

## NORTH YORKSHIRE COUNTY COUNCIL

## STANDARDS COMMITTEE

19 September 2014

**Gifts and Hospitality Protocol for Employees****1.0 PURPOSE OF THE REPORT**

- 1.1 To seek Members' approval of suggested amendments to the Employees' Gifts and Hospitality Protocol.

**2.0 BACKGROUND**

- 2.1 The Standards Committee has previously approved a Protocol for Officers regarding gifts and hospitality, following consultation by the Monitoring Officer on the draft Protocol within the Council, including Management Board.
- 2.2 The Committee agreed further revisions to the Protocol in 2011, following the legislative changes introduced by the Bribery Act 2010.
- 2.3 It is suggested that it is an opportune time to review the Protocol, to ensure consistency in its application.

**3.0 AMENDMENTS TO PROTOCOL**

- 3.1 A copy of the current Protocol is attached at **Appendix 1** for Members' information. A copy of the current registration form is attached at **Appendix 2**.
- 3.2 The Monitoring Officer has considered the Protocol and seeks Members' views on the introduction of a threshold level of £25 or more for the registration of officers' gifts and hospitality. This would enable officers to accept de minimis and low value gifts and hospitality without having to register the offer and receipt, for example pens distributed at conferences and low value items offered as tokens of appreciation, for example a box of chocolates or bunch of flowers, whereby refusal could cause offence.
- 3.3 Should Members feel that the introduction of such a threshold would be helpful, then this would also require a change to the Standards of Conduct Procedure for Officers, to ensure that the two documents are consistent. This would require wider consultation within the Council.
- 3.4 Interim suggested amendments to update the Monitoring Officer details in the Protocol are set out by way of tracked change on the version of the Protocol attached at **Appendix 1**.
- 3.5 Once the Protocol has been fully reviewed, it will be re-circulated to officers to further ensure consistency in the Protocol's application.
- 3.6 Members' views on the Protocol generally are most welcome.

#### **4.0 RECOMMENDATION**

- 4.1 That the Committee approves the draft amendments to the Gifts and Hospitality Protocol for Employees as set out in **Appendix 1** to this report.
- 4.2 That the Committee considers whether the introduction of a threshold value of £25 or more for officers' gifts and hospitality registration would be helpful.
- 4.3 That the Committee considers whether it has any other comments on the Protocol.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

#### Background Documents:

Minutes of NYCC Standards Committee

County Hall  
NORTHALLERTON

16 September 2014

# NORTH YORKSHIRE COUNTY COUNCIL

## **GIFTS AND HOSPITALITY PROTOCOL FOR EMPLOYEES**

### **1.0 Background**

- 1.1 Council employees may from time to time, in the course of their work, encounter situations where individuals or organisations may offer gifts or hospitality. The reasons for this will vary, but such offers will usually be made as goodwill gestures, or for celebration, or appreciation, or for helping networking or working together. Some employees, e.g. senior officers who liaise with public and private sector partners, may find themselves quite often faced with hospitality opportunities, and front line workers, who engage directly with the public, may be offered gifts in thanks for their services.
- 1.2 There are however rules which regulate the acceptance of gifts and hospitality by Council employees. This is because the acceptance of benefits offered like this can affect the perception of whether the Council and its employees are acting in the public interest. Local councils are in a position of significant influence over issues that affect people's lives within their areas. The Council holds the public purse and all employees, as well as Members of the Council, must always be seen to be acting in the best interests of the people of North Yorkshire. It is important not to do anything which undermines public trust in what they are doing.
- 1.3 Whilst most offers of gifts and hospitality are well meant and innocent, there have been, nationally, instances of benefits being offered and accepted for corrupt purposes to secure improper advantage. Whilst this is exceptional and rarely occurs, it is damaging to public confidence in local government, damaging to the reputation of the authority concerned, and it is unlawful. Even in situations where there are no improper motives, the acceptance of lavish gifts and hospitality can have a negative effect in terms of public perception. Council employees must be very clear about the rules which apply to gifts and hospitality and must always bear in mind how the public might view situations where gifts and hospitality are offered and received. Any offer should be treated with great care.
- 1.4 This Protocol aims to help employees deal with situations where they are faced with offers of gifts and hospitality. If any employee is in doubt, further advice can be sought from the Monitoring Officer, or the employee's manager or Head of Service.

