

## Review of Protocol on Gifts and Hospitality

### Report of the Clerk and Monitoring Officer

For further information about this report please contact Jonathan Eatough, Clerk and Monitoring Officer, on 01952 383200 or Sharon Lloyd, Corporate Services Manager, on 01743 260210.

#### 1 Purpose of Report

This report asks the Fire Authority to review its Protocol on Gifts and Hospitality and to decide on any changes to be made.

#### 2 Recommendations

That the Fire Authority consider and agree the proposed changes to the Protocol on Gifts and Hospitality, attached as an appendix to this report, and decide whether any further changes should be made

#### 3 Background

The Protocol on Gifts and Hospitality was first introduced in 2005 and was reviewed by the Fire Authority's Standards Committee in March 2010. It is considered good practice to review such Protocols regularly.

#### 4 Review

Having reviewed the Protocol, officers recommend that the following amendments be made. For ease of reference they are also shown in bold italics in the Protocol itself (to be found at the appendix to this report).

On page 1 of the Protocol amend the second paragraph to read as follows:

The law on the acceptance of gifts and hospitality is set out in the Fire Authority's Code of Conduct and in the Prevention of Corruption Acts. ***In addition the Bribery Act 2010 covers offences committed by recipients of bribes.*** These requirements are supplemented by this Protocol, to provide a clear set of rules for the protection of both Members and the Fire Authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to ~~seven~~ **ten** years' imprisonment.

On page 2 of the Protocol make the following addition to the first paragraph:

The Public Bodies (Corrupt Offences) Act 1889 provides that, if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, doing or forbearing to do anything in respect of any matter or transaction, in which the Fire Authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years. ***Similarly, the Bribery Act 2010 provides that if a person requests, agrees to receive or accepts an advantage in connection with the improper performance of a function (whether they receive the gift /advantage or not) they will be guilty of an offence carrying a maximum term of imprisonment of ten years.***

## **5 Financial Implications**

There are no financial implications associated with this report.

## **6 Legal Comment**

Although not a legal requirement, it is considered good practice to have in place a protocol on gifts and hospitality for Members. Even though public sector organisations are not directly caught by the corporate offence within the Bribery Act 2010, it is a matter of best practice to take steps to comply with the Act and the Protocol will assist in establishing reasonable measures to ensure compliance.

The Protocol should be subject to a regular review to ensure that it remains compliant with the relevant statutory requirements.

## **7 Equality Impact Assessment**

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

## **8 Appendix**

Protocol on Gifts and Hospitality for Members

## **9 Background Papers**

There are no background papers associated with this report.

## Shropshire and Wrekin Fire and Rescue Authority

### A Protocol on Gifts and Hospitality for Members

The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and of the Fire Authority. Members of the public may perceive that Members are not acting in the public interest but for their own personal advantage or that of friends or associates.

The law on the acceptance of gifts and hospitality is set out in the Fire Authority's Code of Conduct and in the Prevention of Corruption Acts. ***In addition the Bribery Act 2010 covers offences committed by recipients of bribes.*** These requirements are supplemented by this Protocol, to provide a clear set of rules for the protection of both Members and the Fire Authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to ~~seven~~ **ten** years' imprisonment.

This Protocol sets out:

- (a) The principles, which you should apply whenever you 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 you consider that it would be proper to accept it
- (c) A procedure for declaring any gift or hospitality, which you receive, and for accounting for any gift to the Fire Authority

This Code does not apply to the acceptance of any facilities or hospitality, which may be provided to you by the Fire Authority.

#### 1 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it, if to do so would be in breach of one or more of these principles:

- (a) **Never accept a gift or hospitality as an inducement or reward for anything you do as a Member**

As a Member, you must act in the public interest and must not be swayed in the discharge of your 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.

