

14 September 2018

Committee	Standards Committee
Date	Monday, 24 September 2018
Time of Meeting	2:00 pm
Venue	Avon

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



Item	Page(s)
4. MINUTES	1 - 6
To approve the Minutes of the meeting held on 30 April and 15 May 2018.	
5. TEWKESBURY BOROUGH COUNCIL CODE OF CONDUCT - APPLICATIONS FOR DISPENSATION	
To consider any applications for dispensation received in respect of the Tewkesbury Borough Local Plan.	
6. GIFTS AND HOSPITALITY PROTOCOL	7 - 21
To consider the amended Gifts and Hospitality Protocol for Councillors and recommend to Council that it be adopted.	
7. SEPARATE BUSINESS	
The Chairman will move the adoption of the following resolution: That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.	
8. SEPARATE MINUTES	22 - 23
To approve the separate Minutes of the meeting of the Committee held on 30 April 2018.	
9. CODE OF CONDUCT - NON-COMPLIANCE WITH SANCTION IMPOSED CONSEQUENT UPON AN INVESTIGATED COMPLAINT	24 - 55
<i>(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)</i>	
To consider information in respect of non-compliance with a sanction imposed following a Code of Conduct complaint investigation.	

DATE OF NEXT MEETING	
MONDAY, 18 MARCH 2019	
MEMBERSHIP OF COMMITTEE	
Tewkesbury Borough Council Members	Councillor M Dean (Vice-Chair) Councillor Mrs S E Hillier-Richardson Councillor T A Spencer Councillor P D Surman (Chair) Councillor M G Sztymiak Councillor H A E Turbyfield and Councillor R J E Vines
Non-Voting Independent Persons	Mr M Jauch and Mr P J Kimber
Non-Voting Parish Representatives	Mr D J Horsfall and Vacancy

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Monday, 30 April 2018 commencing at 2:00 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Chair)

Non-Voting Independent Persons: Mr P J Kimber

Non-Voting Parish Representatives: Mr D J Horsfall

ST.11 ANNOUNCEMENTS

11.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

ST.12 APOLOGIES FOR ABSENCE

12.1 Apologies for absence were received from Councillor P D Surman and Independent Person, Mr M Jauch.

ST.13 DECLARATIONS OF INTEREST

13.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

13.2 There were no declarations of interest made on this occasion.

ST.14 MINUTES

14.1 The Minutes of the meeting held on 18 September 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

ST.15 REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS

15.1 The report of the Monitoring Officer, circulated at Pages No. 4-18, invited Members to consider submitting a response to the consultation being undertaken by the Committee on Standards in Public Life in response to its review of local government ethical standards.

- 15.2 The Committee was reminded that the current standards regime had been introduced through the Localism Act 2011. Changes made at that time saw the abolition of Standards for England, which had dealt with serious allegations of Councillor misconduct, and local authorities being given the freedom to adopt their own local Code of Conduct (including statutory requirements in respect of Disclosable Pecuniary Interests). In addition, local authorities were required to make and maintain their own arrangements for dealing with any allegations of breaches of the Code of Conduct by their Councillors and, in the case of District Councils, Parish Councillors. The previous sanctions of disqualification and suspension of Councillors in respect of serious breaches were removed, although new criminal sanctions were introduced for breaches of the statutory requirements on Disclosable Pecuniary Interests.
- 15.3 The Terms of Reference for the review included: to examine the structures, processes and practices in local government in England for a) maintaining the Codes of Conduct for local Councillors, b) investigating alleged breaches fairly and with due process, c) enforcing codes and imposing sanctions for misconduct, d) declaring interests and managing conflicts of interest and e) whistleblowing; to assess whether the existing structures, processes and practices were conducive to high standards of conduct in local government; to make any recommendations for how they could be improved; and to note any evidence of intimidation of Councillors and make recommendations for any measures that could be put into place to prevent and address such intimidation. It would also examine the role of the Independent Person, introduced by the Localism Act 2011, whose views had to be taken into account before an authority took a decision in relation to any complaints against Councillors that had been investigated.
- 15.4 The public stakeholder consultation was open for responses until 18 May 2018 and the Committee for Standards in Public Life was seeking concise submissions from a wide range of stakeholders including all tiers of local government. It was interested in current arrangements and in views as to what changes could be made to improve local authority ethical standards. The eleven questions contained within the consultation were attached to the report at Appendix 1 and, at Appendix 2, the Monitoring Officer had set out some initial comments to each question for discussion by Members in considering what response the Council may wish to make to the consultation. It was the intention that the Monitoring Officer would frame the views into a letter as the Committee had asked for quite short submissions.
- 15.5 The following comments were made in respect of each consultation question:
- a) *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local Councillors? If not, please say why and b) What, if any, are the most significant gaps in the current ethical standards regime for local government?* - Members agreed with the Monitoring Officer's comments that one of the advantages of the current regime was that there was discretion to resolve complaints informally; however, they also strongly agreed that the lack of sanctions to address serious breaches of the Code of Conduct was a significant gap in the current regime which needed to be addressed.
- c) *Are local authority adopted Codes of Conduct for Councillors clear and easily understood? Do the Codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?* - Members generally agreed with the Monitoring Officer's comments that the Council's Code of Conduct worked well and that sufficient training was provided; however, one Member suggested that there might be something to gain from people understanding there was a Code of Conduct before they stood for Office. He also questioned whether the Borough Council charged a fee for any training it provided to Parish and Town Councils. In response the Monitoring Officer indicated that it did charge in some instances e.g. bespoke training for a particular Parish/Town

