

POLICY & GUIDANCE

GIFTS & HOSPITALITY

Version 2: March 2018

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1.0 Introduction

- 1.1 It is important that all employees are aware of, and comply with, the Council's policy regarding the acceptance of gifts or hospitality. As well as protecting the Council, this policy is also aimed at protecting the integrity of employees.
- 1.2 This policy applies to all employees of Newark and Sherwood District Council. Failure to comply with this policy could lead to disciplinary procedures being instigated.

If after reading this policy you are in any doubt as to how./ whether it applies to a given situation, please consult your Business Manager (or above) or a member of the Human Resources team.

2.0 Background

- 2.1 Very careful consideration must be given to the acceptance of gifts and hospitality. Acceptance of a gift or some hospitality may make it difficult to avoid some obligation real or perceived. You should therefore treat all offers of gifts or hospitality with extreme caution, with a view to not only avoiding impropriety but also any suggestion of it.
- 2.2 The principle behind this policy is that employees should not accept gifts and hospitality, unless the principles outlined in this policy are met. Whilst the refusal of such offers may cause offence or hinder working relationships, the acceptance of such offers could equally be misinterpreted leading to inaccurate expectations of favour or even in some circumstances constituting a criminal offence.
- 2.3 Under no circumstances should you solicit any gift or hospitality.
- 2.4 You need to have regard to how the acceptance of a gift and/or hospitality would be perceived by the general public, regardless of whether you are accepting it in good faith with no intention of giving the provider of the gift/hospitality any preferential treatment.
- 2.5 This is particularly important where it might later be construed to have affected your impartiality when acting in an official capacity (including but not limited to the granting of planning permission or the awarding of a contract).
- 2.6 Gifts must not be accepted from outside contractors, companies or individuals who are or who are likely to enter into a contractual relationship with the Council other than in exceptional circumstances and only with the express permission of your Business Manager or a member of the Senior Leadership Team.
- 2.7 You should give the same considerations to offers made to members of your family or friends as this could be viewed as securing an indirect benefit to you

2.8 Repeated offers of gifts and hospitality from one person, firm or organisations, even where the gift or hospitality may not itself be considered to be significant, may render unacceptable what would otherwise have been acceptable.

3.0 Gifts

3.1 Various selling techniques are used by suppliers including the offer of 'free' gifts to buyers/purchasers in return for orders being placed. These inducements come in many guises including, but not exclusively, gifts, vouchers, money, discounts off private purchases etc. They should not be accepted in a private capacity. All officers, especially those involved in the procurement process must be on their guard against this type of offer. Where possible any such inducements should be translated into discounts available to the Council.

3.2 Only the Council must be the beneficiary of preferential trading terms, not individual officers. You must not acquire goods from, or use the services of, a firm on preferential terms for private purposes if those terms are given directly or indirectly because of the contractual or other business relationship between the firm and the Council.

3.3 Although casual gifts offered to you by contractors, firms, suppliers or individuals may not be in any way connected with the performance of official duties, they must be refused. Gifts may only be accepted if they are of a modest or inexpensive nature (e.g. pocket diaries, calendars, pens up to a value of £10). Even if such a small gift is accepted it should still be entered into the Gifts and Hospitality Register.

3.4 If, where a gift is received from an unknown donor, where it is impracticable to return the gift to the person or organisation making the gift, or where the officer receiving the gift considers that to return it would cause undue offence the officer should, as soon as practicable after receipt of the gift and informing their Business Manager (or above), pass it to the Chief Executive or Monitoring Officer who will donate it to the Chairman's Charity or dispose of it as appropriate. The Chief Executive or Monitoring Officer will write to the person or organisation making the gift (if known), thanking them on behalf of the Officer and informing them that it has been donated to the Chairman's Charity Fund or otherwise disposed of.

4.0 Hospitality

4.1 Offers of meals and drinks (e.g. working breakfast, lunch, dinner or refreshments, provided during the course of attending training, seminars, conferences or official events) held by the Authority may be accepted. Receiving hospitality provided by another public authority in similar circumstances would also normally be acceptable.

