

Protocol on Gifts and Hospitality

Report of the Clerk and Monitoring Officer

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1 Purpose of Report

This report asks the Standards Committee to review its Protocol on Gifts and Hospitality and to make recommendations to the Fire Authority regarding any changes to be made.

2 Recommendations

The Committee is asked to review the Protocol on Gifts and Hospitality, attached at Appendix A to this report, and make recommendations to the Fire Authority regarding any changes to be made.

3 Background

The law on the acceptance of gifts and hospitality is set out in the Fire Authority's Code of Conduct and in various acts relating to the prevention of corruption. In addition the Bribery Act 2010 covers offences committed by recipients of bribes.

In 2005 the Fire Authority introduced its first Protocol on Gifts and Hospitality as a supplement to the legislation and to provide a clear set of rules for the protection of both Members and the Fire Authority. Since then the Standards Committee has regularly reviewed the Protocol to ensure that it is up-to-date and that it provides the clarity needed by Members. The last such review was conducted in March 2010.

A copy of the current Protocol is attached at Appendix A. In September 2011 a report on the Protocol was taken to the Fire Authority, when Members asked that the Standards Committee consider how the Protocol might be simplified.

4 Proposed Protocol

Following the request from the Fire Authority officers looked at such protocols in place at the constituent authorities (Telford & Wrekin and Shropshire Councils) and at West Midlands Fire and Rescue Authority. That of Telford & Wrekin Council is very similar to the Fire Authority's, as they were both introduced at the same time, based on a document produced by Peter Keith-Lucas, who has provided both authorities with training on the Code of Conduct.

The Protocols in use by Shropshire Council and West Midlands Fire and Rescue Authority are far less detailed and are virtually the same. A copy of this simplified Protocol, adapted to Shropshire and Wrekin Fire and Rescue Authority, is attached at Appendix B. The Standards Committee is asked to consider whether this Protocol would meet the needs of the Fire Authority and make recommendations to the Authority accordingly.

5 Declaration of Gifts Refused

During one of its reviews the Standards Committee recommended that Members also declare gifts refused and the Fire Authority subsequently agreed this recommendation. This requirement is omitted from the Protocol of West Midlands Fire and Rescue Service but included in that of Shropshire Council. The Committee is, therefore, asked to consider whether or not it recommends the retention of this requirement.

6 Financial Implications

There are no financial implications associated with this report.

7 Legal Comment

Although not a legal requirement, it is considered good practice to have in place a protocol on gifts and hospitality for Members.

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

8 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.

9 Appendices

Appendix A

Shropshire and Wrekin Fire Authority's existing Protocol on Gifts and Hospitality for Members

Appendix B

Protocol on Gifts and Hospitality for Members adapted from Shropshire Council and West Midlands Fire and Rescue Authority

10 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. 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 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.

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

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

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

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

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 A Protocol on Gifts and Hospitality for Members

1 Introduction

This Protocol applies to Members of the Fire Authority and non-elected Independent Members of the Standards Committee.

2 General Caution

Treat with extreme caution any offer or gift, favour or hospitality, which is made to you personally. Your reputation and that of the Fire Authority can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

The acceptance of gifts and hospitality is not, however, always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality, which has been offered to you, having regard to how it might be perceived.

No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This guidance is intended to enable you to make your own decision.

3 Criminal Law

It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to do or forbear to do anything in respect of any transaction involving the Fire Authority. The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract, or applying for funding, from the Authority, or involved in any legal or enforcement proceedings with the Authority.

4 Limits of Guidance

This guidance does not apply to:

- Gifts and hospitality you may receive from family and friends (as presents), which are not related to your position as a Member. You should, however, question any such gift or hospitality offered from an unusual source.

- The acceptance of facilities or hospitality provided to you by the Fire Authority.
- Gifts given to the Fire Authority, which you accept formally on the Authority's behalf and are retained by the Authority and not by you personally.

5 Meaning of Gifts and Hospitality

The words 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible. They do, however, include:

- The free gift of any goods or services;
- The opportunity to acquire any goods or services at a discount or at terms not available to the general public;
- The opportunity to obtain goods or services not available to the general public; and
- The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event.

Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books and flowers. Members should, however, be cautious when making purchases, if additional services, privileges or advantages are offered, which might be related to their position as a Member.

6 Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a Member. These include:

- Civic hospitality provided by another public authority;
- Normal and modest refreshment in connection with any meeting in the course of your work as a Member (e.g. tea, coffee and other normal beverages and refreshments);
- Tickets for sporting, cultural and entertainment events, which are sponsored or promoted by the Fire Authority or bodies, to which you have been appointed by the Authority, and the tickets are offered in relation to that sponsorship or promotion;
- Small low value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens;

- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Fire Authority business, e.g. inclusion in a round of drinks after a meeting;
- Modest meals provided as a matter of courtesy in the office or meeting place of a person, with whom the Fire Authority has a business connection; and
- Souvenirs and gifts from other public bodies intended as personal gifts, e.g. arising from Leonardo visits and other civic events.

7 Principles to Apply in Relation to Gifts and Hospitality

In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:

- Do not accept a gift or hospitality as an inducement or reward for anything you do as a Member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. “Reward” includes remuneration, reimbursement and fee.
- Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- Do not accept a gift or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality from:
 - a) Parties involved with the Fire Authority in a competitive tendering or other procurement process;
 - b) Applicants for grants, including voluntary bodies and other organisations applying for public funding;
 - c) Parties involved in legal proceedings with the Fire Authority.
- Do not accept a gift or hospitality, if you believe it will put you under any obligation to the provider as a consequence.
- Do not solicit any gift or hospitality and avoid giving any perception of so doing.

8 Registration of Gifts and Hospitality

The Fire Authority's Code of Conduct provides that:

'You have a personal interest in any business of the Authority where ... it relates to or is likely to affect ... the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25'.

This interest must be registered in the Register of Members' Interests as soon as possible after acceptance of the gift or hospitality but no later than 28 days after receiving it.

If you are in doubt as to the motive behind a gift or hospitality, it is recommended that you do register it or, at least, seek advice from the Monitoring Officer.

You must disclose the existence and nature of the interest arising from a gift or hospitality at a meeting of the Fire Authority, where business is considered to which the interest relates, i.e. business relating to the interests of the person or body giving the gift or hospitality. The disclosure requirement does not, however, apply to gift or hospitality interests registered over 3 years ago.

Whilst the registration requirement in the Code is limited to gifts or hospitality over the value of £25, Members are encouraged to register any significant gift or hospitality, which they receive below this value. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period, which add up to £25 or over, should be registered.

If in doubt as to the value of a gift or hospitality, the general rule is that you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

9 Reporting of Inappropriate Gifts and Hospitality Offered

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a Member of the Fire Authority. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you and you may subsequently be required to assist the Police in providing evidence.

10 Reporting of Gifts and Hospitality Declined

It is advised that, even where a gift or hospitality is declined, this should be recorded to protect you from any later accusations of impropriety.

11 Enforcement

Allegations of any failure to meet this Protocol must be made in writing to the Monitoring Officer. The Standards Committee has responsibility for overseeing compliance with this Protocol.

12 Advice

If in doubt, always seek advice from the Monitoring Officer or his/her Deputy.

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

Name	
Address	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Do you have any contact in your role as Member with the person or organisation providing the gift or hospitality?	
Signed	Date

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

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

Please complete and return this form to:

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