Council; however, there was no charge for the training provided at the beginning of each term of the Council, or the refresher session half way through the term. In addition, she confirmed that people were made aware of the Code prior to being elected; particularly if they were standing as a Councillor for a political party. Another Member suggested more frequent refresher training may help with Parish issues and, in response, the Monitoring Officer indicated that she would consider this approach, although experience had shown that that it would not necessarily make a difference.

d) *A local authority has a statutory duty to ensure that its adopted Code of Conduct for Councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring Councillors' interests. Are these requirements appropriate as they stand? If not, please say why* - Members agreed with the Monitoring Officer's comments that it would be helpful to have a national standardised Code of Conduct as this would particularly help those that were Members of more than one authority.

e) *Are allegations of Councillor misconduct investigated and decided fairly and with due process? (i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process? (ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how? (iii) Monitoring Officers are often involved in the process of investigating and deciding upon Code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?* - Members questioned the approximate cost of investigations. In response, the Monitoring Officer indicated that the most expensive had been approximately £3,000 but generally they were between £1,500 and £3,000. There was not really an opportunity to recharge those costs. Whilst Members agreed with the Monitoring Officer's comments, they also agreed that an additional sentence should be included around the fact that the costs of investigations were an unfair burden on small authorities.

f) *Are existing sanctions for Councillor misconduct sufficient? (i) What sanctions do local authorities use when Councillors are found to have breached the Code of Conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? (ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?* - Members agreed with the Monitoring Officer's comments that complainants expected sanctions which matched the seriousness of their complaints and often this was not felt to be the case in the current regime. One Member expressed the view that, if the complaints were serious, criminal or repeated, they should trigger a by-election. In response, the Monitoring Officer felt that, whilst this was an interesting idea, it would not be workable; although it should be borne in mind that a criminal conviction may disentitle a person to be a Councillor. Another Member suggested that this could be fed back through the consultation. He also felt that apologies made for serious complaints should be publicised so that residents could see how their local Councillors were behaving. In response, the Monitoring Officer felt this was something the Council may be able to do anyway via press releases and she undertook to consider this option.

g) *Are existing arrangements to declare Councillors' interests and manage conflicts of interest satisfactory? If not, please say why. (i) Local Councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? (ii) What arrangements do local authorities have in place to declare Councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why* - The Monitoring Officer indicated that Members were aware of her views on the requirement to publish the Register of Interest forms including the interests of Councillors spouses – she had always voiced her serious concerns on that point and she felt it was even more of an issue with the introduction of the General Data Protection Regulation (GDPR) as publication would be a serious data breach under that Regulation. Members agreed with that view, and the comments as set out at Appendix 2 to the report, and asked that the Monitoring Officer keep the Committee updated as to the position on the matter.

h) *What arrangements are in place for whistleblowing, by the public, Councillors and officials? Are these satisfactory?* Members agreed with the Monitoring Officer's comments that the Council had its own policy which seemed to be satisfactory.

i) *What steps could local authorities take to improve local government ethical standards?* - Members were happy with the approach that the Council currently took in terms of ethical standards – as set out in the Monitoring Officer's comments.

