

AUDIT AND GOVERNANCE COMMITTEE

DATE	21/04/2022
REPORT OF	Sharon Wroot Executive Director of Environment, Economy and Resources
SUBJECT	Register of Interests, Gifts and Hospitality (Officer Interests)
STATUS	Open

CONTRIBUTION TO OUR AIMS

Strong and robust governance around issues such as interests, gifts and hospitality is essential in order to instil confidence and assurance that both Members and Officers of the Council act with complete propriety, transparency, and openness.

EXECUTIVE SUMMARY

As part of its annual work programme and being the forum charged with testing and interrogating the Council's governance mechanisms a report was agreed to be brought forward covering this subject.

The report is limited to Officer (Employee) Interests, Gifts and Hospitality, the Committee is to note that mechanisms are in place in connection with Members of the Council and Directors. As such this report will not consider those mechanisms.

RECOMMENDATIONS

It is recommended that the Audit and Governance Committee:

1. Receive and note the report.

REASONS FOR DECISION

As the forum charged with overseeing the Council's governance arrangements; obtaining assurance around the treatment of officer interests, gifts and hospitality is part of the Audit and Governance Committee's remit.

It is hoped that the content of this report gives the Committee sufficient assurance of robust process and appropriate governance around these matters.

1. BACKGROUND AND ISSUES

The Council recognises that the transparent treatment of such matters is both a matter of law and of good governance, promoting behaving with integrity, openness and transparency.

As such appropriate constitutional protocols have been developed and firmly established in order to ensure that proper regard is had to such matters:

- An employee policy for acceptance of gifts and hospitality.
- An employee policy for registering interests.

Our Employee Code of Conduct sets down standards of behaviour and conduct the Council expects of its employees.

1.2 Gifts and Hospitality:

- 1.2.1 In its Gifts and Hospitality – A Code of Conduct for Employees, employees are offered guidance around the treatment of gifts and hospitality arising during the course of employment. The Code offers a clear and consistent set of principles and procedures to guide employees in the above circumstances and maintain the actual and perceived integrity of the Council.
- 1.2.2 The principles form part of the Employee Code of Conduct and any breach of the principles or a failure to declare interests or gifts and hospitality can result in disciplinary action or in certain circumstances criminal prosecution.

1.3 GIFTS AND HOSPITALITY

- 1.3.1 Employees are reminded that they should treat with extreme caution any offer of a gift, favour or hospitality that is made to them personally. In deciding whether it is proper to accept any gift or hospitality, employees should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, the employee should not accept it if to do so would be in breach of one or more of these principles:
 - 1.3.1.1 Employees should not accept any gift or hospitality in connection with the performance of their duties as an officer of the Council. Employees are paid by the Council for the performance of their duties and Section 117(2) of the Local Government Act 1972 makes it a criminal offence for an employee to accept any fee or reward whatsoever other than their proper remuneration.
 - 1.3.1.2 Employees must never accept a gift or hospitality as an inducement or reward for anything they do in their job. Employees are reminded that they 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.
 - 1.3.1.3 Employees must only accept a gift or hospitality if there is a commensurate benefit to the Council. The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council, and not the employee, which would not have been available but for the acceptance of that gift or hospitality. That benefit might come in many forms, such as an opportunity to progress the business of the Council expeditiously through a working lunch, to canvass the interests of the Council and its area at a meeting, or the opportunity to examine or test new products which the authority might wish to acquire. Employees are cautioned against accepting a gift or hospitality if acceptance might be open to misinterpretation
 - 1.3.1.4 Employees must consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that the employee or the Council favours any particular person, company or section of the community or as placing the employee under any improper obligation to

any person or organisation. If there is any possibility that it might be so interpreted, employees must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

1.3.1.5 Never solicit a gift or hospitality

Employees must never solicit or invite an offer of a gift or hospitality in connection with their work unless the acceptance of that gift or hospitality would be permitted within one of the general consents set out below. Employees should also take care to avoid giving any indication that they might be open to such an improper offer.

