

# **Local Protocol – Gifts and Hospitality**

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Appendix 1      Registration of Gifts and Hospitality

**1. Introduction**

- 1.1 In this Protocol, "member" includes all elected members of the Council and all non-elected Members of any Committee (or any Sub-Committee) irrespective of whether or not they have any voting rights.
- 1.2 The acceptance of gifts and hospitality reflects directly upon the public perception of members and the Authority. Therefore, it is imperative that Members only act in the public interest and not for personal advantage. This also applies to any relative or friend that receives any gift or hospitality due to a Member's position as an elected Member.
- 1.3 This protocol does not apply to gifts and hospitality that are not related to a Member's role, such as Christmas presents from friends and family. However, a Member shall always consider whether any gifts and hospitality could be seen as being inappropriately connected with their position.
- 1.4 Acceptance of a gift or hospitality in breach of any of the Council's Codes and Protocols, or failure to declare receipt of such a gift or hospitality, may result in criminal proceedings.
- 1.5 This Local Protocol sets out:
  - (a) the principles which Members shall apply whenever they have to decide whether it would be proper to accept any gift or hospitality;
  - (b) a procedure for obtaining consent to accept a gift or hospitality when a Member considers it would be proper to accept it; and
  - (c) a procedure for declaring any gift or hospitality received by a Member and for accounting for any gift to the Authority.
- 1.6 This Local Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to Members by Torbay Council.
- 1.7 This Local Protocol also applies in respect of gifts offered to the Civic Mayor or Deputy Civic Mayor in the course of their civic duties.

**2. General Principles**

- 2.1 In deciding whether it is proper to accept any gift or hospitality, the following principles shall be applied. Even if the gift or hospitality comes within one of the general consents set out later in this Protocol, it shall not be accepted if to do so would be in breach of one or more of these principles.
- 2.2 Gifts or hospitality shall never be accepted as an inducement or reward for anything done as a Member.**
  - 2.2.1 Members 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.
  - 2.2.2 The Code of Conduct for Members provides that Members must act solely in the public interest. This includes serving the Authority and the whole community, rather

than acting in the interests of any particular individual or section of the community. It is a breach of the Code of Conduct to improperly confer any advantage or disadvantage on any person or act to gain financial or other material benefits for the Member, a member of the Members' family, a close associate or relevant person.

**2.3 Gifts or hospitality shall only be accepted if there is a commensurate benefit to the Authority.**

- 2.3.1 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit to the Authority which would not have been available but for the acceptance of that gift or hospitality (for example, the opportunity to progress the business of the Authority expeditiously through a working lunch). The acceptance of a gift is much less likely to produce such an advantage.
- 2.3.2 Unless the benefit to the 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 the Member's personal benefit.

**2.4 Gifts or hospitality shall not be accepted if acceptance might be open to misinterpretation.**

- 2.4.1 The appearance of impropriety can be as damaging to the Authority and individual members as actual impropriety. The Authority's ability to govern rests upon its reputation for acting fairly and in the public interest.
- 2.4.2 Members shall consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Authority favours any particular person, company or section of the community. Similarly consideration shall be given to whether acceptance of the gift or hospitality could be seen to place the Member or the Authority under any improper obligation to any person or organisation.
- 2.4.3 This principle shall be particularly considered on occasions when the Authority is:
  - (a) undertaking a competitive procurement/tendering process in line with the Council's Contracts Procedures; or
  - (b) acting in a regulatory role, such as determining planning or licensing applications or setting planning policy; or
  - (c) determining a grant application by any person or organisation; or
  - (d) awarding leases; or
  - (e) disposing of council assets; or
  - (f) granting concessions for use of council land.
- 2.4.4 Members shall always be aware of the possibility that the person or company offering gifts or hospitality may have dealings elsewhere in the Council of which the Member is unaware.

**2.5 Gifts or hospitality shall never be accepted if it puts the Member under an improper obligation.**

- 2.5.1 All Members shall recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of gaining influence.
- 2.5.2 Equally, if others note that a Member has been prepared to accept a gift or hospitality, they may feel that they will no longer be able to secure impartial consideration from the Authority.

**2.6 Gifts or hospitality shall never be solicited**

- 2.6.1 Members shall never solicit or invite an offer of a gift or hospitality in connection with their position as a Member unless the acceptance of that gift or hospitality would be permitted under this Protocol. Care shall be taken to ensure that Members avoid giving any indication that they might be open to such an improper offer.

**3. Consent Regimes**

- 3.1 There may be occasions where it may not be appropriate for a Member refuse a gift or hospitality in the course of their duties as it would appear unusual, or impolite, or be likely to cause offence. In such situations the following provisions shall apply.

**3.2 General Consent Provisions**

- 3.2.1 Subject to the General Principles set out in this Local Protocol, Members may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another public authority;
- (b) reasonable refreshment in connection with any meeting or visit in the ordinary course of a councillor's duties, such as tea, coffee, soft drinks and biscuits;
- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Authority;
- (d) small gifts of low intrinsic value below £50 branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars or diaries;
- (e) modest working lunch provided to allow parties to discuss business;
- (f) modest souvenir gifts with a value below £50 from another public authority given on the occasion of a visit by or to the authority;
- (g) reasonable hospitality received at external visits or conferences provided that this is in line with that available to all delegates;
- (h) attendance at events organised by or on behalf of registered charities;
- (i) goods or services on special terms where those terms whilst not necessarily available to the general public are available to all the Authority's employees (including where publicised by way of 'all staff' emails).