j) *What steps could central government take to improve local government ethical standards?* - Members agreed with the Monitoring Officer's comments that improved sanctions for breaches of the Code of Conduct was really the only thing the government could do to improve local government ethical standards.

k) *What is the nature, scale and extent of intimidation towards local Councillors? (i) What measures could be put in place to prevent and address this intimidation?* - The Monitoring Officer had not felt that she could answer this particular question. A Member was of the view that it was important to understand from Councillors themselves whether they felt intimidated and what measures could be put in place to prevent and address that. The Monitoring Officer felt that this may be something individual Councillors should respond to so that the Committee for Standards in Public Life could see the extent of any problem. Members agreed that the Council's response would include a statement that the Council "did not collect information about the nature, scale and extent of intimidation towards Councillors in terms of social media use but, if there is evidence at other authorities, the Council would expect the government to put something in place to address it".

15.6 During the discussions, a Member questioned whether it would be possible to get clarification on the Chair's role in declarations of interest, conversations with planning applicants and pre-determination. In response, the Monitoring Officer expressed the view that it was not the Chair's responsibility to ensure Members made declarations; this had to be the obligation of the individual Member as there could be interests to be declared that other people did not know anything about. In addition, the Code of Conduct as it related to interests was very specific in the need for a Councillor to make declarations relating to family/friends where they were affected more than a normal resident. She felt the Borough Council's Code was very clear and it was up to individuals to declare their interests. In response to a question as to whether the informal resolution of complaints actually worked, the Monitoring Officer explained that any informal resolutions were made following a particular procedure whereby she received the complaint and, if appropriate, asked

the Councillor to apologise; she felt there was merit in intervening before the complaint went too far. As previously noted, investigations could be quite costly so she had to take a view on whether an investigation would be in the public interest.

15.7 The Monitoring Officer thanked Members for their comments and undertook to put together a letter, in consultation with the Chair, to address all of the points raised.

15.8 Accordingly, it was

RESOLVED That the Borough Solicitor/Monitoring Officer, in consultation with the Standards Committee Chair, be authorised to finalise the Council's response to the consultation and submit that to the Committee for Standards in Public Life as required.

ST.16 SEPARATE BUSINESS

16.1 The Chair proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

ST.17 SEPARATE MINUTES

17.1 The separate Minutes of the meeting held on 18 September 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

ST.18 CODE OF CONDUCT COMPLAINTS

(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

18.1 The Committee considered an update report on complaints received.

The meeting closed at 3:25 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 15 May 2018 commencing at 6:15 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean (Vice-Chair)
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Chair)
Councillor M G Sztymiak
Councillor H A E Turbyfield
Councillor R J E Vines

ST.1 ELECTION OF CHAIR

1.1 The Mayor opened the meeting by seeking nominations for the Chairmanship of the Committee.

1.2 It was proposed and seconded that Councillor P D Surman be nominated as Chair of the Committee. Upon being put to the vote it was

RESOLVED That Councillor P D Surman be elected as Chair of the Standards Committee for the ensuing Municipal Year.

ST.2 APPOINTMENT OF VICE-CHAIR

2.1 Councillor P D Surman took the chair and invited nominations for Vice-Chair of the Committee.

2.2 It was proposed and seconded that Councillor M Dean be nominated as Vice-Chair of the Committee. Upon being put to the vote it was

RESOLVED That Councillor M Dean be appointed as Vice-Chair of the Standards Committee for the ensuing Municipal Year.

The meeting closed at 6:20 pm

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee
Date of Meeting:	24 September 2018
Subject:	Review of Gifts and Hospitality Protocol for Councillors
Report of:	Deputy Monitoring Officer
Corporate Lead:	Monitoring Officer
Number of Appendices:	One

<p>Executive Summary:</p> <p>The Gifts and Hospitality Protocol for Councillors has been reviewed in accordance with the Committee's agreed programme.</p>
<p>Recommendation:</p> <p>That it be RECOMMENDED TO COUNCIL that the amended Gifts and Hospitality Protocol for Councillors be ADOPTED.</p>
<p>Reasons for Recommendation:</p> <p>To ensure that the Gifts and Hospitality Protocol for Councillors is fit for purpose in the current conduct regime.</p>

