

## Appendix 1 Employee Code of Conduct supporting policies

### Employee interests policy.

This policy sets out the rules for dealing with employees' interests. It applies to all employees of the council, irrespective of grade or role. If you supervise workers who are not employees (for example contractors, consultants or temporary agency workers) you should make them aware of this policy and make clear their duty to follow it.

If you supervise/line manage other employees you should make sure they know about and understand the policy. If the people you supervise fail to comply with the policy, you should take action. You may want to ask your supervisor or human resources service for guidance, or consider using another policy or procedure to guide your response, for example the resourcing and managing performance policy or the procedure where performance, conduct or behaviour falls below expected standards.

If you do not follow this policy then it may be deemed that you have failed a reasonable management instruction and/or you may be referred into formal procedures, including the disciplinary procedure. Depending on all the circumstances of the case, a potential outcome of disciplinary action is dismissal. You should treat this policy seriously, and make sure you understand it.

If you are unsure about any part of this policy you should get clarification from your line manager or from the Human Resources service.

#### **Scope**

This policy is designed not just to prevent you from being inappropriately influenced, but also to reassure the public that we are monitoring any potential influence and addressing any risks.

These rules apply to all employees, as public confidence could be affected at any level of the organisation.

This policy is not about prying into the private lives of our employees; it is about protecting public confidence in our services and people, and making sure that employees are not making decisions based on influences from outside of work, or their associations outside work.

#### **Definitions**

##### *Outside interests*

Outside interests means any interest, or connection, that is not a necessary part of your role at the council.

You have to seek permission, in writing from your director<sup>1</sup> to:

- take other paid employment (this includes both long-term jobs, self-employment, and one-off work such as writing articles or speaking at conferences)

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<sup>1</sup> Or in the case of a director, the chief executive, or in the case of the chief executive, the Employment Panel.

- be a trustee or board member (whether paid or not) of a charity or company which receives financial support from, or provides services to or on behalf of the council

You should seek permission for an outside interest from your director. If you are given permission for the interest, you will also need to declare it.

If you already have other paid employment or are a trustee or board member (as described above) then you should declare it each time you complete the annual declaration of interests.

### *Conflict of interest*

A conflict of interest is a situation where a reasonable person might think that someone in the same role as you, with the same outside interests as you, could be influenced in the decisions or recommendations they make as part of their work for the council.

A good rule of thumb is to ask, “Is this something that might make a reasonable person question the fairness or impartiality of someone in my role?”

### **Confidentiality**

You may have to declare personal information.

Although it will be necessary for an employee’s immediate manager and director to have access to your declaration to ensure robust governance, care should be taken to ensure that information contained in declarations is not shared more widely or more explicitly than necessary.

Some declared interests may be published. The limited circumstances in which this can happen are explained in detail in this policy.

### **Overview of policy relating to interests**

The process for declaring interests is as follows:

- Declaration of interests
- Assessment of declared interests to establish any potential perception of conflicts of interest
- Remedial action to mitigate or remove any potential perception of conflicts of interest
- Publication of interests in the few circumstances set out in this policy
- Ongoing monitoring for potential conflicts of interest

### **Declaring interests**

There are a number of types of interests which you should declare about yourself:

#### **a) Your own membership of organisations**

#### **Which organisations the council needs to know about**

You should declare if you are a member (whether or not you think there may be a conflict of interest) of any organisation which has one or more of the following characteristics:

- is a governing body of an educational establishment within Herefordshire

- it requires members to make promises of mutual aid and support (even if you consider those promises to be merely ceremonial). This category does not apply if members promise aid and support equally to members and non-members.
- is not open to the public without formal membership with a commitment of allegiance and with secrecy about rules or membership conduct.
- has been designated a proscribed terrorist group or organisation by the government (a list is maintained by the Home Office)

Any body which you are in a position of general control or management. This does not include general management or subscription or were the member is appointed or nominated by the council).

- any body exercising functions of a public nature
- any body directed to charitable purposes
- any body whose principle purposes includes the influence of public opinion or policy including any political party
- any body which is not open to the public without formal membership

**You should also declare if you are a member of any organisation which:**

- has dealings with the council.

**What is meant by organisation**

“Organisations”, in this context, include clubs, associations, societies, voluntary organisations, religious bodies and sects, political and quasi-political organisations. (This list is not exhaustive, which means that something which is not mentioned may still be considered to be an “organisation”.)

**What is meant by an organisation having “dealings” with the council**

“Dealings” includes:

- doing work for the council or providing work to the council
- giving or receiving grants or sponsorship
- any arrangements which involve sharing or exchanging staff
- any formal collaboration or contracts with the council
- any investment into the organisation from the council, or investment from the organisation into the council

**What details you need to declare**

You should tell us the name(s) of the organisation(s) of which you are a member of, the role you hold and why you are declaring your membership, for example, “It is a governing body of an educational establishment,”

If you are declaring membership because of a potential perception of a conflict of interest, you should tell us what the potential conflict is: for example, “There may be a conflict of interest because they are bidding for council land at Council Estate, Kington and I sometimes evaluate land bids.”

