

ATODIAD / ENCLOSURE D

5.8 GIFTS AND HOSPITALITY

A PROTOCOL FOR MEMBERS AND CO-OPTED MEMBERS

This protocol has been adopted by the Council to give guidance to Members about registering gifts and hospitality.

5.8.1 Introduction

5.8.1(a) The acceptance of gifts and hospitality by Members is more than an administrative issue. It reflects directly upon the perception of Members and of the Council as acting in the public interest rather than acting for the personal advantage of friends or family and for what personal benefit Members can get out of their position.

5.8.1(b) The law on the acceptance of gifts and hospitality is set out in the Council's Code of Conduct for Members and in the Prevention of Corruption Acts. These requirements are then supplemented by the procedures which have been adopted by this Authority, to provide a clear set of rules for the protection of both Members and the Council. 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.

5.8.2 This Protocol

5.8.2 (a) This Protocol relates to any offer, gift, favour or hospitality that is made, given, or afforded to you in your capacity as a Member. It is not intended to cover the ordinary social relationships which people enjoy with friends, provided that the friend is not applying to the Council for anything, seeking to do business with the Council, or involved in an ongoing business relationship with the Council.

5.8.2(b) This Protocol sets out the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality, and a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council. This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council. The procedure set out follows what has always been the practice of this Council.

5.8.3 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles:

5.8.3(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Member or as a means of gaining influence.

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 Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years.

Further, the Council's Code of Conduct for Members provides that you must act in the public interest, serving the Council 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.

5.8.3(b) Never accept a gift or hospitality if acceptance might be open to misinterpretation

The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Gifts or hospitality offered should not be accepted where the circumstances are likely to be misinterpreted by a reasonable member of the public. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council 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:

- (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
- (iii) funding decisions, when the Council is determining a grant application by any person or organisation.

5.8.3(c) Never accept a gift or hospitality which puts you under an improper obligation

Recognise that 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 Council.

5.8.3(d) 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.

5.8.3(e) You should only accept hospitality if there is a commensurate benefit to the Council.

The only proper reason for accepting hospitality is that there is a commensurate and proportionate benefit for the Council (and/or the public whom it represents) which would not have been available but for the acceptance of that hospitality.

Acceptance of hospitality can confer a legitimate advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch/dinner etc. or to canvass and promote the interests of the Council and its area at a meeting. Unless the benefit to the Council is clear, and is commensurate with the value of the hospitality, the presumption must be that the hospitality is purely for your personal benefit.

As set out above, the Council's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance, as a Member, of hospitality for your own benefit or advantage, rather than for the benefit to the Council or the public, would be a breach of the Code.

5.8.4 Reporting

5.8.4(a) Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £20 or greater you must, as soon as possible, and in any event within 28 days after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer. Such declaration will be recorded in a register which will set out the date of declaration, the date on which the Member received the hospitality, the name of the Member, the nature of the gift or hospitality etc. A form for recording purposes by Members is attached to this Protocol. The register will be available for public inspection during the term of the Council.

5.8.4(b) Even if the value of the gift or hospitality is less than £20, 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.

5.8.4(c) For the avoidance of doubt an offer of any gift or hospitality, which has been refused by you, does not need to be declared.

5.8.5 Gifts to the Council

Gifts to the Council 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 Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any disadvantages). If you do not have

delegated 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 back to the person or organisation making the offer, to record the acceptance or non acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

5.8.6 Prejudicial interests

You need to be aware that the receipt of a gift or hospitality may be a prejudicial interest and the rules in relation to prejudicial interests in the Code would apply. That is to say you may need to declare the interest, leave the room in which the matter is being considered, and not participate in any way in the discussion/decision making process.

5.8.7 Definitions

5.8.7(a) "Gift or hospitality" includes:

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

5.8.7(b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration.
- (ii) 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.

ISLE OF ANGLESY COUNTY COUNCIL

DECLARATION BY MEMBERS AND CO-OPTED MEMBERS OF ACCEPTANCE OF GIFT AND/OR HOSPITALITY

Please read the Guidelines set out in the Protocol on Gifts and Hospitality and then complete the details below.

Name of Member/Co-opted Member	
Name of Donor/Provider	
Description of the gift or hospitality	
Value/estimated value of the gift/hospitality	
When and where you received the gift/hospitality	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact whether in your role as a Councillor, or otherwise, with the person or organisation providing the gift or hospitality? Please provide details	
Details of any contract the Donor/Provider is interested in securing	
Further comments (if any)	
Signed	
Date	