<p>Resource Implications:</p> <p>None in relation to this report.</p>
<p>Legal Implications:</p> <p>None specifically in relation to this report.</p>
<p>Risk Management Implications:</p> <p>None in relation to this report.</p>
<p>Performance Management Follow-up:</p> <p>None if the Committee agrees in accordance with the recommendation. However, if the Committee decides that further amendments are required this will be factored into the Officers' Work Programme.</p>
<p>Environmental Implications:</p> <p>None.</p>

1.0 INTRODUCTION/BACKGROUND

1.1 At the meeting of the Standards Committee on 12 October 2015 Members adopted a programme for the review and revision of the Council's Protocols.

1.2 The Protocols reviewed to date are:

- The Licensing System, Protocol and Procedures;
- Protocol for Councillors and Officers Involved in the Planning Process; and
- Protocol for Member/Officer Relations.

1.3 The last Protocol for review was identified as the Gifts and Hospitality Protocol for Councillors.

2.0 GIFTS AND HOSPITALITY PROTOCOL FOR COUNCILLORS

2.1 At the Standards Committee meeting on 18 September 2017 it was suggested that the Protocol be reviewed by the whole Standards Committee as a Working Group. However, upon undertaking the initial work for the review, and investigating the protocols used in other authorities, it was found that the Council's current protocol is generally fit for purpose and in line with the comparative protocols which were looked at. However, there are some minor amendments that need to be made to bring it in line with the Council's adopted Code of Conduct:

2.1.1 The 'Gifts and Hospitality' provision in the Code of Conduct refers to the need to declare gifts or hospitality worth an estimated value of £50 or more. The current protocol requires declaration of gifts or hospitality worth an estimated value of £25 or more so this will be amended throughout.

2.1.2 Section 1 – General Introduction - the protocol sets out the requirement of the Code that Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute; this was in the old Code but not in the most recent one so this wording will be removed from the protocol. The breach that does apply has also been strengthened in the adopted Code and now reads:

Members must not use or attempt to use their position as a Member improperly to confer on or secure, for themselves or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which they are excluded from participating or voting as a result of the requirements of Part VI of the Code.

This wording is repeated at Section 2.1 of the protocol.

2.1.3 Section 1 – Legal Position – the protocol indicates that breach of the provisions of the Code can lead to disqualification from holding any public office for a period of up to five years. This is no longer a sanction available since the changes to the standards regime and as such will be removed from the protocol. In addition, the legislation has been updated to reflect the Bribery Act 2010.

2.1.4 The Code of Conduct adopted in 2012 includes general principles of conduct which Members are expected to observe and it is felt those should be included within the protocol.

2.2 The changes identified above are shown in the attached protocol as track changes. Members are asked to recommend to Council that those changes be accepted and the revised Gifts and Hospitality Protocol for Councillors be adopted.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 Protocols from other authorities were reviewed.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 None.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Contained within the report.

Background Papers: None.

Contact Officer: Deputy Monitoring Officer Tel: 01684 272020.
Email: lin.obrien@teWKesbury.gov.uk

Appendices: 1 – Amended Gifts and Hospitality Protocol for Councillors.

TEWKESBURY BOROUGH COUNCIL

GIFTS & HOSPITALITY

PROTOCOL FOR COUNCILLORS

Adopted ~~16-May-2006~~ by Council on 4 December 2018

1. GENERAL INTRODUCTION

Tewkesbury Borough Council's Code of Conduct, adopted on 26 June 2012, requires Members to notify the Monitoring Officer in writing of any gift or hospitality received in their official capacity of an estimated value of at least £5025. *This written notification is registered within the authority's Register of Members' Interests.* The Code also requires that Members must not ~~conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute, or to use or attempt to use their position as a Member improperly to confer on or secure, for *themselves* or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which the Member is excluded from participating or voting as a result of the requirements of Part VI of the Code.~~

In accordance with the adopted Code of Conduct in carrying out their duties in exercising the functions of their Authority, or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct of:

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty; and
- leadership.

This Protocol aims to assist Members in complying with the Council's Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid any situation where their integrity may be brought into question as a result of the receipt of gifts and hospitality.

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The acceptance of gifts and hospitality reflects directly upon the public perception of Councillors and the authority. It is imperative, therefore, that Members only act in the public interest and not for personal advantage. Members should always consider whether the acceptance of any gifts or hospitality could be seen as being inappropriately linked to their official role.