**Implications of a declaration**

The list of “dealings” provides guidance as to the sorts of activities which will require particular checking by your Director (or their nominee), or which should be handled by other staff, when the organisation in question (or its competitors) is involved.

There is not a blanket ban on all staff being a member of the groups outlined above

## **b) Your associations with other businesses (including employment outside the council)**

### **What is meant by “associations with other businesses”**

You should declare any of the following whether paid or unpaid:

- Any employment outside the council
- Any consultancy work
- If you are a Director of a business, whether it is paid or unpaid
- If you are a partner in a business
- If you hold shares in a business (other than banks and building societies. See below for details)
- If engaged on a retainer basis by a business

You should include the:

- Name and address and nature of additional business, or other employment
- Name and address of the company, firm or other body or individual of whom consultancy is undertaken and nature of consultancy with an indication of frequency or volume of such work
- Name and address and nature of business of each company or other body of which you are a director, with an indication of whether it is in a paid or unpaid capacity
- Name and address and nature of business of each firm or company in which you are a partner
- Name and address and nature of business of each firm or company in which you hold shares (other than a bank or building society)
- Name and address and nature of additional business, or other employment

### **What details you need to declare**

If you are declaring membership of a business, you should tell us the nature of your membership of the business, for example your title in that organisation.

In addition to the above, you should declare:

- any additional details set out above for the type of association
- whether you are aware of any possible perception of a conflict of interest and, if so, the details of what that conflict might be

The holding of shares or other securities in an organisation with whom the council contracts, or is considering contracting, should be declared if the holding exceeds £25,000 or more than 1/100th of the nominal value of the issued share capital, whichever is less. You do not have to declare the size and nature of your interest, just the name of the company.

Please remember that this element of your declaration (i.e. associations with other businesses) may be published in some circumstances. Please refer to paragraph xxx for details.

If we publish your interests declared as associations with other businesses, then we will want to include the detail set out in the procedure.

### **Implications of a declaration**

Directors should consider reassigning any elements of the role which require interaction with the business in question (or the business' rivals). Additional oversight may be required where decisions are made to use those businesses. The director should ensure that the employee is clear about the implication of the principles of openness and stewardship in the context of their outside interests.

As a rule of thumb, the council does not expect its employees to be engaged in work for more than 48 hours a week, including work for other organisations.

### **c) Your beneficial interests in land and property**

#### **What you need to declare to the council**

You should declare if:

- you have a beneficial interest in any land or property within the county boundaries. This excludes your own home but includes any additional properties that you may own.
- you have a beneficial interest in land or property owned by the council (this includes living in the property).
- you intend to bid for land or property owned by the council.

#### **What a “beneficial interest” is**

A beneficial interest is any interest of value, worth, or use in property held currently or in trust.

#### **What detail you need to declare**

You should declare the address of the land or property (or an accurate description of its location if it does not have a recognised address).

If you are declaring a beneficial interest, you should declare the nature of your beneficial interest (for example that you live there).

You should declare whether you are declaring an intention to bid for the land or property owned by the council.

#### **Implications of a declaration**

The most likely implications of these declarations are if the employee has the opportunity to influence the development of their local area, or to licence business in the area.

### **d) Your personal relationships or associations with contractors and suppliers**

#### **What you need to declare to the council**

Orders and contracts should be awarded on merit, by fair competition against other tenders, and no undue preference should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

You should declare all associations of a business or private nature with external contractors or potential contractors. You only need to declare associations if you engage or supervise contractors, or have any other official association with contractors.

The definition of association here is wider than the requirements about close personal associations, but only applies if you have some form of association outside your work for the council.

#### **What detail you need to declare**

You should declare:

- the name of the person who you have a personal association with
- the business that they work for
- the nature of your actual or potential official association with them.

#### **Implications of a declaration**

It may not be appropriate for an employee to be involved in contractual arrangements with a contractor they have a personal association with.

Consideration should also be given, dependant on all the individual circumstances of the situation, to the sorts of safeguards which might be put in place where someone the employee has a close personal association with is associated with a business.

## **e) Your financial interest in council contracts and sponsorship**

### **What you need to declare to the council**

You should declare any financial interest you have in any contract whether it has been or is proposed to be entered into by the council. This is a statutory obligation set out in the Local Government Act 1972. A failure to comply may amount to a criminal offence.

You should declare if you have – or would have – a financial interest in arrangements that the council has entered into or is considering entering into to sponsor an event or service.

### **Who will be told about this declaration?**

If you declare an interest in a council contract, then your director should tell the Chief Executive. Regardless of your grade and expressed wishes, the council may publish a declaration you make of a financial interest in a council contract. This is an exception to the normal disclosure rules which apply to most other declarations.

### **What detail you need to declare**

You should declare which contract you have a financial interest in, and the detail of that interest: how you would be financially affected by the contract.

### **Implications of a declaration**

Only in exceptional circumstances can employees be involved in arranging, evaluating, or awarding a contract which they have a pecuniary interest in.