### **2.0 What is meant by Gifts and Hospitality?**

- 2.1 Gifts and hospitality may include:
- (a) a gift of money, vouchers, goods or services;
  - (b) the opportunity to acquire goods and services freely or at a discount or at terms not available to other members of the public;
  - (c) the offer of food, drink, accommodation or entertainment freely provided or heavily discounted, or the opportunity to attend any cultural or sporting event on terms not available to the public;
  - (d) a bequest or legacy.

### **3.0 The Legal Framework**

- 3.1 There are several legal constraints. Firstly, it is an offence for a local authority employee to accept any "fee or reward whatsoever other than his proper remuneration" (Section 117 LGA 1972).
- 3.2 Previously, it was also an offence for any employee to corruptly solicit, receive or agree to receive or give for him/herself or any other person, any gift, loan, fee, reward or advantage as an inducement to, or reward for, or otherwise on account of:

- (a) doing or refraining from doing anything in their employment capacity; or
- (b) showing favour or disfavour to any person in their employment capacity;

and any money, gift or other consideration received by a Council employee, in their official capacity, from someone seeking to obtain a contract with the Council was deemed in law to have been received corruptly unless the contrary was proved.

(Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906 and 1916).

3.3 A revised legal framework to deal with bribery was introduced in The Bribery Act 2010 ("the Act"), which came into force on 1 July 2011 and introduced new bribery offences, the key parts of which are set out below. The Act repeals the previous bribery and corruption laws mentioned above, although does not affect any ongoing matters under that legislation which predate the commencement of the Act.

3.4 The main offences under the Act are:

- **bribing another person** (section 1). A person commits an offence under this section where s/he offers, promises or gives a financial or other advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function or activity (which includes any activity performed in the course of a person's employment), or to reward a person for the improper performance of such a function or activity;
- **being bribed** (section 2). This section provides several cases in which an offence of being bribed may be committed, relating to a person committing an offence where s/he requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly or as a reward for improper performance (whether by him/her or another person);
- **bribing a foreign official** (section 6). A person commits an offence under this section where s/he offers, promises or gives a financial or other advantage to a foreign public official with the intention of influencing the official in the performance of his/her official functions and intends to obtain or retain business or an advantage in the conduct of business.
- **failure of commercial organisations to prevent bribery** (section 7). A relevant commercial organisation is guilty of an offence under this section if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organisation. It is a defence for the organisation to prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct.

3.5 The maximum penalties under the Act are 10 years' imprisonment/unlimited fine for individuals and an unlimited fine for organisations.

3.6 Anyone committing offences of this nature will also be subject to disciplinary action.

3.7 Government guidance on the Act confirms that "*The Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act....*"

#### **4.0 Employees' Code of Conduct:**

4.1 Apart from the legal rules, employees are bound by their contract of employment to comply with the Council's **Standards of Conduct Procedure**

[http://intranet/directorate/hr/managing\\_staff\\_in\\_the\\_workplace/conduct\\_and\\_disciplinary/RelatedDocuments/Standards%20of%20Conduct%20Procedure.doc](http://intranet/directorate/hr/managing_staff_in_the_workplace/conduct_and_disciplinary/RelatedDocuments/Standards%20of%20Conduct%20Procedure.doc)). These specifically provide that with the exception of the minor items referred to at paragraph 4.3 below, all benefits such as accommodation, travel, entertainment, presents, gifts or bequests should be refused. If they are accepted disciplinary action may be taken. Gifts received through the post should be returned to the sender with an appropriately worded letter.

