visit
- A working lunch of a modest standard to enable parties to continue to discuss business

Where it is clearly evidenced that the work of the Council would be facilitated, invitation to attend receptions, luncheons, cocktail parties, etc may be accepted. Here the following rules should apply:

- No member of staff may accept an invitation without first obtaining the Clerk's approval. In exceptional circumstances where it is not possible to seek prior approval, the facts must be reported immediately afterwards
- Invitations involving attendance outside working hours must have the approval of the Council and the Clerk.

4. Private Transactions

Members and staff having official dealings with contractors and other suppliers of goods and services should avoid transactions of any kind of private business by any means other than normal commercial channels.

Members and staff should not abuse their Council position to obtain favour or preferential rates which are not generally available.

Offers of discount beyond those on general offer by the firms should not be accepted by members or staff.

5. Sponsorship

Personal sponsorship of members or staff by commercial organisations should be regarded as unacceptable as they might or might be seen by others, to compromise any purchasing contractual decision.

All offers of sponsorship made to members or staff should be reported to the Clerk and recorded in a Log book.

6 Register of Gifts or Hospitality

A central register for staff is maintained by the Committee Officer, in which every offer of a gift, hospitality (apart from the agreed exceptions), preferential rates and sponsorship offered to staff, is recorded. A similar register is maintained by the Committee Officer in respect of members. The Members' Code of Conduct, adopted under the provisions of the Local Government Act 2000, imposes an obligation upon members to register the receipt of any gift or hospitality over the value of £25 within 28 days of receipt.

Information recorded in the register includes:

- The person or organisation making the offer
- The person to whom the offer was made
- The gift or hospitality etc. offered
- The circumstances in which the offer was made
- The action taken by the member of staff (or Council member)
- The action taken by the Clerk

As far as gifts are concerned, they will fall within the exception, or be refused. Therefore the register should mainly record offers.

Staff and members are entitled to see what is recorded in the register against their name.