

NORTH LINCOLNSHIRE COUNCIL

**CORPORATE AND COMMUNITY
SERVICES
CABINET MEMBER**

**CODE OF PRACTICE FOR EMPLOYEES RELATING TO INTERESTS AND GIFTS
AND HOSPITALITY**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To invite the Cabinet Member to consider approving an updated code of practice for employees in relation to interests and gifts and hospitality.
- 1.2 The updated version of the code includes specific references to legacies and bequests and the Bribery Act 2010. (Paragraphs 5 and 6 of the code refer).

2. BACKGROUND INFORMATION

- 2.1 Employees are required by the Local Government Act 1972 to make declarations of interest, especially pecuniary interests relating to any contracts or proposed contracts entered into by the council. There are no statutory requirements in relation to gifts and hospitality. However, there are provisions for local codes of practice contained in the 'Green Book' (National Joint Council National Agreement on Pay and Conditions of Service Handbook), and in other national conditions of employment for senior officers, as well as in various professional codes. In addition, the Audit Commission previously suggested that local councils establish procedures specifically for the control of gifts and hospitality to officers. In 1994 the Local Government Management Board and the Local Authorities Association produced a voluntary Code of Conduct for Local Government Employees. This included requirements in relation to interests and gifts and hospitality.
- 2.3 The provisions of the 1994 code were incorporated into a North Lincolnshire code of practice relating to interests and gifts and hospitality which was last reviewed in 2009. The proposed updated version, attached as appendix 1, includes organisational changes, and clarifies how employees' should respond to legacies and bequests and makes specific reference to requirements of the Bribery Act 2010. The updated code continues good practice and forms part of council's governance arrangements. It also demonstrates a commitment to the council's Counter Fraud Strategy and is included in its Human Resource Manual.

- 2.4 In August 2005 a code of conduct for employees was incorporated into the terms and conditions of employment of all employees other than those in schools. It requires employees to “comply with council requirements in the registration of interests” and to “declare hospitality, benefits or gifts received as a consequence of employment” .The code makes clear that any breach of it would also be a breach of the Code of Practice Relating to Interests and Gifts and Hospitality and could lead to disciplinary action.
- 2.5 It is proposed to inform all employees of the updated code of practice through the intranet, People magazine and the ‘weekly roundup’ corporate communication etc. It will also be made available to school governing bodies for their consideration and possible adoption.

3. OPTIONS FOR CONSIDERATION

- 3.1 To approve the proposed updated code, with or without amendments.
- 3.2 To not approve the code.

4. RESOURCE IMPLICATIONS (FINANCE, STAFFING, PROPERTY, IT)

- 4.1 There may be some additional workload administering the application of the updated code if giving it publicity attracts more declarations. There could be implications for Democratic and Legal Services and Human Resources in enforcing any breaches of the code that come to light.

5. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 –CRIME AND DISORDER, RISK AND OTHER)

- 5.1 Adoption and implementation of the updated code will enable the council to continue complying with the requirements of the Local Government Act 1972, Bribery Act 2010, Audit Commission’s recommended good practice, its own constitution and Human Resource Manual.

6. OUTCOMES OF CONSULTATION

- 6.1 The trade unions have been consulted through the Corporate Consultative Group and no adverse comments have been received.
- 6.2 The policy is issued to all users via net-consent. Staff members who are not on the network will be issued with a copy of the policy and consent form, which they will be asked to sign and return.

7. RECOMMENDATIONS

- 7.1 That the updated code attached as Appendix 1 to this report be approved and adopted;
- 7.2 That employees be informed of the updated code as outlined in paragraph 2.5 of the report, and
- 7.3 That the updated code be made available to school governing bodies for their consideration and possible adoption.

DIRECTOR OF CORPORATE AND COMMUNITY SERVICES

Civic Centre
Ashby Road
SCUNTHORPE
DN16 1AB
Author: RAM
Ref: R A Mell
23 March 2012

Background Papers used in the preparation of this report: Nil



CODE OF PRACTICE FOR EMPLOYEES RELATING
TO INTERESTS AND GIFTS
AND HOSPITALITY
(April 2012)

W.S Bell
Monitoring Officer

1. INTRODUCTION TO THE CODE OF PRACTICE

1.1 Purpose of the Code

1.1.1 Employees are required by law to declare any pecuniary interests that they have in any contract or proposed contract entered into by the council.

1.1.2 From time to time, employees are also faced with the difficulty of deciding whether or not to accept 'gifts or hospitality' which arise during the course of business activities.

1.1.3 It is the purpose of the Code to provide employees of North Lincolnshire Council with a set of principles and procedures that should guide them in such circumstances and thereby maintain the actual and perceived integrity of the council in the way it conducts its affairs.