The Code of Conduct does not apply to gifts and hospitality that are not related to a Councillors role, for example presents from friends and family.

Legal Position

The legal position on acceptance of gifts and hospitality is set out in the provisions of the Council's Code of Conduct and in the ~~Prevention of Corruption legislation~~ Bribery Act 2010.

The Bribery Act 2010 provides that it is a criminal offence for a Member (either personally or through a third party, whether for the Member's benefit or the benefit of another) to request, receive, agree to receive, promise, offer or give any gift or loan, fee or reward or advantage for doing or not doing anything or showing favour or disfavour to any person in that official capacity. It is for the Member to demonstrate that any such advantage has not been corruptly obtained. This Protocol should be read in conjunction with the Council's Anti-Fraud and Corruption Policy (which also covers bribery).

~~The relevant provisions of the Code of Conduct are set out above, breach of which can lead to disqualification from holding any public office for a period of up to 5 years.~~

~~The Public Bodies Corrupt Practices Act 1889 provides that it is an offence for any member to corruptly receive or agree to receive any gift, loan, fee, reward or advantage for doing or not doing something in connection with the work of the Council.~~

~~The Prevention of Corruption Act 1916 provides that where such a gift, loan etc. is received by a Member from a person seeking a contract with the Council then the gift or loan is deemed to have been received corruptly. This would put the giver and the receiver in the position of having to prove that they did not act dishonestly.~~

The penalty for corrupt acceptance of a gift or hospitality is a fine (unlimited), imprisonment (maximum ~~seven-ten~~ years), or both.

Remit of Protocol for Gifts & Hospitality

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; and
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

2. GENERAL PRINCIPLES

2.1 In deciding whether it is proper to accept any gift or hospitality, the following principles should be applied. Even if the gift or hospitality comes within one of the general consents set out in section 3 of this Protocol, it should not be accepted if to do so would be in breach of one or more of these principles:

1. Gifts or hospitality shall never be accepted as an inducement or reward for anything done as a Councillor.

Councillors 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.

The Tewkesbury Borough Council Code of Conduct for Members provides that Councillors 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. It is a breach of the Code *for a Member to use or attempt their position to improperly to confer on or secure for himself or any other person an advantage or disadvantage, or seek to improperly influence a decision about any matter from which the Member is excluded from participating or voting as a result of the requirements of Part VI of the Code.*

Any contravention of this principle is likely to contravene the Public Bodies (Corrupt Offences) Act 1889 of which further detail is given in section 1 above.

2. Gifts or hospitality should only be accepted if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality (e.g. 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). The acceptance of a gift is much less likely to confer such an advantage.

Unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption would be that the gift or hospitality is purely for the Councillor's personal benefit, which would be contrary to the provisions of the Council's Code of Conduct as set out in section 1.

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

The appearance of impropriety can be just as damaging to Councillors and the Authority as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest.

Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that either the Councillor or the Authority favours any particular person, company or section of the community or places the Councillor or the Authority under any improper obligation to any person or organisation. *If there is any possibility that it might be so interpreted the gift or hospitality should be refused.*

This principle is of critical importance where decisions and / or actions of the Council could be discredited or even legally challenged, examples of which include:

- (i) undertaking a competitive procurement / tendering process;
- (ii) regulatory decisions, such as determinations of licensing or planning applications, or setting planning policy; and
- (iii) determination of grants or other requests for funding.

Members should also consider whether the individual or organisation offering a gift or hospitality may have dealings within the Council of which the individual Councillor being offered the gift / hospitality is unaware.

(b) Gifts and hospitality must never be accepted which place a Councillor under an improper obligation

Members will recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of gaining influence.

Equally, if others note that a Councillor 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.

(c) Gifts and hospitality should never be solicited

Councillors should never solicit or invite an offer of a gift or hospitality in connection with their position as a Councillor. Care should also be taken to avoid giving any indication that a Councillor might be open to such an improper offer.