The Public Bodies (Corrupt Offences) Act 1889 provides that, if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, doing or forbearing to do anything in respect of any matter or transaction, in which the Fire Authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years. ***Similarly, the Bribery Act 2010 provides that if a person requests, agrees to receive or accepts an advantage in connection with the improper performance of a function (whether they receive the gift /advantage or not) they will be guilty of an offence carrying a maximum term of imprisonment of ten years.***

Furthermore, the Fire Authority's Code of Conduct provides that you must act in the public interest, serving the Authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

**(b) You should only accept a gift or hospitality, if there is an appropriate benefit to the Fire Authority**

The only proper reason for accepting any gift or hospitality is that there is some appropriate benefit for the Fire Authority, which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the Fire Authority, such as an opportunity to progress the business of the Authority expeditiously through a working lunch, or to canvass the interests of the Authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. Unless the benefit to the Authority is clear, and is appropriate in respect of the gift or hospitality, the presumption must be that the gift or hospitality is purely for a Member's personal benefit.

As set out above, the Fire Authority's Code of Conduct provides that you must not improperly confer any advantage on anyone, including yourself.

Acceptance as a Member of a gift or hospitality for personal benefit or advantage, rather than for the benefit to the Authority, would be a breach of the Code.

**(c) Never accept a gift or hospitality, if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the Fire Authority and to you, as a Member, as actual impropriety. The Fire Authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must, therefore, consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Fire Authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

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

- Occasions when the Fire Authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- Funding decisions, when the Fire Authority is determining an application for funding by any person or organisation.

**(d) Never accept a gift or hospitality which puts you under an improper obligation**

Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Fire Authority.

**(e) Never solicit a gift or hospitality**

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Member unless the acceptance of that gift or hospitality would be permitted under this Protocol. You should also take care to avoid giving any indication that you might be open to such any improper offer.

## **2 Consent Regimes**

**(a) General consent provisions**

For clarity, the Fire Authority has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) Civic hospitality, including cultural and entertainment events, provided by another public authority.
- (ii) Modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits.
- (iii) Tickets for cultural and entertainment events, usually local events presented by voluntary or charitable organisations, which are sponsored by the Fire Authority.

- (iv) Small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. You should, however, take care not to 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 alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Fire Authority, if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable.
- (vi) A modest working lunch not exceeding £20 per head in the course of a meeting in the offices of a party, with whom the Fire Authority has an existing business connection, where this is required in order to facilitate the conduct of that business. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £20 per head.
- (vii) Modest souvenir gifts with a value below £25 from another public authority, given on the occasion of a visit by, or to, the Fire Authority.
- (viii) Hospitality received in the course of an external visit or meeting, which has been duly authorised by the Fire Authority. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Members and officers is to be no more than commensurate with the nature of the visit.
- (ix) Other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Member deals with the gift strictly in accordance with the following procedure:

The Member must, as soon as practicable, and in any event within 28 days of receipt of the gift, pass it to the Corporate Services Manager at Brigade Headquarters, Shrewsbury together with a written statement identifying the information set out at Paragraph 2(b) below.

The Corporate Services Manager will then write to the person or organisation offering the gift, thanking them on your behalf and informing them that the gift will be raffled or otherwise disposed of in due course and the proceeds donated to a charitable cause chosen by the Chair.

## **(b) Special consent provisions**

If you wish to accept any gift or hospitality, which is in accordance with the General Principles set out at Paragraph 1, but is not within any of the general consents set out at Paragraph 2(a), you may only do so, if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) The nature and your estimate of the market value of the gift or hospitality.
- (ii) The person by whom, or on whose behalf, the invitation or offer has been made.
- (iii) The connection, which you have with the person or organisation making the offer or invitation, such as any work, which you have undertaken for the Fire Authority, in which they have been involved.
- (iv) Any work, permission, concession or facility, of which you are aware, that the person or organisation making the offer or invitation may seek from the Fire Authority.
- (v) Any special circumstances which lead you to believe that acceptance of the gift or hospitality would not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register, which will be available for public inspection on the occasion of the public inspection of the Fire Authority's accounts for the relevant year. This does not, however, relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3 below.

## **3 Equality and Diversity Considerations**

It is recognised that there are various cultural and religious practices, which would be difficult to accommodate prescriptively within this Protocol. Where, therefore, it is an accepted practice that a Member, as someone from a particular cultural or religious background be offered a gift or hospitality, that Member should seek the advice of the Monitoring Officer before accepting the gift or hospitality. If circumstances prevent such a course of action, the Members should advise the Monitoring Officer immediately after acceptance of the gift or hospitality to ensure that appropriate action is taken.