## **f) Your close personal associations**

### **Which close personal associations the council needs to know about**

You should declare all close personal associations (regardless of whether or not you can see a potential conflict of interests) with:

- an elected member (Herefordshire Council councillor).
- a council employee who is in a politically restricted post.
- a member of staff (including workers such as contractors, volunteers and temporary agency workers) who you manage or supervise. This includes people who you indirectly manage (for example if you manage their manager) and people who you, in practice, give day to day instruction to even if you are not formally their line manager.
- a council employee you have to make employment decisions about (for example in disciplinary proceedings, signing-off overtime etc.). It is especially important to remember this requirement when you are recruiting to posts in the council.
- a council employee who manages you, or makes employment decisions about you (there is more about this in section 8). This includes indirect managers and people who give you day-to-day instructions, as outlined above. It is especially important to remember to consider this requirement when you apply for posts in the council.

You should also declare all close personal associations with:

- anyone who is applying for something (for example a grant, a licence, or a contract) from the council which people might think you are in a position to influence

### **What “close personal associations” are**

A “close personal association” will always include someone you are married to, or who you are in a civil partnership with, your parents, your brothers and sisters, your sons and daughters, and any person you live with as your partner.

You should declare other associations if you think that a reasonable person in possession of the relevant facts would think that the association amounts to a close personal association. This may include an association of animosity as well as a positive association.

### **What detail you need to declare**

You should declare the name of the person you have a close personal association with. If the person works for the council you should provide sufficient information (for example their job title) to enable us to identify the person.

If you are declaring a close personal association which may also give rise to a perception of a conflict of interests you should declare what that conflict might be, for example what application the person is making.

It is important to note that you do not have to tell the council what your association is to a person, just that you have a close personal association with that person.

For example:

- you might write “Close personal association with Jane Smith, who is in the operations team.”
- you do *not* have to say “Jane Smith, in the operations team, is my civil partner.”

### **Implications of a declaration**

You should not make “employment decisions” about someone you have a close personal association with. “employment decisions” include decisions to employ or dismiss someone, and most decisions under HR policies, such as the disciplinary, grievance, and performance policies.

This effectively means that it is very hard, if not impossible to be the line manager of someone you have a close personal association with.

If you have a close personal association you should ensure that you do not inappropriately share with that person information that is not publically available.

Senior officers who have close personal associations with staff in their own service areas may need additional checking by your Director (or their nominee) to provide reassurance during decision-making, to prevent any perception that decisions may have been tailored with specific consideration of the impact on those staff. For example, there may be a need for closer oversight and scrutiny during a restructuring exercise.

Where you have close personal associations you are under an obligation to disclose:

#### **1) Their membership of organisations which may give rise to perceptions of conflicts of interest**

##### **What you need to declare to the council**

You should declare if anyone you have a close personal association is a member of any organisation which has dealings with the council which could give rise to a perception of a conflict of interest with your role, or with decisions or recommendations which you might make as part of your work for the council.

##### **What detail you need to declare**

You need to declare:

- the name of the person
- the name of the organisation or business
- the nature of the organisation or business (what it does)
- the detail of the potential conflict of interest

### **Implications of a declaration**

The implications of declarations of this kind are similar to those where the interest is that of the employee themselves.

#### **2) Their employment with organisations which may give rise to perceptions of conflicts of interest**

##### **What you need to declare to the council**

You should declare if anyone you have a close personal association is associated with a business which has dealings with the council which could give rise to a perception of a conflict of interest with your role, or with decisions or recommendations which you might make as part of your work for the council.

##### **What detail you need to declare**

You need to declare:

- the name of the person
- the name of the organisation or business
- the nature of the organisation or business (what it does)
- the detail of the potential conflict of interest

### **Implications of a declaration**

The implications of declarations of this kind are similar to those where the interest is that of the employee themselves.

### **When to declare interests**

All employees will be required to make an annual declaration of interest(s), and new employees will be required to complete their declaration before they start work. There is a sample form in the appendices to this policy which you may use.

When you declare an interest:

- The declaration should be in writing and should clearly be headed/titled as being a declaration of interest(s)
- The declaration should be made separately so that it is easily identified and can be filed. It should not be part of another document.
- You should be clear what you are declaring, or that you are declaring that you have no interests which you ought to declare.
- The declaration should be emailed from your personal council email account to: xxx

The form will help to guide you through the declaration process.

### **Verbal declaration of interests at formal meetings**

You may be asked on occasion to declare any relevant interests at formal meetings (especially those where councillors are present) or when making formal recommendations or decisions. The fact that you may have declared an interest in those settings does not remove the need to complete/update your register of interest declaration as well.

You should declare interests in a number of categories, which are set out below. You should promptly make a declaration:

- when you start a new job with the council; **and**
- whenever you are asked to do so by the council; **and**
- as soon as you know about a change in the interests you are obliged to declare.



You should make an immediate declaration if you become aware that you have an interest in a council contract which is either proposed or entered into, if that interest could be perceived as giving rise to a conflict of interest.

Your director is accountable for deciding posts which will be proactively checked (i.e. ones we actually send forms out to each year to ask you to amend or confirm your details.)

### **Advice**

You can ask for advice before doing something which may become an interest.