1.2 Scope of the Code

1.2.1 This code relates to the council's requirements in relation to interests and gifts and hospitality. The more general requirements in terms of employee conduct are contained in the local Code of Conduct which has been issued to all employees and now forms part of the terms and conditions of employment of all employees. In addition to this the Code also provides that a breach of this Code of Practice will constitute non – compliance for the purposes of that Code which may result in disciplinary action. The code will only apply to schools based staff if adopted by the relevant board of governors.

1.3 National Guidelines

1.3.1 Paragraph 2 of Part 2 of the "Green Book" (National Joint Council National Agreement on Pay and Conditions of Service Handbook) states that:

"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.

Similar provisions are to be found in other conditions of service for Senior Officers and in professional Codes of Conduct.

1.3.2 A Code of Conduct for Local Government Employees, prepared in 1994 by the Local Government Management Board and the Local Authority Associations, lays down guidelines "which will help maintain and improve standards and protect employees from misunderstanding and criticism". The Code includes a section on hospitality and is intended to cover all employees under a contract of employment within local government. Activities carried out by employees acting as members of companies or voluntary organisations are

likewise covered. The advice in the Code is incorporated in the ensuing paragraphs.

- 1.3.3 The Audit Commission suggests that procedures be established specifically for the control of hospitality to officers.

2. **INTERESTS**

- 2.1 The Local Government Act 1972 S117 requires that "if it comes to the knowledge of an officer, employed under this Act or any other enactment that a contract in which he has a pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be entered into by the authority or any committee thereof he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein".
- 2.2 An employee would be regarded as having indirectly a pecuniary interest if "he or any nominee of his is a member of a company, or other body with which the contract was made or is proposed to be made" or "is a partner, or is in the employment of a person with whom the contract was made or is proposed to be made". "In the case of married persons living together the interest of one spouse shall if known to the other be deemed also an interest of the other". (S95 Local Government Act 1972)
- 2.3 Employees should not undertake the preparation of plan documentation that is to be formally submitted to the council for approval, such as planning and building regulation applications.

3. **GIFTS AND HOSPITALITY**

- 3.1 Examples of the kind of gifts or hospitality which might be made include:

- (i) **Gifts**

Stationery items such as pens, notepads, calculators, or carrier bags; food or confectionery, particularly chocolates and biscuits; flowers or plants, ornaments; wine and spirits; articles of clothing; jewellery or watches; tickets for cultural or sporting events; discounted rates for hire or purchase; free publications; cash; and providing business where the employee concerned is engaged in some private business or commercial activity.

- (ii) **Hospitality**

Free meals; drinks receptions; hospitality tents at shows; exhibitions or conferences; music and cultural events; sport and leisure events, particularly golf competitions; use of company facilities; hotel accommodation; and holidays.

- 3.2 In the case of gifts, it is possible to make a distinction between those gifts which would have a use or value to the council and those which are clearly intended for personal use.
- 3.3 All offers of gifts and hospitality must be refused where they are made under the following circumstances:
- (i) by commercial companies, charities or voluntary bodies or individuals in the process of dealing with the council over legal, statutory or enforcement matters; or
 - (ii) by commercial companies or businesses formally requesting to be added to the council's list of tenderers for approved works.
- 3.4 Offers of any of the following must be refused under all circumstances:
- (i) cash;
 - (ii) paid holidays; and
 - (iii) use of company flats or facilities.
- 3.5 Offers of gifts must be treated with extreme caution at all times and, whilst only an offer of cash must automatically be refused, gifts exceeding a value of around £25 should be tactfully refused if they are intended for exclusively personal or private use, such as jewellery or clothing.
- 3.6 Offers of gifts which could be of value to the council or to an officer, in the course of council business, such as calculators, ornaments or books, may be accepted without any limit on the value. It should, however, be clear that the council would not wish to negotiate an agreement excluding acceptance of such items i.e., at a special discount. Also, unless otherwise agreed by the council, the item will pass into the ownership of the council.
- 3.7 Offers of hospitality made by individual members of the public must be refused at all times.
- 3.8 Offers of hospitality should usually be refused if the company making the offer is either not known to the person receiving the offer or had not given a clear reason why it is making the offer.
- 3.9 Offers of non-excluded gifts or hospitality made by other public bodies or local authorities, councillors and/or by professional or academic institutions may be accepted.
- 3.10 On occasions employees may receive offers of gifts they must refuse but for various reasons find it difficult or almost impossible to do so. (for example, gifts left for them in their absence). If this happens, then the employee must declare it and can donate it to the Mayor's charity (contacting Mayoral Services). This donation should be recorded on the declaration form.

- 3.11 Offers to attend private, social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented.
- 3.12 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised.
- 3.13 Where visits to inspect equipment etc are required, employees should ensure that the authority meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 3.14 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.