3.2.2 Other unsolicited gifts may be accepted where it is impracticable to return them to the person or organisation making the gift. However, as soon as practicable after the receipt of the gift, it shall be passed (together with a written statement identifying the information set out in paragraph 3.3 below) to the officer responsible for administering the Council's civic and ceremonial functions who will allocate the gift to an appropriate local registered charity. The officer will write to the person or organisation making the gift thanking them on the Member's behalf for the gift and informing them where the gift will be donated.

3.2.3 Where branded gifts are accepted in accordance with the guidance in this Protocol, care shall be taken so as to not display the item when this might be taken as an indication of favour to a particular person, supplier or contractor.

### **3.3 Special Consent Provisions**

3.3.1 Members who wish to accept any gift or hospitality in accordance with the General Principles set out in paragraph 2 but which is not within any of the General Consents set out in paragraph 3.2 must apply for specific consent to the Monitoring Officer, in writing setting out the following:

- (a) the nature and estimate of the market value of the gift or hospitality;
- (b) who the offer or invitation has been made by or on behalf of;
- (c) the connection which the Member has with the person or organisation making the offer or invitation;
- (d) any work, permission, concession or facility which the Member is aware that the person or organisation making the offer or invitation may seek from the Authority; and
- (e) any special circumstances which leads the Member to believe that acceptance of the gift or hospitality will not be improper.

3.3.2 Gifts or hospitality must not be accepted until consent (in writing or by email) has been received from the Monitoring Officer.

3.3.3 The Monitoring Officer will publish the details of any approval on the Council's website. This does not remove the obligation on the Member to register the receipt of gifts or hospitality in accordance with paragraph 4 below.

### **4. Registering the Receipt of Gifts or Hospitality**

4.1 Any Member who accepts any gift or hospitality with an estimated market value of £50 or greater must, as soon as possible and within 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information in paragraph 3.3.1 above. This applies regardless of whether the gift or hospitality falls within the General Consent Provisions or if the Monitoring Officer has authorised the acceptance of the gift or hospitality under the Special Consent Provision. (Note: £250 is the total value of gifts that a Councillor receives in a tax year in accordance with the exemption for small gifts set out under S324 ITEPA 2003. Where a gift does not satisfy the exemption conditions, the value should be subject to tax and National Insurance contributions.)

- 4.2 A form for this purpose is attached to this Protocol (and is available electronically upon request from the Governance Support Team although the information can be submitted by any other convenient (written) means).
- 4.3 The Monitoring Officer will publish any such declarations on the Council's Website.
- 4.4 Members may voluntarily register the receipt of gifts and hospitality under £50 in value (or the offer of a gift or hospitality of any value which has been declined) if they are concerned that its acceptance (or offer) might be misinterpreted, particularly if it comes from a contractor or tenderer.

## **5. Gifts to the Authority**

- 5.1 Gifts to the Authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Authority.
- 5.2 Members shall not solicit any such gift on behalf of the Authority except where the Authority has formally identified the opportunity for participation by an external party and how that participation is to be secured.
- 5.3 If a Member receives such an offer on behalf of the Authority, they must refer details of the offer to the Chief Executive or relevant Director who will consider whether it is appropriate for the Authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Authority under any improper obligation, whether there is a real benefit to the Authority which would outweigh any dis-benefits). The Chief Executive or relevant Director will then write to the person or organisation making the offer to record the acceptance or non-acceptance of the offer, record the gift for audit purposes and to ensure that the gift is properly applied for the benefit of the Authority.
- 5.4 The offer shall also be reported directly to the Monitoring Officer.
- 5.5 If Members have any concerns about the motive of the person or organisation making the offer or whether it would be proper for Authority to accept the gift, they shall consult the Monitoring Officer directly.

## **6. Definition of Gifts and Hospitality**

- 6.1 Gifts or hospitality includes any:
  - (a) free gift of any goods or services;
  - (b) money (or loan), gift vouchers, lottery tickets, scratch cards, raffle tickets or anything else offering the chance of winning a prize;
  - (c) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
  - (d) opportunity to obtain any goods or services which are not available to the general public;
  - (e) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

6.2 References to the “value” or “cost” of any gift and hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration; or
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

## **7. Breaches of This Local Protocol**

7.1 If a Member becomes aware of any conduct by another Member that he/she reasonably believes involves a failure to comply with this Local Protocol, he/she shall make a written allegation to that effect to the Council’s Monitoring Officer as soon as it is practicable for him/her to do so. The Monitoring Officer shall then consider the allegation in accordance with the Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of conduct.

**TORBAY COUNCIL****Appendix 1****Registration of Gifts and Hospitality Accepted or Declined**

In accordance with the Council's Protocol on Gifts and Hospitality, I am writing to record that I have received the following gift or hospitality over the value of £50. (This form may also be used to register the offer of any gift or hospitality that has been declined in line with paragraph 4.4 of the Council's Local Protocol on Gifts and Hospitality.)

**Name of individual or organisation arranging the gift or hospitality****Relationship with the individual/organisation****Details of any permission, concession or facility that the individual/organisation may seek from the Council****Date of acceptance (or offer) of the gift or hospitality.**

(Please indicate whether the gift or hospitality was accepted or declined.)

**Type of General Consent Provision**

(Please refer to paragraph 3.2 of the Gifts and Hospitality Protocol.)

**Date Consent Obtained from Monitoring Officer for Special Consent Provision**

(Please refer to paragraph 3.3 of the Gifts and Hospitality Protocol.)

**Any special circumstances justifying the acceptance of the gifts or hospitality**

Name .....

Signed .....

Date .....

Signed .....

Monitoring Officer

Date .....