1.3.2 The general consents permit acceptance of gifts and hospitality in limited circumstances:

1.3.2.1 Civic hospitality provided by another public authority

1.3.2.2 Tickets for sporting, cultural and entertainment events which are sponsored by the Council

1.3.2.3 Small gifts of low intrinsic value below £25

1.3.2.4 A modest alcoholic or soft drink on the occasion of an accidental social meeting

1.3.2.5 A modest working lunch in the course of a meeting and with whom the Council has an existing business connection

1.3.2.6 Unsolicited gifts, where it is impracticable to return them, provided that the gift is passed to the Mayor's PA for inclusion in the Mayor's Charity Fund

1.3.3 In all other cases, the advice of the Monitoring Officer must be obtained before a decision is taken to accept a gift or hospitality.

1.3.4 Declaration of Gifts and Hospitality

1.3.4.1 Where an employee accepts any gift or hospitality estimated to have a value of £25 or greater, they must, as soon as possible after receipt of the gift or hospitality, make and complete a Declaration of Receipt of Gifts or Hospitality form.

1.3.4.2 Even if the value of the gift or hospitality is less than £25, if an employee is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may complete the Declaration of Receipt of Gifts or Hospitality form as above to ensure that there is nothing secret or underhand about the gift or hospitality.

1.3.4.3 Acceptance of any gift or hospitality other than in accordance with the above principles will be outside an employee's proper remuneration, and will therefore be a criminal offence carrying a maximum fine of £2,500.

1.3.4.4 Employees are reminded on a monthly basis by way of email of the necessity to declare any such gifts. Declarations are then reviewed by the Monitoring Officer as they are made.

1.3.4.5 In the interests of transparency registers are published on an annual basis on our website and are open to scrutiny. [Council workforce | NELC \(nelincs.gov.uk\)](https://nelincs.gov.uk)

1.4 INTERESTS

1.4.1 In its Gifts and Hospitality – A Code of Conduct for Employees, employees are reminded that as a matter of law they are required to declare any direct or indirect pecuniary interests that they have in any contract or proposed contract entered into by the Council.

1.4.2 Employees may find that there is a conflict of interest between their official duties and their private interests, or the interests of their relatives, close friends or associates. Failure to recognise a conflict of interest can give the impression that the Council or the employee are not acting in the public interest but serving particular individuals or sectors of the community.

1.4.3 Private interests may be:

- a. pecuniary interests, such as shares in a company or a relative, close friend or associate's position as an employee of a firm tendering to provide say, architectural or building services to the Council, where the employee, employee's relatives, close friends or associates stand to gain or lose financially if that interest is affected by a decision of the Council.
- b. a non-pecuniary interest, such as membership of a recreational club, children's attendance at a particular school or membership of a sports association. In such cases employees, employees' relatives, close friends or associates may not stand to gain or lose financially, but their interests or well-being may be advantaged or disadvantaged by a decision of the Council.

1.5 Declaration of Interests - Officers

1.5.1 On appointment, employees complete the Declaration of Interests form to the best of their ability, setting out any known pecuniary interests in contracts or proposed contracts with the Council or other private interests that may conflict with the duties of their role.

1.5.2 Completed declarations are submitted to the line manager, who following review will upload the document to an internal portal. Concerns about any apparent conflicts of interest will be referred to the relevant Director.

1.5.3 An employee must inform their line manager and update their declaration within 28 days of becoming aware of any material change in respect of their interests, for example a planning application has been received from a supermarket company which could adversely affect an employee's home and in the course of their duties they would be

required to provide technical advice in relation to the planning application.