- 4.2 **Gifts and Bequests:** Employees must always inform their manager of any offer of gifts or bequests received during the course of their employment. They should also complete a form of registration of gifts and hospitality ([http://intranet/directorate/hr/managing\\_staff\\_in\\_the\\_workplace/conduct\\_and\\_disciplinary/List/Policies%20information%20and%20guidance/Employees%27%20Gifts%20and%20Hospitality%20registration%20form.doc](http://intranet/directorate/hr/managing_staff_in_the_workplace/conduct_and_disciplinary/List/Policies%20information%20and%20guidance/Employees%27%20Gifts%20and%20Hospitality%20registration%20form.doc)) which is signed also by their manager and retained appropriately within the Directorate Register of Gifts and Hospitality. A copy must also be provided to the Monitoring Officer who maintains a central Register of Gifts and Hospitality. The central Register enables monitoring of where, across the Council, benefits are being offered and accepted and by whom, so that any problems can be identified. Employees should also register gifts, hospitality and benefits offered but refused as a matter of good practice (please see paragraph 8.1 below for further details). Service managers should also ensure that Council service users are aware that there is no expectation or obligation on them to offer gifts of any kind.
- 4.3 There are exceptions in relation to minor items such as diaries, calendars, blotters or other items of low value. This would include items with a monetary value of no more than £10, and on a single occasion only. Any repeated offer should be declined. Offers and receipt must nevertheless be notified to and recorded by the employee's manager. Under no circumstances should offers/gifts of money (of whatever amount) be accepted.
- 4.4 Employees will occasionally receive bequests or legacies in wills, e.g. home carers are sometimes included in the wills of people they have looked after. This can reflect the genuine wish of a client to register their thanks to someone who has looked after them, and the employee involved may be entirely unaware that the client intends to make the bequest. However kindly meant, such gestures can be open to misinterpretation and because of that the Council will not allow bequests to be retained by employees. Any bequest made to employees must be politely refused and returned to the Executor of the will, making it clear that the Council's rules do not allow the acceptance of bequests by employees. Disciplinary action, including the possibility of dismissal, will be taken if a bequest is accepted in these circumstances.
- 4.5 **Hospitality:** The Standards of Conduct Procedure also regulates the acceptance of hospitality. There are sometimes occasions where it is in order to accept hospitality, but only if there is a genuine benefit to the Council which would not otherwise be available. Examples are given below. Invitations to attend purely social or sporting functions should be accepted only when these are part of the life of the community served or where the County Council should be seen to be represented. Attendance must be properly authorised and recorded by the appropriate Head of Service or Corporate Director, or by the Chief Executive Officer in the case of a Corporate Director. When hospitality has been declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 4.6 When considering whether it is appropriate to accept hospitality employees and their managers should be particularly sensitive as to its timing having regard to any decisions the Council may be taking affecting those providing it.
- 4.7 Acceptance of hospitality at conferences and courses or events is acceptable where it is clear that the hospitality is corporate rather than personal, where it is authorised and where any contracting decisions are not compromised. Where hospitality is offered in connection with visits to inspect equipment etc, employees should ensure that the Council meets the cost of the visit to avoid compromising the integrity of subsequent decisions on the contract. More examples in relation to hospitality are set out below.
- 4.8 **Sponsorship – Giving and Receiving:** Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender negotiation or voluntarily, the above

conventions concerning acceptance of gifts or hospitality apply. Again, care must be taken when dealing with contractors or potential contractors.

- 4.9 Where the Council wishes to sponsor an event or service, employees, their partners, relatives or other close associates must not benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Corporate Director/Chief Officer of any such interest. Similarly where the Council, through sponsorship, grant aid, or finance by other means, gives support in the community, employees must ensure that impartial advice is given and that they have no conflict of interest in the matter.

## **5.0 What does it mean in practice? – A summary of some general principles and examples.**

- 5.1 These are some practical points which should help employees and their managers deal with offers of gifts or hospitality:

(a) **Never accept a gift (other than the minor items referred to at 4.3 above).**

Acceptance of a gift is very unlikely likely to confer any advantage on the Council. A presumption would arise that acceptance is purely for an employee's personal benefit. There are very few exceptions to this - some minor ones are set out below at paragraph 6.0.

