



## **GIFTS AND HOSPITALITY POLICY**

**IMPLEMENTATION DATE: November 2008**

**REVIEWED:**

**APPROVED BY: CMT 13<sup>th</sup> November 2008.**

## **1.0 Introduction**

- 1.1 Middlesbrough Council has adopted this Gifts and Hospitality policy to provide guidance to employees on the receiving of gifts, invitations and hospitality as well as the provision of gifts and hospitality to those outside Middlesbrough Council. Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence as this could undermine public confidence.
- 1.2 The appearance of impropriety can be just as damaging as actual impropriety to the Council and to individual employees. The Council's ability to discharge its responsibilities is affected by its reputation for acting fairly and in the public interest. Employees must consider whether the acceptance of any gift or hospitality could be interpreted as a sign that the council favours any particular person, company or section of the community or could place them under any improper obligation to any person or organisation. Employees should also avoid putting themselves in a position where their integrity could be called into question because of actual or apparent financial or other impropriety.
- 1.4 When providing hospitality on behalf of Middlesbrough Council employees must follow the procedures within this policy to ensure the correct authorisation has been granted and impropriety is avoided.

## **2.0 Legal Position**

- 2.1 The Prevention of Corruption Act, 1916 provides that where such a gift, loan etc. is received by an employee or member from a person seeking a contract with the Council, then the gift is deemed to have been received corruptly. This has the effect of shifting the balance of proof onto the giver and receiver, i.e. they would have to prove that they did not act dishonestly.
- 2.2 The Local Government Act, 1972 further provides that an employee shall not, under colour of their office, accept any reward or fee other than their proper remuneration.
- 2.3 The Public Bodies Corrupt Practices Act, 1889 provides that it is an offence for any employee or member to accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing, or not doing, something in respect of any matter or transaction involving the Council. This offence can carry up to 7 years imprisonment.

## **3.0 Scope**

- 3.1 The Gifts and Hospitality policy applies to all employees of Middlesbrough Council. Failure to adhere to the policy may be dealt with under the Council's disciplinary procedures.

#### **4.0 Aim**

4.1 The purpose of this policy is to: -

- (a) outline the principles that should be applied when deciding whether it would be proper to accept any gift or hospitality and, if so, provide a procedure for obtaining consent if appropriate
- (b) confirm the procedure for declaring any gift or hospitality which is accepted
- (c) establish a procedure to follow for providing hospitality on behalf of the Council

#### **5.0 When not to accept gifts and hospitality**

5.1 There are some circumstances in which hospitality or a gift can **never** be accepted. These are:

- if it is intended as an inducement or reward for anything that is done or may be done by an employee;
- if acceptance would be very likely to be open to misinterpretation; or
- if it puts an employee under an improper obligation.

5.2 Employees must always act in the public interest and must not be influenced by inducements or offers that may be made or implied. Further details are available in the Code of Conduct for employees which deals with the prevention of corruption.

5.3 Some situations are particularly sensitive and require great care to avoid misunderstanding or misrepresentation. These include :-

- (i) when the council is going through a competitive procurement process and must not show special favour to any tenderer;
- (ii) determination of licensing applications, planning applications or planning policy, in respect of any person or organisation who/which stand(s) to gain or lose from the determination; and
- (iii) funding decisions, when the council is determining a grant application from any person or organisation, or decisions on benefits or advantages sought by any person or organisation.

#### **6.0 Times when it may be appropriate to accept gifts or hospitality**

6.1 There are some circumstances in which hospitality or a gift **may** be accepted and these are covered in the guidelines below. However, employees must be

aware that commercial organisations or private individuals may see the provision of gifts and hospitality as a means of buying influence. A gift or hospitality must not be accepted, if it seems likely that an organisation may seek to use this fact to persuade the employee to determine an issue in their favour. Similarly acceptance is inappropriate if others are likely to think that an employee has accepted a gift or hospitality improperly, and are therefore not providing impartial consideration on behalf of the council.