- 1.5.4 Employees may request access to their declaration at any time and may correct or update it as required
- 1.5.5 Declarations may be inspected by Senior Officers of the Council, by the Council's auditors and by the Ombudsman. If the Council receives a third party request for information held on the register it will be considered in accordance with the Data Protection Act 1998 and supporting legislation.
- 1.5.6 Declarations of interests will be reviewed by the line manager on a regular basis during Supervision and Appraisal meetings in order for employees to confirm that the information held is correct and up-to-date.
- 1.5.7 All such declarations are reviewed on an annual basis by the Monitoring Officer and the Head of People and Culture.
- 1.5.8 This particular aspect of the Code of Conduct has been the subject of further consideration by the Corporate Governance Group as the Group has recognised that the visibility of the need to ensure that declarations are regularly reviewed and updated may not be as socialised with employees as the need to declare gifts and hospitality. Further, an annual review may be inadequate.
 - 1.5.8.1 Therefore:
 - the links to enable the making of declarations have been brought forward and are more visible on the internal intranet for employees;
 - managers are reminded of the need to raise declarations with employees as part of any supervision and appraisal process;
 - a recent reminder has been circulated to all employees via People and Culture;
 - arrangements are being made for declarations to be featured on the regular monthly email to all employees covering off gifts and hospitality;
 - internal IT function is looking at a solution whereby as soon as a declaration is made it is automatically referred both to the Monitoring Officer and Head of People and Culture for immediate assessment and to enable any concern to be made in a more timely manner.
- 1.5.9 Flowing from the above, and as part of the Code for Employees, employees are reminded of actual and perceived conflicts of interest and how these can be managed.

2. RISKS AND OPPORTUNITIES

Clearly the risks around not having a sufficiently robust governance framework around these issues would put the Council in breach of its statutory duties and leave it exposed to criticism, reputational harm and general allegations of impropriety. The clear advice, requirements and processes in place meet such obligations and should provide sufficient assurance that the Council takes its duties seriously and seeks to ensure that its employees act with utmost integrity, openness and transparency.

3. OTHER OPTIONS CONSIDERED

There are no alternatives but to have a robust governance framework in place. The Code referred to above is clear in its expectations and sets out the standards of behaviour and compliance reasonably expected of its employees.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

Adverse reputational issues would arise if the Council could not demonstrate a robust and transparent approach to these issues.

5. FINANCIAL CONSIDERATIONS

There are no financial considerations flowing from the content of this report.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

There are no such implications arising directly out of this report

7. FINANCIAL IMPLICATIONS

There are no financial implications immediately arising and therefore no financial monitoring comments have been sought.

8. LEGAL IMPLICATIONS

As stated above, the Council is under various statutory requirements to have a robust governance structure in place and any breach may result in a criminal conviction. Legal implications flowing from the above could reasonably touch upon The Public Bodies (Corrupt Offences) Act 1889 which provides that if any gift, loan, fee, reward or advantage whatsoever is accepted as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, then a criminal offence may be committed.

Further, employees are paid by the Council for the performance of their duties and Section 117(2) of the Local Government Act 1972 makes it a criminal offence for an employee to accept any fee or reward whatsoever other than their proper remuneration.

Under the Bribery Act 2010 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 or request, receive or accept a bribe as a reward for performing a relevant function improperly

9. HUMAN RESOURCES IMPLICATIONS

As stated above, the Council has in place processes and procedures to ensure that employees are able to declare their interests, gifts and hospitality during their employment. The Corporate induction event and induction checklist ensure that this is visible and known to all new employees and regular reminders are issued to remind longstanding employees of their responsibilities. Any potential breach of the above regulations would result in the appropriate policy and procedure being followed.

10. WARD IMPLICATIONS

Borough wide

11. BACKGROUND PAPERS

Employee Code of Conduct [Part-3-Codes-and-Protocols-v2.pdf \(nelincs.gov.uk\)](https://nelincs.gov.uk/Part-3-Codes-and-Protocols-v2.pdf)

Gifts and Hospitality – A Code of Conduct for Employees [Part-3-Codes-and-Protocols-v2.pdf \(nelincs.gov.uk\)](https://nelincs.gov.uk/Part-3-Codes-and-Protocols-v2.pdf)

12. CONTACT OFFICER(S)

Simon D Jones
Assistant Director Law, Governance and Assets
(Monitoring Officer)
(01472) 324004

Victoria Leach
Head of People and Culture
(01472) 326699

Sharon Wroot
Executive Director Environment Economy and Resources