(b) **Never accept hospitality as an inducement or reward for anything you do as a Council employee. Hospitality should not be accepted unless there is commensurate benefit to the Council.**

The only proper reason for accepting any hospitality is that there is a benefit for the Council which would not otherwise be available. An example is an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvas or promote the interests of the Council and its area at a meeting where there is incidental hospitality.

Council employees 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 those duties in a particular manner. If an employee has any suspicion that the motive is an inducement or reward s/he should *decline*.

(c) **Never accept if acceptance might be open to misinterpretation.**

The appearance of impropriety can be just as damaging to the Council and to the employee as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest.

Employees must therefore consider whether the acceptance of the hospitality is capable of being interpreted as a sign that the Council favours any particular person, company or section of the community, or is placing the employee under any improper obligation to any person or organisation.

Certain occasions are particularly sensitive and require the avoidance of any opportunity for misunderstanding. These include:

- when the authority is conducting a competitive procurement process, in respect of any indication of favour towards particular tenderer(s);
- determining planning or licensing applications or planning or licensing policy, in respect of any person or organisation which stands to gain or lose from the determination;
- funding decisions when the authority is determining a grant application by any organisation or person;

- decisions about the allocation of work to current partners which will affect the amount of income the partner might gain from the authority;
  - when the Council is dealing with applicants for benefits, claims and dispensations;
  - when the Council is engaged in legal proceedings, hospitality from other parties to the proceedings would be inappropriate.
- (d) **Do not accept hospitality which puts you under an improper obligation.**
- Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If an employee accepts improperly, it is possible that they may seek to use this to persuade him/her to determine an issue in their favour.
- (e) **Do not solicit a gift or hospitality.**
- Employees must never solicit or invite an offer of a gift or hospitality in connection with their position as a Council employee. Also, employees should take care to avoid giving any impression that they might be open to any such improper offers.
- (f) **Some other situations to avoid:**
- hospitality in situations where the employee would be the sole guest;
  - hospitality of significant value.

## **6.0 Gifts and Hospitality which it is appropriate to accept**

- 6.1 There are some circumstances where it is in order to accept hospitality, though some situations will nevertheless require the exercise of careful judgment.
- (a) Official hospitality such as civic reception or a working/business lunch in Council owned premises (provided it is ancillary to the business being conducted).
  - (b) Civil hospitality provided by another public authority.
  - (c) Refreshments in connection with any meeting in the course of an employee's work as a Council officer e.g. normal refreshments.
  - (d) Meals or refreshments funded by other public sector partners as the part of joint working/collaboration, and provided it is ancillary to the business being conducted.
  - (e) Meals or refreshments being provided as part of a ceremony or event to promote or launch a project or initiative.
  - (f) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or adviser who is already appointed by the Council for that project, scheme or initiative (provided it is ancillary to the business being conducted).
  - (g) Gifts given to the *Council* which an employee accepts formally on the Council's behalf and which are retained by the Council but not by the employee personally e.g. a commemorative item.
  - (h) Gifts given as prizes at exhibitions, conferences, seminars etc as part of a free raffle or draw.
  - (i) Gifts known to be available to all employees e.g. badges etc.
  - (j) Hospitality known to be available to all employees.
  - (k) Hospitality ancillary to the Council's business being conducted such as an overnight stay for an away day with a partner organisation of the Council.

- (l) Hospitality ancillary to attendance at conferences, seminars and courses where hospitality is corporate rather than personal.
- (m) Hospitality ancillary to attendance at functions where an employee represents the Council e.g. ceremonies, public speaking events, conferences where hospitality is ancillary.

## **7.0 Reporting of inappropriate gifts and hospitality offered**

7.1 As stated above, it is a criminal offence for a person to offer, promise or give a financial or other advantage as an inducement or reward for an employee improperly to do or not do something in their employment. Employees must immediately report to their manager or the Monitoring Officer any circumstances where inappropriate gifts or hospitality have been offered to them. The employee may then be required to assist the police in providing evidence.