4. RECORDS AND PROCEDURES

- 4.1 Employees wishing to declare an interest or the offer of gifts or hospitality should complete a form provided by the Head of Democratic Services. The form should be returned to the Head of Democratic Services at the Civic Centre, Scunthorpe.
- 4.2 The form for declaring gifts and hospitality will specify the source of the offer; whether it was accepted; the approximate value; and, if accepted, the reasons. It will not be necessary to record "modest" offers of gifts. "Modest" items/mementoes are considered to be those valued at less than £25. They would, as a general rule, only be items of a promotional character e.g. calendars, diaries, articles for office use, or a token such as flowers presented during a courtesy visit. Likewise, it will not normally be considered necessary to record offers of hospitality made in the circumstances endorsed in paragraph 3.11 above.
- 4.3 The form declaring interests will specify the nature of the pecuniary interest.

5 THE BRIBERY ACT

- 5.1 An employee must not accept, offer or receive a bribe in any circumstances. A bribe is giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so.
- 5.2 The Bribery Act 2010 came into force on 1 July 2011 and it says that a person is guilty of an offence if they:

- Offer, promise or give a bribe to another person to induce or reward them to perform a relevant function improperly
- Request, receive or accept a bribe as a reward for performing a relevant function improperly
- Use a bribe to influence a foreign official

5.3 A “relevant function” is an activity of a public nature which should be carried out in either good faith, impartially, or that the person performing it is in a position of trust.

5.4 Employees should be aware that the penalties for offences committed under the Bribery Act 2010 include up to 10 years’ imprisonment and an unlimited fine.

5.5 The Council does not condone bribery of any form, in any circumstance.

6. LEGACIES AND BEQUESTS

6.1 Employees who work closely with service users and/or care for vulnerable people as part of their duties may, be offered a legacy or left a bequest in the will of the service user, financial or otherwise. As a general rule staff should not accept such legacies or bequests from service users. Where a service user offers to name a member of staff in their will it is important that this is discouraged. A charity could be suggested as an alternative. Any offer or conversation of this nature must be reported to your line-manager.

6.2 Where, without your prior knowledge, a service user has left a legacy or made bequest to you, this must be reported to your line-manager immediately. Your Director, following consultation with the council’s Monitoring Officer, will consider whether the legacy or bequest can be accepted in whole or part, or whether it should be donated to charity or refused. Prior to any acceptance you must receive written approval from your Director.

6.3 Where employees work closely with vulnerable people they should never be involved in assisting these service users with the making of a will. If asked to assist by a service user, this should be refused politely and be reported to your line-manager immediately.

7. MANAGING THE CODE OF PRACTICE

7.1 The Monitoring Officer is responsible for taking steps to make all employees aware of the Code of Practice and its content and the procedure for recording offers of gifts and hospitality and interests. He also ensures that a register of these is maintained.

7.2 The Monitoring Officer will ensure that all new recruits to the council are informed of these requirements, and will organise any briefing sessions as appropriate.

8. **MONITORING AND REVIEW**

- 8.1 Directors will be responsible for ensuring that any officer with a declared interest is removed from procurement or contractual dealings as appropriate.
- 8.2 The Code of Practice will be periodically reviewed by the Monitoring Officer. Any further clarification or interpretation of the Code that may be found necessary will be formally communicated to all employees. Any substantial amendments to the Code that are considered necessary will be formally reported through appropriate Democratic procedures.

NORTH LINCOLNSHIRE COUNCIL

DECLARATION OF INTEREST BY EMPLOYEE

Name of Employee

Post

Service

Workplace

Workplace Telephone

Does the interest relate to a specific contract or proposed contract with the council?

Yes/No

What is the nature of the interest? (Please include all information you think may be relevant)

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(*Please delete as applicable)

Please return this form to the Head of Democratic Services, at the Civic Centre, Scunthorpe.

If you require any assistance in completing this form please contact Democratic Services on 01724 296232/6231

NORTH LINCOLNSHIRE COUNCIL

**DECLARATION OF OFFER/RECEIPT OF A GIFT
OR HOSPITALITY (EMPLOYEE)**

1. OFFER OR GIFT/HOSPITALITY

NATURE OF GIFT/HOSPITALITY AND ESTIMATED VALUE	BY WHOM GIFT WAS OFFERED	DATE OF OFFER

2. ACCEPTANCE OF GIFT/HOSPITALITY
WAS THE GIFT/HOSPITALITY ACCEPTED? (Please tick appropriate box)

YES	NO

3. REASON FOR ACCEPTANCE
If the gift/hospitality was accepted, please give your reasons:

Signed: _____ Date: _____

(BLOCK CAPITALS) _____ Received: _____

Please return to the Head of Democratic Services, at the Civic Centre, Scunthorpe.

If you require any assistance in completing this form please contact Democratic Services on 01724 296232/6231