## 4 Reporting

Where you accept any gift or hospitality, which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, and in any event within 28 days of receipt, make a declaration in writing to the Monitoring Officer (via the Corporate Services Manager at Brigade Headquarters, Shrewsbury), detailing the information set out at Paragraph 2(b) above.

A form for this purpose is attached to this Protocol, but you can send the same information by any convenient means. The Corporate Services Manager will retain a copy of any such declaration in a register, which will be available for public inspection.

It is also a requirement of the code of conduct that any gift or hospitality valued at £25 or more is recorded on your register of interest form within 28 days. The record of that gift or hospitality then needs to remain on your register of interest form for three years from the date that you have registered it. This registration will bring certain obligations regarding personal/prejudicial interests regarding the donor of the gift/hospitality and further advice should be sought from the Monitoring Officer in such circumstances.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

Where a Member has refused a gift or hospitality worth more than £25, the Fire Authority has agreed that this should also be recorded in the interests of openness and transparency and to provide additional protection for Members. The second form attached to this Protocol can be used for this purpose.'

## 5 Gifts to the Fire Authority

Gifts to the Fire 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.

You should not solicit any such gift on behalf of the Fire Authority, except where the Authority has formally identified the opportunity for participation by an external party and how that participation is to be secured. If you receive such an offer on behalf of the Authority, you must first 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 contra benefits.

If you do not have authority to accept the gift, you should report the offer directly to the Monitoring Officer, together with your recommendation. The Monitoring Officer will then write to the person or organisation making the offer, advising of the acceptance or non-acceptance of the gift. The Monitoring Officer will also record the gift for audit purposes and ensure that it is properly applied for the benefit of the Fire Authority.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Fire Authority to accept the gift, you should consult the Monitoring Officer directly.

## 6 Definitions

- (a) “Gift or hospitality” includes any of the following:
- 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.
  - The offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (b) References to the “value” or “cost” of any gift or hospitality are references to the higher of:
- Your 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 you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

### NOTE

A series of small gifts received from the same source over a short period of time with a cumulative value of £25 or more ought to be registered as set out above.

- (c) “Public Authority” is defined as any other fire authority, council (including parish and town councils) or police authority.

## Shropshire and Wrekin Fire and Rescue Authority Declaration of Receipt of Gifts or Hospitality

<b>Name</b>	
<b>Address</b>	
<b>What was the gift or hospitality?</b>	
<b>What is your best estimate of its market value or cost?</b>	
<b>Who provided it?</b>	
<b>When and where did you receive it?</b>	
<b>Does it come within one of the general consents set out in the Code of Conduct? If so, which?</b>	
<b>Did you obtain the consent of any officer before accepting it? If so, what is the position and name of the officer?</b>	
<b>Were there any special circumstances justifying acceptance of this gift or hospitality?</b>	
<b>Do you have any contact in your role as Member with the person or organisation providing the gift or hospitality?</b>	
<b>Signed</b>	<b>Date</b>

Please complete and return this form to:

The Corporate Services Manager, Shropshire Fire and Rescue Service,  
Headquarters, St Michael's Street, Shrewsbury, SY1 2HJ

## Shropshire and Wrekin Fire and Rescue Authority Declaration of Gifts or Hospitality Refused

<b>Name</b>	
<b>Address</b>	
<b>What was the gift or hospitality refused?</b>	
<b>What is your best estimate of its market value or cost?</b>	
<b>Who offered it?</b>	
<b>When and where did they offer it?</b>	
<b>How did you refuse it (verbally, in writing etc) and what reason did you give?</b>	
<b>Do you have any contact in your role as Member with the person or organisation offering the gift or hospitality?</b>	
<b>Signed</b>	<b>Date</b>

**Please complete and return this form to:**  
 The Corporate Services Manager, Shropshire Fire and Rescue Service,  
 Headquarters, St Michael's Street, Shrewsbury, SY1 2HJ