## **8.0 Procedure for registration of gifts and hospitality**

8.1 Before accepting hospitality or other benefit employees must seek approval from their manager, complete a registration form setting out the reasons for acceptance, or the fact that it has been declined, have the form signed by their manager and recorded in the Directorate's Register and send a copy of the form to the Monitoring Officer for retention in the Council's central Register. Employees should register gifts, hospitality and benefits offered but refused as a matter of good practice.

## **9.0 The Register of Gifts and Hospitality**

9.1 Directorates keep a Register of Gifts and Hospitality for their employees. The Monitoring Officer also retains all completed registration forms in the central Register of Gifts and Hospitality and maintains the Register on the Council's behalf.

9.2 The Registers are not available to the public.

9.3 Employees are able to have access to any of their own forms contained in the Register, but not anyone else's. Employees' managers, Heads of Service or Corporate Directors will be able to access their forms to ensure that gifts and hospitality are appropriately monitored, and the Register is additionally open to inspection by the following:

- (a) The Chief Executive Officer;
- (b) The Monitoring Officer;
- (c) The Corporate Director Finance and Central Services;
- (d) The Chief Internal Auditor;
- (e) The Assistant Chief Executive (Human Resources and Development);
- (f) The Council's external auditor;
- (g) Any other party with a legal entitlement to inspect it.

## **10.0 Conclusion**

10.1 Should employees have any queries relating to the acceptance and registration of gifts and hospitality, please contact the Monitoring Officer (Assistant Chief Executive (Legal and Democratic Services)) on: telephone 01609 532173 or [carole.dunn@northyorks.gov.uk](mailto:carole.dunn@northyorks.gov.uk) [barry.khan@northyorks.gov.uk](mailto:barry.khan@northyorks.gov.uk)



## **NORTH YORKSHIRE COUNTY COUNCIL**

### **EMPLOYEE REGISTER OF GIFTS AND HOSPITALITY**

For guidance in relation to the registration and acceptance or refusal of gifts or hospitality see:

- **the Gifts and Hospitality Protocol for Employees**  
([http://intranet/directorate/hr/managing\\_staff\\_in\\_the\\_workplace/conduct\\_and\\_disciplinary/Lists/Policies%20information%20and%20guidance/Gifts%20and%20Hospitality%20Protocol%20for%20Employees.doc](http://intranet/directorate/hr/managing_staff_in_the_workplace/conduct_and_disciplinary/Lists/Policies%20information%20and%20guidance/Gifts%20and%20Hospitality%20Protocol%20for%20Employees.doc)); and
- **the Standards of Conduct Procedure**  
([http://intranet/directorate/hr/managing\\_staff\\_in\\_the\\_workplace/conduct\\_and\\_disciplinary/RelatedDocuments/Standards%20of%20Conduct%20Procedure.doc](http://intranet/directorate/hr/managing_staff_in_the_workplace/conduct_and_disciplinary/RelatedDocuments/Standards%20of%20Conduct%20Procedure.doc))

#### **SECTION A: (to be completed by the Employee registering the gift or hospitality)**

<b>Date</b>	
<b>Name of Employee</b>	
<b>Job Title</b>	
<b>Directorate and Service Area</b>	
<b>Nature of gifts and/or hospitality being registered</b>	
<b>Approximate value of gifts and/or hospitality being registered</b>	
<b>Name of person/organisation offering gifts and/or hospitality</b>	
<b>Signature of Employee</b>	

#### **SECTION B: (to be completed by the Line Manager of the employee by whom the gift or hospitality is being registered)**

<b>Name of Manager</b>	
<b>Job Title</b>	
<b>Acceptance of gift and/or hospitality approved (Yes/No)</b>	
<b>Reason for agreeing in the event of acceptance</b>	
<b>Any additional comments</b>	
<b>Signature of Manager</b>	

This form should be retained in the Directorate Employee Register of Gifts and Hospitality and copied to the Monitoring Officer (Assistant Chief Executive Legal and Democratic Services) for retention in the Council's Central Employee Register of Gifts and Hospitality.