You can discuss potential interests with your director at an early stage: you do not have to wait until an interest is created to find out whether your director would see it as a conflict of interests, or to find out what impact there would be on your role.

You can write to your director to ask them to assess the impact of a potential interest, so you can decide whether to develop a new interest. For example, if you are thinking of starting a business, you can discuss the implications before you actually commit to that plan.

### **Breach of this policy**

Any breach of this policy could lead to disciplinary action. It is particularly important to know that the following would normally be considered to be breaches of the policy:

- If you fail to return a declaration of interests form when asked to do so by the council.
- If you do not declare an interest which you should have declared.
- If you deliberately mislead your director about the nature of your interests.
- If you act in circumstances where you have a conflict of interest.

Although the severity of misconduct will depend on all the circumstances of the case, it is likely that we could only consider a failure to declare an interest to be gross misconduct if there is the potential for the perception of a conflict of interests.

### **Assessing Outside Interests**

When you submit a declaration of interests, your director will look at the duties of your post, and the interests you have declared and assess whether there is an actual or potential for any perception of a conflict of interest.

Your director may need to discuss your declaration with you, which may cover the exact nature and extent of your interest, or seeking further detail about, for example, an organisation you have declared membership of.

If you provide additional information to clarify the assessment process, you may be asked to add this to your declaration, so that there is a record of the information which the assessment was based on.

In some cases we may publish interests declared as “associations with businesses” (as explained in this procedure). It is particularly important, therefore, that you work with your director to ensure that this section is properly completed.

### **Remedial action to mitigate or remove any potential perception of conflicts of interest**

If there is any risk of a perception of a conflict of interests, then your director will decide how serious that risk is. Your director may decide to make changes to your role, or the oversight of your work, in order to avoid or minimise the risk that of a perception of a conflict of interests. The director has wide discretion to take action which is appropriate in all the circumstances. They may consider, for example:

- Redistributing responsibilities across a team (for example if a team is split across geographic areas, changing roles around to minimise or avoid conflicts of interest)
- Reassigning a part of the role to another person (and, therefore, often part of their role to you). Directors should be mindful of the grade of officer required to carry out elements of work.
- Requiring you to have specific decisions (or types of decision) reviewed or approved by someone else.
- Directing that you should not be assigned a particular piece of type of work when work assignments are distributed amongst the team.

In very rare cases you may have an interest which is fundamentally incompatible with your role and you may be asked to choose whether to end your outside interest or to give up your role with the council. In such cases the council will make reasonable efforts to redeploy you to a role where the conflict would not arise or could be managed.

In the vast majority of cases the information is kept confidentially by the council as part of the records we hold about you on business world (as with payroll or personnel information, for example).

The business interests of senior officers (the top 3 tiers of management, i.e. Chief Officers and above) will be published on the council's website. Consideration of factors against publication are considered by the Head of Human Resources and Organisational Development in consultation with the Monitoring Officer, and should demonstrate harm or damage.

Business interests includes:

- Name and address and nature of additional business, or other employment
- Name and address of company, firm or other body or individual of whom consultancy is undertaken and nature of consultancy with an indication of frequency or volume of such work
- Name and address and nature of business of each company or other body of which you are a director, with an indication of whether it is in a paid or unpaid capacity
- Name and address and nature of business of each firm or company in which you are a partner
- Name and address and nature of business of each firm or company in which you hold shares
- Name and address and nature of additional business, or other employment

If you declare that you have an interest in a council contract, for example you are bidding for council business, the council may have to publish that information.

### **Publishing interests**

The interests that may be published

The council *may* publish:

- details of any financial interests in council contracts which you declare without your explicit consent and regardless of your role.
- the details of your interests declared as “associations with businesses” if either:
  - you agree to us publishing them; or
  - you are in the top three tiers of management, i.e. the Chief Executive, someone who reports to the Chief Executive and also their direct reports (Chief Officers and above)

You will be asked on the declaration of interests form whether or not you consent to the publication of your interests declared as “associations with businesses”.

Top three tiers of management (as defined above)

**We may externally publish your associations with businesses if:**

- you have explicitly given us permission to do so on your declaration; **or**
- you did not give us permission to do so on your declaration, but the Head of HR and OD has not received a written objection to publication within 28 days of you submitting your declaration; **or**
- the Head of HR and OD has reviewed your objection and nevertheless decided to publish your business interests.

**Objecting to the council publishing your business interests (senior officers only)**

Any objection to publication should be in writing, and sent to the Head of HR and OD. You should set out:

- what information you want the council to withhold
- the reasons for which you wish the information to be withheld
- what harm, if any, you believe could arise from publication.