3. CONSENT REGIME

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

General Consent Provisions

- 3.1 Subject to the General Principles set out in section 2 of this Protocol, Members may accept gifts and hospitality in the following circumstances:-
 - 3.1.1 civic hospitality offered by another public authority.
 - 3.1.2 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.
 - 3.1.3 tickets for sporting, cultural and entertainment events which are sponsored by the Council.
 - 3.1.4 small gifts of low intrinsic value below ~~£5025~~, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries.
 - 3.1.5 a modest working lunch provided to enable the parties to discuss business.
 - 3.1.6 modest souvenir gifts with a value below ~~£5025~~ from another public authority given on the occasion of a visit by, or to, the authority.
 - 3.1.7 reasonable hospitality provided at external visits, meetings or conferences provided that this is in line with that available to other delegates at the event.
- 3.2 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 is practicable after receipt, the gift should be passed to Democratic Services together with a written statement containing the information set out in paragraph 3.4.1 below. Democratic Services will write to the person or organisation making the gift thanking them on the Councillor's behalf for the gift informing them that the gift will be donated to the Mayor's charity fund on whose behalf it will be raffled or otherwise disposed of in due course.
- 3.3 Where branded gifts are accepted in accordance with paragraph 3.1.4 above care should be taken not to display such items in a manner which might be taken as an indication of favour to a particular supplier or contractor.

3.4 Special Consent Provisions

3.4.1 Members who wish to accept any gift or hospitality which is in accordance with the General Principles set out in Section 2, but is not within any of the general consents set out in Section 3.1, must apply for specific consent, in writing to the Monitoring Officer, giving the following information:

- (i) the nature and your estimate of the market value of the gift or hospitality.
- (ii) by whom or on whose behalf the offer or invitation has been made.
- (iii) the connection which the Councillor has with the person or organisation making the offer or invitation.
- (iv) any work, permission, concession or facility of which the Councillor is aware and which is being sought, or likely to be sought, from the Council by the person or organisation making the offer or invitation.
- (v) any circumstances which lead the Councillor to believe that acceptance of the gift or hospitality would not be improper.

3.4.2 Any Councillor making an application in accordance with the provisions of Section 3.4.1 must not accept the gift or hospitality until consent has been received (in writing / by email) from the Monitoring Officer.

3.4.3 The Monitoring Officer will enter details of any consent given in a register which will be available for public inspection. This consent procedure does not remove the obligation of the Member to register the receipt of any gift or hospitality in accordance with Section 4 of this Protocol.

4. REGISTRATION OF GIFTS AND HOSPITALITY

- 4.1 Any Councillor who accepts any gift or hospitality with an estimated market value or cost of provision of *at least* ~~£5025~~, must, as soon as possible after receipt of the gift or hospitality (but in any event within 28 days of its receipt), make a declaration in writing to the Monitoring Officer setting out the information shown in Paragraphs 3.4.1 above. A form for this purpose is available from the Monitoring Officer, but the information can be sent by any other written means as is convenient to the Councillor.
- 4.2 The requirement to register the gift or hospitality in paragraph 4.1 above applies, regardless as to whether the gift / hospitality has been accepted in accordance with the General Consent Provisions or has been authorised by the Monitoring Officer in accordance with the Special Consent Provision. Any gift/hospitality offered but not accepted does not need to be declared.
- 4.3 The Monitoring Officer will retain a copy of any such declaration in *the Council's Register of Members' Interests* which *is* available for public inspection.
- 4.4 Councillors may voluntarily register the receipt of gifts and hospitality under ~~£5025~~ 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 or on behalf of a contractor, tenderer, or applicant / agent for a planning or licensing application.

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 Councillors should 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 Any Member receiving such an offer on behalf of the Authority, 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, or whether there is a real benefit to the authority which would outweigh any dis-benefits).
- 5.4 If the Councillor considers that the offer is of real benefit to the Authority the Councillor should report the offer directly to the Monitoring Officer who will then arrange for the appropriate Officer of the Council to 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 Authority.
- 5.5 If Members have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, they should consult the Monitoring Officer.

6. DEFINITION OF GIFT AND HOSPITALITY

6.1 Gift of hospitality includes any:-

- (i) free gift of goods or services.
- (ii) money (or loan), gift voucher, lottery ticket, raffle ticket or anything else offering the chance of winning a prize.
- (iii) 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.
- (iv) opportunity to obtain any goods or services which are not available to the general public
- (v) 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 or hospitality are references to the higher of:-

- (a) the Councillor's estimate of the cost to the person or organisation of providing the gift or hospitality.
- (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 the Councillor would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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