4.2 Anything which extends beyond that detailed in 4.1 above must have the prior approval of your Business Manager or a member of the Senior Leadership Team. Examples of such hospitality could include, but is not restricted to, invitations from suppliers to lunch, promotional events and/ or Christmas functions, etc.

- 4.3 Invitations to sporting, cultural or social events (other than official duties), offers of free travel and invitations to other events should only be accepted with the prior approval of the relevant Business Manager or member of the Senior Leadership Team. This applies even if the hospitality is taken in your own time.
- 4.5 An important criteria in exercising judgement as to what is acceptable as set out in paragraph 4.3 above is what interpretation those in the community or the press might reasonably put upon acceptance having full knowledge of the relevant facts. Ultimately it is your responsibility, having regard to the relevant circumstances to decide whether the offer is acceptable and to seek advice / guidance if you are unsure.

5.0 Legal Position

Briefly the legal position is as follows:

- 5.1 A term is implied into every contract of employment that the employee will act honestly and faithfully. An employee is in breach of this duty of fidelity if they take advantage of their position to enrich themselves without the knowledge or consent of the employer. Such 'enrichment' belongs to the employer and can be recovered by the employer through the courts.
- 5.2 A serious consequence of the improper acceptance by an officer of gifts or hospitality from a third party is the possibility that a criminal offence may have been committed. The relevant law is embodied in the Bribery Act 2010; this legislation repealed the previous legislation (Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts of 1906 and 1916)
- 5.3 Section 117(2) of the Local Government Act 1972 provides that an officer of a local Authority shall not, under colour of his or her office of employment, accept any fee or reward other than his or her proper remuneration. The expression 'any fee or reward' includes such things as unauthorised commissions, gifts or presents. Assume that this legislation is still valid? It is not covered under the repeals/revocation part of the new legislation...
- 5.6 If an inducement is offered or thought to have been offered, even if refused, this must be reported to your Business Manager and to the Section 151 Officer as soon as practicable after the approach is made.

6.0 Guidance for Completing the Gifts and Hospitality Register

- 6.1 The Council's Gifts and Hospitality register is held by Administrative Services and is published on the internet each quarter. The procedure to record any gift is at point 6.5.

6.2 All offers of gifts and hospitality must be recorded in this register. This is regardless of whether the gift/hospitality is accepted or refused. All details in the register must be promptly and fully completed.

6.3 Where a gift or hospitality is accepted, the entry in the corporate register must be supported by written confirmation of approval by the relevant officer (as below).

Gift/Hospitality Offered to:	Approval Required by:
Below Business Manager	Business Manager
Business Manager	Member of the Senior Leadership Team
Member of the Senior Leadership Team	Chief Executive (or in their absence Section 151 Officer or Monitoring Officer)
Chief Executive	Monitoring Officer or Section 151 Officer

6.4 This written approval must be saved to the Gifts and Hospitality network directory and the file name cross referenced to the entry on the register. Whilst all offers of gifts and hospitality must be recorded, written approval is only required where any gift or hospitality over the value of £10 is accepted.

6.5 **Gifts and Hospitality - Procedure Gift/Hospitality offered (whether declined or accepted)**

Officers complete the form from the intranet (under administrative services page) with the following information for logging on the Gifts and Hospitality Register:

- Directorate
- Business Unit
- Name of Officer
- Job Title
- Company Organisation who made the offer
- Description of Gift or Hospitality offered
- Approximate Value of the Gift/Hospitality
- Date of offer and/or refusal

Gift/Hospitality offered and request to accept:

Officers send the partially completed form to their Line Manager as per instructions in the policy guide requesting authorisation, if applicable, for the gift or hospitality.

Please copy administrativeservices@newark-sherwooddc.gov.uk into the e-mail.

Line Managers should then complete the remainder of the form and attach it to an email, replying to their staff confirming authorisation or otherwise, ensuring that administrativeservices@newark-sherwooddc.gov.uk is copied into the e-mail. Please ensure the fully completed form is attached.