**Extent of publication**

If we publish your associations with businesses, we will disclose the following information:

- Your name
- The directorate and section in which you are employed
- Name and address and nature of additional business, or other employment
- Name and address of company, firm or other body or individual of whom consultancy is undertaken and nature of consultancy with an indication of frequency or volume of such work
- Name and address and nature of business of each company or other body of which you are a director, with an indication of whether it is in a paid or unpaid capacity
- Name and address and nature of business of each firm or company in which you are a partner
- Name and address and nature of business of each firm or company in which you hold shares
- Name and address and nature of additional business, or other employment

**Guidance for directors in deciding which posts to check every year**

Directors assess posts against three criteria to establish whether the duties of the post are more likely to place the post-holders in a position where conflicts of interest may occur:

1. posts where post-holders give significant advice or speak on behalf of the council. Posts that meet this test will usually be politically restricted. There is more guidance about this criterion in the Politically Restricted Posts policy; or
2. posts where there is significant authority to make decisions. This group is defined in the section on whether we publish someone's interest; or
3. posts with significant discretion concerning council spend and procurement. This group includes posts which undertake activities such as commissioning, procurement including assessment of tenders, purchasing, ordering etc. Insignificant discretion, e.g. ordering relatively small amounts of stationery from a list of approved suppliers would not, in itself, warrant inclusion. Officers exercising significant spending discretion should be included. The definition of "significant" is at the discretion of the director.

Directors can also specify other posts which they believe, in all the circumstances, should be asked to declare their interests annually, if there is a risk of perception of conflict of interests arising.

Employees in positions identified as requiring an annual check are required to complete a register of interest declaration in Business World. However, all employees who may have a conflicting interest should also complete a declaration.

## **HR role in the process for annual declarations**

Each individual is responsible for declaring their own interests.

HR will, however, send out annual reminders to staff in posts which the director has determined should be proactively checked each year (these have been known in previous years as “high risk posts”).

HR will provide each of the directors:

- Lists of the post holders who were sent reminders, who:
  - have made a return,
  - made a nil return (said they had nothing to declare)
  - have not responded at all.
- Lists of any other employees who have made a return, including the details of their returns.

The information will be broken down by service area in case the director wishes to delegate the actual checks.

When the director (or their nominee) has assessed the risk and taken steps to mitigate any issues they should record on Business World their authorisation of the interests and confirmation of any management action taken

## **Additional Information**

Ongoing monitoring for potential conflicts of interest

Even if a manager is not the director’s nominee for assessing a person’s declaration of interests, any line manager needs to be aware of the declared interests of their staff.

Change of manager

Managers should ensure that they review the register of interest returns for the staff they manage, so they are aware of any potential conflicts of interest.

Managers can request the register of interest returns for their own staff from the business support centre.

Change of staff and new staff

When new staff are assigned to a manager, the manager should either:

- Review the member of staff’s existing declaration of interests, if their previous job was the same as their current role
- Ask the member of staff to complete a new declaration. (A new declaration will be required for any new starter.)

Change of duties

When a person’s duties change (or there is a proposal to change a person’s duties) the manager should review their declaration of interests form and refer the matter to the director where appropriate.

Delegation

It is expected that directors will delegate the responsibility for reviewing declarations of interest to an appropriate level of management. The director remains accountable, however, for the assessment of declarations, and the steps taken to minimise the risk of the perception of conflicts of interest.

Where this policy refers to the director taking action, that action may be taken on the director’s behalf by their nominee(s). Wherever possible, the term “director” should be understood in this sense.

**Insert form**

## **Employee gifts and hospitality policy**

This policy sets out the rules for dealing with gifts and offers of hospitality. It applies to all employees of the council, irrespective of grade or role. This policy forms part of your terms and conditions of employment.

If you supervise/line manage other employees you should make sure they know about and understand the policy. If you supervise people who are not employees of the council (for example contractors, volunteers and temporary agency workers) you should make them aware of the policy, and make it clear that they are under a duty to follow the policy.

If the people you supervise behave in ways that are inconsistent with the policy, you should take action. You may want to ask your line manager or HR service for guidance, or consider using another policy to guide your response.

If you are unsure about any part of this policy you should get clarification from your line manager or from the Human Resources service.

### **Principles**

You should not benefit from your position at the council beyond the pay and reward schemes the council has in place.

It is important to avoid any perception that access to council services, or the quality of council services, can be inappropriately influenced.

**If someone offers you a gift you should seek permission from your director<sup>2</sup> before accepting** it unless you can rely on one of the exceptions in this procedure. **Whether or not you accept it, you should make a declaration even if someone just offers you a gift or any hospitality**, unless you can rely on one of the exceptions in this procedure. Never accept a gift or hospitality:

- as inducement or reward for anything you do as an employee of the council;
- which puts you under an improper obligation; or
- if acceptance might be open to misinterpretation.

You should not solicit gifts or hospitality (other than modest refreshments which are incidental to the business in hand, for example a cup of tea at a meeting).

This policy and procedure benefits everyone because it helps to protect:

- the council's reputation, and people's confidence in our staff and services, by reassuring people that our staff are not swayed in their work by gifts or inducements;
- you by ensuring that you avoid behaviour which could leave you open to reputational damage, disciplinary action or prosecution; and
- the council from potential prosecution, because we have put a sufficiently robust system in place to prevent employees from breaking the law.

