



## **Gifts & Hospitality 2018-2020**

# 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 Bribery Act 2010	Councillors and employees	<p>Four offences are introduced in the Act:</p> <p><b>A. Bribing another person</b> Offering or giving a financial or other advantage to a person, a) intending to induce (or to reward) them, or another person, to perform improperly a public function or business activity; or b) knowing or believing the acceptance in itself would constitute improper performance</p> <p><b>B. Being bribed</b> a) requesting or accepting an advantage or reward intending personally, or through another, to perform improperly a public function or business activity; b) requesting or accepting such advantage when the request or acceptance would constitute improper performance of a public function or business activity; c) improperly performing such a function or activity in anticipation of receiving such an advantage</p>	<p>Criminal offence – prosecution Offences A - C carry a maximum of 10 years imprisonment and/or unlimited fine If the offence is committed with the consent of a senior officer, that person is also personally guilty</p> <p>Offence D carries an unlimited fine to the organisation as well as debarment from public contracts.</p>

		<p><b>C. Bribery of foreign public officials</b> Offering or giving to (or with the assent of) a foreign public official any advantage that is neither permitted nor required by the written law applicable to that official intending a) to influence them in their capacity as a public official and, b) to obtain or retain business or business advantage</p> <p><b>D. Failure of commercial organisations to prevent bribery</b> A relevant commercial organisation will be guilty of an offence if an associated person (including an employee, agent or subsidiary providing services for the organisation) bribes another person intending a) to obtain or retain business for the organisation or b) to obtain or retain an advantage in the conduct of business for the organisation.</p>	
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	<p>Councillors must not use or attempt to use their position as a Councillor improperly to confer on or secure for them self or any other person, an advantage or disadvantage.</p> <p>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.</p>	Suspension or disqualification by Standards Committee or a Case Tribunal

### 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 offers of gifts and hospitality received with a value of £25 or more but are encouraged to register all gifts, even those under £25. 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 an Executive 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 e.g. 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 an Executive Director/Assistant Chief Executive but the gift is of no direct use to the Council, e.g. 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 e.g. 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 record 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 an Executive 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 e.g. 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 Executive 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 an Executive Director. They must therefore complete the form and give it to the Executive Director responsible for their service. Once the Executive Director has made a decision he or she will send a copy of the form to the Borough Solicitor and the employee.

4.4 There may be occasions where an offer of hospitality is received where approval by an Executive Director cannot be received in advance, for example if you are visiting a clients premises and they offer you some form of hospitality. On these occasions the employee or member should refuse this offer as prior approval has not been obtained.

4.5 The Borough Solicitor will ensure that everyone who offers a gift or hospitality will receive a letter drawing their attention to this policy.

4.6 The register of gifts and hospitality will be open to inspection by the 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.