- 6.3 For clarity, the Council has agreed that, provided the principles set out in Section 5 are not breached, employees may accept gifts and hospitality in the following circumstances without obtaining prior consent: -
- (i) civic hospitality provided by another public body;
  - (ii) modest refreshment in connection with any meeting in the ordinary course of work, such as tea, coffee, soft drinks and biscuits;
  - (iii) tickets for sporting, cultural and entertainment events, which are sponsored by Middlesbrough Council;
  - (iv) small gifts of low intrinsic value branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, employees should take care not to accept and display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example, in the course of a procurement exercise;
  - (v) a modest working lunch in the course of a business meeting in the offices of a third party where this is required in order to facilitate the conduct of that business;
  - (vi) modest souvenir gifts with a value below £25 from another public body given on the occasion of a visit by or to the council;
  - (vii) hospitality received in the course of an external visit or meeting which has been duly authorised by the council; and
  - (viii) unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the employee deals with the gift strictly in accordance with the procedure outlined in 6.4. The employee's Director will then write to the person or organisation making the gift thanking them on behalf of the employee for the gift and informing them that the gift will be raffled and proceeds donated to a charity nominated by the employee.
- 6.4 If employees wish to accept any gift or hospitality, which is not within any of the guidelines set out above, they may do so only if they have previously obtained **specific consent** by completing Form HR/GH01.

## **7.0 Gifts to employees providing care/personal services**

- 7.1 There are sometimes particular problems encountered by employees who have a “caring” role or provide a direct personal service to vulnerable people.
- 7.2 It is not unusual for people receiving support at home from employees, or their relatives, to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will.
- 7.3 It is most important in such situations that employees are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, members of staff and their families are not allowed to accept gifts or legacies from clients unless this is of very low intrinsic value e.g. a box of chocolates.
- 7.4 If employees are made aware that a service user is considering making a gift to them or including them in their Will, or has actually done so, then they should immediately report the matter to their Manager who will take it up with the client and courteously decline any gift and suggest a letter of appreciation instead.
- 7.5 Similarly, employees should never become involved with making Wills for service users nor act as an Executor in a service user’s Will.
- 7.6 “Service user” includes those service users currently receiving a service or any who may have done so in the past.

## **8.0 Gifts to Middlesbrough Council**

- 8.1 Gifts to the council could be the provision of land, goods or services, either to keep or to test with a view to future acquisition. They might also be offers to carry out works or sponsor functions organised or supported by the Council.
- 8.2 Employees should not solicit any such gift on behalf of the Council except where the council has formally identified the opportunity for participation by an external party and how that participation is to be secured. For example, in relation to sponsorship of public musical and theatrical performances and developers’ contributions under Section 106 Agreements.
- 8.3 If such an offer is received on behalf of the Council, careful consideration must take place to decide whether it is appropriate for the council to accept the offer. Consideration should be given to whether the acceptance of the gift might be seen as putting the Council under any improper obligation, and to whether there is a real benefit to the council.
- 8.4 Employees do not have delegated authority to accept such gifts and so should report any offer directly to the Monitoring Officer (Director of Legal and Democratic Services) who has such delegated authority, together with any recommendation or concerns about the motives of the person or organisation

making the offer. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the council.

## **9.0 Provision of gifts and hospitality**

- 9.1 Employees are not authorised to provide gifts or hospitality on behalf of the council without the prior consent of the Head of Service and it is the responsibility of the Head of Service to ensure the Director is informed of any approval granted.
- 9.2 Official gifts may be provided, for example, to visiting dignitaries or colleagues from overseas and these should be representative of Middlesbrough. Items should be authorised by the Head of Service and recorded with the Monitoring Officer (Director of Legal and Democratic Services).
- 9.3 Employees are not permitted to provide hospitality to any other individuals (employed or not), i.e. joining in a round of drinks at the bar, paying for an evening meal out etc.
- 9.4 Food and drink intended for the provision of hospitality at events for members of the public or for people from other organisations can be purchased only with the prior approval of the Director responsible for that service. Goods should be purchased through the Council's purchase ordering system and employees should not be asked to purchase items and reclaim costs through payroll. In the case of training and development events provided for staff, members of the public or people from other organisations, Directors may delegate approval to Heads of Service or managers.

## **10.0 Reporting Procedure**

- 10.1 The Monitoring Officer (Director of Legal and Democratic Services) holds a central register to record all instances of consent requested, gifts and hospitality accepted and declined. It is the responsibility of any employee receiving or declining a gift or hospitality to ensure that this is recorded in the register.

## **11.0 Advice**

- 11.1 Advice should be sought from the appropriate managers, Head of Service or from Human resources if there is any doubt about the application of this policy.

## **12.0 Definitions**

12.1 “Gift or hospitality” includes: -

- the free gift of any goods or services;
- the 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;
- the opportunity to obtain any goods or services which are not available to the general public; and
- the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

12.2 References to the “value” or “cost” of any gift or hospitality are references to the highest level of:

- an estimate of the cost to the person or organisation of providing the gift or consideration
- 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 the employee would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

## **13.0 Equality Statement**

13.1 The Gifts and Hospitality policy must be applied fairly to all employees irrespective of disability, gender, race, religion, age, sexual orientation or marital/civil partnership status.