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<sup>2</sup> Or in the case of a director the chief executive or in the case of the chief executive the monitoring officer

## Relevant legislation

- The Bribery Act 2010, which is explained in detail in the council's [Anti-Fraud, Bribery and Corruption Policy](#). You should make sure you have read and understood the Anti-Fraud, Bribery and Corruption Policy. If you are unsure how to obtain a copy of the policy, ask your manager for a copy.
- section 117 of the Local Government Act, which states "an officer shall not, under colour of his office or employment accept any fee or reward whatsoever other than his/her proper remuneration".
- Section 2 of the Prevention of Corruption Act 1916 states that where it is proved that anyone holding or seeking a contract with a public body has made a payment to an employee of that body, the payment shall be deemed to be corrupt unless the contrary is proved. This means that if you accept a gift from someone who has a contract with the council or who is trying to get one, it would be you that had to prove it was not corrupt, or that it was not a bribe.

## What gifts and hospitality are covered

Gifts may be objects, money, favours, discounts, prizes, loans, legacies (things you are left in wills) or other things that are a benefit. This list is not exhaustive, which means that something which is not mentioned may still be considered to be a gift. It does not matter whether the gift is for you, or for someone else, or some organisation you are associated with.

Hospitality includes offers of transport, refreshments, meals, accommodation etc. It also includes "free" conferences, briefings etc. put on by people outside the council. This list is not exhaustive, which means that something which is not mentioned may still be considered to be hospitality.

## Exceptions

### **Exceptions to the rule that you need to declare all offers, and seek permission before accepting any offer.**

The following exceptions apply unless your service tells you (in writing) that they do not. Some service areas, because of the nature of the associations between staff and clients may issue written instructions to staff which prevent them from using some or all of these exemptions. In such cases it is for the service to demonstrate that it made you aware that an exemption does not apply. Conversely, some services areas may have further exceptions as a local policy.

### *Gifts and hospitality of a minimal value*

Add together the total value of all the gifts you have been offered from a particular source (e.g. a customer, or a firm). If the total for the last twelve months is less than £20, you do not have to declare the offer of a gift, or to seek permission to receive it.

Examples of things this allows you to accept include: a small box of chocolates from a service user; a branded pen from a company; or tea and coffee from a business or client when you visit them.

You may also accept hospitality in the form of reasonable offers of transport directly linked to the business in hand, for example a lift with a contractor to review ongoing building work.

Although you do not have to declare these gifts you can do so, if you think it would be appropriate, for example if you receive a lot of gifts, or if you are concerned that there might be a conflict of interest.

*Discounts of a modest nature offered to all employees (unless there is a conflict of interest)*

If a business offers a discount to all council employees, you do not have to declare the use of the discount, or to seek permission to receive it. As long as:

- The offer has been accepted by the HR service and promoted to all staff. Such offers will only be accepted and promoted by HR if the offer to council employees is equally available to other employers operating in the county – eg HALO membership offers are available to local businesses groups and societies at no cost to the employer
- the total value of discounts you have enjoyed from this source in the last twelve months is less than £250; and
- this individual discount is no more than £50; and
- there is no risk of someone perceiving a conflict of interest

A “conflict of interest” is a situation where a reasonable person might think that someone in the same role as you, with the same outside interests as you, could be influenced in the decision or recommendations they make as part of their work for the council. Even when you do not **have** to declare these gifts, you can do so, if you think it would be appropriate.

*Gifts and hospitality from other employees, members or the council itself*

You do not have to seek permission to accept gifts and hospitality from other employees, or the council itself. Although you do not have to declare these gifts you can do so, if you think it would be appropriate.

*Promotional offers, such as “free gifts” from suppliers*

Any promotional “gift” in those circumstances would belong to the council and not the person who put the order in. The gift should be declared and used for council purposes (eg donated to the Chairman’s nominated charity).

*Conferences and seminars*

If you go as a paying delegate, there is no need to declare this as a gift or hospitality, unless there is a discount that is not covered in the exemptions and which is not generally available. (eg If there is 50% for everyone who applies, then that isn’t an inducement specifically aimed at you as a Herefordshire Council employee.)

If you are offered a free place at a conference or seminar, and you do not go, then you only have to declare the offer if it would be right to do so in all the circumstances. You should consider the value of conference/seminar place, the association you and the council have with the company or person making the offer, and any relevant council decisions (recent or upcoming) which reasonable people might think the donor could have an interest in.

If you are offered a free place at a conference or seminar and want to go, you should seek permission from your director following the rules set out in the policy/procedure.

**Estimating the value of gifts and hospitality**

When assessing whether the gift or hospitality being offered is worth £20 or more, a degree of common sense needs to be applied. Where a series of small gifts are offered from the same source over a relatively short period of time and the cumulative value of the gifts is over £20, they ought to be registered.

The best way to preserve transparency when assessing the value of any hospitality provided, is to consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. Clearly where you are in any doubt the prudent course is to register the hospitality.

**Making declarations**

The form for declaring gifts and hospitality appears as an appendix to this policy. The form helps guide you through the information you need to provide, and makes it easier for your director and other colleagues to process the information you provide.

Here are the key points for making a declaration:

1. The declaration should be in writing and should clearly be headed / titled as being either:
  - a declaration of an offer of a gift or hospitality; *or*
  - a request to accept a gift or hospitality
2. The declaration/request should be made separately so that it is easily identified and can be filed. It should not be part of another document.
3. You should be clear about:
  - what you are declaring, or what you are seeking permission to accept
  - who the offer was made **to** (for example, to you, or to your team)
  - who the offer was made **by** (and what organisation, if any, they represent)
  - the value and nature of the gift or hospitality
  - whether you have received a gift or gifts from this source in the last twelve months which you did not declare (due to one of the exemptions)
4. If you are seeking permission to accept the gift, you should indicate what you will do with it, if your request is granted.
5. The declaration/request should be emailed from your personal council email account.

Unless your management or your service has advised you that your director has nominated someone else to deal with your declaration/request, then you should send the form to your director.

If your manager or service tell you the director has nominated someone else to deal with your declaration/request, then you can rely upon that instruction and send your declaration/request to that nominee.

### **Reviewing declarations**

Declarations are reviewed by Directors or their nominees if your service has nominated someone else to deal with them. Directors should have due regard in deciding whether or not to grant permission to accept an offer of a gift or hospitality, to all reasonable factors, such as:

- the public perception that would arise from either accepting or declining the offer (and, in particular, the importance of avoiding any reasonable perception of a conflict of interests)
- the benefit, if any, to the council or service of accepting the gift or hospitality

Directors should take one of the following courses of action:

- decline the request to accept the offer
- agree the request to accept the offer

Assessing a notification of an offer (with no request to accept the offer)

In reviewing notifications of offers which have not been accepted, directors should watch for any trends which could be of concern, for example:

- if a particular individual or organisation may be attempting to influence staff
- if (vulnerable) clients should be discouraged from making offers
- if a particular member of staff (or group of staff) appear to be receiving an unusual number of offers



In all cases where directors become concerned they should take appropriate action to investigate and/or address the issue. They are strongly advised to keep notes of any concerns and any action taken. Their action is to note that the employee has declared that they have declined a gift.

Once a decision is taken on what to do about an offer, the director should inform the employee and forward the form to the business support centre (contact details will be included on the current version of the form).

### **How to decline a gift**

If the offer is made in person, you should politely but firmly decline it, or explain that you must first seek permission to accept it.

If you are frequently offered gifts or hospitality, you might want to talk to your manager about a stock sentence or two that you can practice and get used to using as a reply. It is sometimes a good idea to explain about the need to maintain public perception of impartiality because we are a public service, but you need to say it in a way that you are comfortable with and is appropriate for the person offering you the gift. If you explain why you are saying no, this can avoid the person taking your refusal as a personal rejection. If a gift comes through the post and is declined you should return it with a polite note.

### **What the council will do with the forms**

Business world will hold the information recorded and at least once a year, will supply each director with a summary of all declarations / requests to accept gifts (and the outcomes) within their remit. This will enable the director to identify any areas of concern.

**Insert Form**

## Politically restricted posts policy and procedure

This policy sets out why certain posts within the council are politically restricted and what that means. It applies to all employees of the council, irrespective of grade or role. This policy forms part of your terms and conditions of employment. The council should tell you if your post is politically restricted.

If you supervise/line manage other employees you should make sure they know about and understand the policy. If you supervise people who are not employees of the council (for example contractors and temporary agency workers fulfilling functions of a politically restricted post) you should make them aware of the policy, and make it clear that they are under a duty to follow the policy.

If the people you supervise behave in ways that are inconsistent with the policy, you should take action. You may want to ask your supervisor for guidance, or consider using another policy to guide your response, for example the [Disciplinary Policies and Procedures](#).

If you are unsure about any part of this policy you should get clarification from your line manager or from the Human Resources service.

### Definitions

The Local Government and Housing Act 1989 (as amended) sets out that some people who work for a council (other than head teachers, teachers and lecturers) are barred from carrying out certain political activity.

Public confidence in the council could be damaged if people thought that council employees were acting to their own political ends, rather than carrying out the council's lawful functions. To avoid that perception, the law states that people in certain council jobs cannot be active in political parties. Those posts are known as 'politically restricted' posts.

### Politically restricted posts

Posts may be politically restricted for two reasons: they may be **specified posts** or the post may have **sensitive duties**.

#### Specified posts

As a guide, the top three tiers of management are likely to be specified posts. This includes the Chief Executive, those reporting to the Chief Executive and their direct reports, i.e. Chief Officers and above. Legislation states that a post is politically restricted, and cannot be granted an exemption from restriction, if:

(a) the post is that of a statutory chief officer which includes:

- head of paid service
- director for children's wellbeing
- director for adults and wellbeing
- chief finance officer
- director for public health; OR

(b) the post is that of a non-statutory chief officer, which includes:

- Director for economy, communities and corporate

- Monitoring officer; OR
- (c) the post is that of a deputy chief officer which includes:
- Direct reports to any of the above (other than secretarial or administrative posts).

### **Sensitive duties**

Your post has “sensitive duties” if the role involves regularly advising the council, or regularly dealing with the media, i.e.

- (a) post holder gives advice on a regular basis to the authority itself, to any committees or sub-committees of the authority, or to any joint committees on which the council is represented, or to any member of the executive who is also a member of the council; and/or
- (b) post involves speaking on behalf of the council on a regular basis to journalists or broadcasters.

### **Effect of Political Restriction**

If you are in a politically restricted post, you should not act as an agent or sub agent for, or stand for office as, or be:

- a local councillor
- an MP
- an MEP
- a Member of the Welsh Assembly
- a Member of the Scottish Parliament
- a directly elected mayor
- a Police and Crime Commissioner

Unless you are a political assistant, being in a politically restricted post also means that you are also restricted from:

- holding office in a political party
- canvassing on behalf of a political party or a person who is or seeks to be a candidate
- speaking to the public at large or publishing any written or artistic work that could give the impression that you are advocating support for a political party

The Local Government Officers (Political Restrictions) Regulations 1990 do allow the display of a poster or other document on property occupied by a politically restricted post holder at their home or on a privately owned vehicle or article when not on council business.

### **Exemptions**

Each director is accountable for determining whether or not each post in their structure is politically restricted. When they make those decisions, they should consider this policy.

Posts may only be determined to be restricted for the two reasons set out in this policy.

Based on the information provided by managers and directors, business world will keep records of which posts are politically restricted and of any exemptions which apply to individuals in those posts.

The human resources service will supply each director with a complete list of the politically restricted posts in their structure (and any exemptions). The director is accountable for reviewing that list and making any amendments that are required.

### **Requesting an exemption**

If you are in (or have been identified as the preferred candidate for) a post with sensitive duties which is not a specified post you can apply to your director for an **exemption**, which

would mean that you were no longer restricted from doing the things listed in part two. An exemption would be for you; the post itself would still be politically restricted. Sometimes it would be necessary to change part of your duties, or how you perform those duties to allow you to carry out a political role, even if you are granted an exemption. You should request an exemption from your director. You should include:

- your name, payroll number, your job title, and your contact details.
- details of whether the duties you personally perform as the post holder involve regularly advising the council or regular contact with the media, and whether you think adjustments could be made to those elements of the post

### **Deciding whether to grant an exemption**

Directors should take advice from the Monitoring Officer and Head of HR & OD before deciding whether or not to grant an exemption. It may be necessary to seek further information from the post holder, colleagues and managers before making a determination.

There are no set rules for granting an exemption, but directors should only do so when it is appropriate in all the circumstances. In some cases directors may be able to agree changes to the post's duties, or the way those duties are carried out to avoid sensitive duties, or to impose sufficient oversight to avoid any potential conflicts of interest. Directors should provide written decisions to the post holder. The human resources service should be notified of any exemptions granted.

## **Reviews and Appeals**

### **Requesting a review of whether a post should be politically restricted**

If you believe that your own post (or a post that you have been identified as the preferred candidate for) has been identified as being politically restricted in error you can ask your director to **review** whether the post is a specified post, or has sensitive duties.

Anyone, whether or not they are an employee, can make a written request for a post to be identified as a politically restricted post.

To request a review you should write to the relevant director (or the Chief Executive if you do not know which director's remit the post falls under). You should include:

- your name and contact details so we can tell you the outcome of the review.
- details of the post. It is helpful to include as much of the following information as you can: the job title, the current post holder, the directorate, the service, the name of the current post holder.
- whether you think the post should, or should not, be politically restricted.
- why you think the post should, or should not, be politically restricted.
- if you have documents which support your request please send those with your request, for example if you think a post should be politically restricted because the post regularly deals with the media, you might include examples of press releases or quotations in the media which have been attributed to the post holder.

### **Director's role in reviewing whether a post is politically restricted**

If directors are asked to review the political restriction on a post they should refer to the policy and procedure which sets out the two reasons for political restriction. It is important to remember that it is the post being assessed and not the way the current post holder is carrying out their duties.

For example, if there are three people in the same post, but, in practice one gives regular advice to the council, a second deals regularly with the media and the third deals with

internal professional practice, then all three posts should be politically restricted as long as, in theory, any of the three post holders could be asked to do any of those three things.

**Appealing against a director's review or decision on exemption**

If you do not think that the director has made the right decision, you can write to the Chief Executive with a copy of your original request, and the director's reply, and ask him to review the decision.

**Deciding on an appeal**

The Chief Executive should take advice from the Monitoring Officer and the Head of Human Resources & Organisational Development before deciding whether or not to grant an exemption, or whether or not a post should be politically restricted. It may be necessary to seek further information from the post holder, and the director who made the decision before making a determination.

**Posts which are missed off the list of political restricted posts by mistake**

Anyone, whether or not they are an employee, can make a written request for a post to be identified as a politically restricted post. The request should be made to the relevant director.

**If you do not follow this policy**

If you do not follow this policy then you may be referred into formal procedures, including the disciplinary procedure. Depending on all the circumstances of the case, a potential outcome of disciplinary action is dismissal.

Although disciplinary matters depend on all the facts of individual cases, if you stand for (or attain) a prohibited office while in a politically restricted post then it is likely that this will be viewed as gross misconduct.