

York and North Yorkshire LEP

Gifts and Hospitality Policy

1.0 Background

1.1 LEP Board members and officers may from time to time, in the course of their work, encounter situations where individuals or organisations may offer gifts or hospitality. The reasons for this will vary, but such offers will usually be made as goodwill gestures, or for celebration, or appreciation, or for helping networking or working together. As Board members and officers liaise with public and private sector partners they may find themselves quite often faced with hospitality opportunities or offered gifts in thanks for their services.

1.2 There are however, rules which regulate the acceptance of gifts and hospitality. This is because the acceptance of benefits offered like this can affect the perception of whether the LEP is acting in the public interest. LEP's are in a position of significant influence over issues that affect people's lives within their areas. The LEP manages public funding and all Board members and officers must always be seen to be acting in the best interests of the people of the LEP area. It is important not to do anything which undermines public trust in what they are doing.

1.3 Whilst most offers of gifts and hospitality are well meant and innocent, there have been, nationally, instances of benefits being offered and accepted for corrupt purposes to secure improper advantage. Whilst this is exceptional and rarely occurs, it is damaging to public confidence in public sector organisations, damaging to the reputation of the organisation concerned, and it is unlawful. Even in situations where there are no improper motives, the acceptance of lavish gifts and hospitality can have a negative effect in terms of public perception. LEP Board members and officers must be very clear about the rules which apply to gifts and hospitality and must always bear in mind how the public might view situations where gifts and hospitality are offered and received. Any offer should be treated with great care.

1.4 This protocol aims to help Board members and officers deal with situations where they are faced with offers of gifts and hospitality. If anyone is in doubt, further advice can be sought from the Head of Assurance, or if an officer their line manager or head of service.

2.0 What is meant by gifts and hospitality?

2.1 Gifts and hospitality may include:

- (a) a gift of money, vouchers, goods or services;
- (b) the opportunity to acquire goods and services freely or at a discount or at terms not available to other members of the public;
- (c) the offer of food, drink, accommodation or entertainment freely provided or heavily discounted, or the opportunity to attend any cultural or sporting event on terms not available to the public;

(d) a bequest or legacy.

3.0 The legal framework

3.1 There are several legal constraints. Firstly, it is an offence for a LEP officer to accept any “fee or reward whatsoever other than his proper remuneration” (Section 117 LGA 1972).

3.2 Previously, it was also an offence for any officer to corruptly solicit, receive or agree to receive or give for him/herself or any other person, any gift, loan, fee, reward or advantage as an inducement to, or reward for, or otherwise on account of:

(a) doing or refraining from doing anything in their employment capacity; or

(b) showing favour or disfavour to any person in their employment capacity; and any money, gift or other consideration received by an officer, in their official capacity, from someone seeking to obtain a contract with the LEP was deemed in law to have been received corruptly unless the contrary was proved.

(Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906 and 1916).

3.3 A revised legal framework to deal with bribery was introduced in The Bribery Act 2010 (“the Act”), which came into force on 1 July 2011 and introduced new bribery offences, the key parts of which are set out below. The act repeals the previous bribery and corruption laws mentioned above, although does not affect any ongoing matters under that legislation which predate the commencement of the Act.

3.4 The main offences under the act are:

- **bribing another person** (section 1). A person commits an offence under this section where s/he offers, promises or gives a financial or other advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function or activity (which includes any activity performed in the course of a person's employment), or to reward a person for the improper performance of such a function or activity;
- **being bribed** (section 2). This section provides several cases in which an offence of being bribed may be committed, relating to a person committing an offence where s/he requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly or as a reward for improper performance (whether by him/her or another person);
- **bribing a foreign official** (section 6). A person commits an offence under this section where s/he offers, promises or gives a financial or other advantage to a foreign public official with the intention of influencing the official in the performance of his/her official functions and intends to obtain or retain business or an advantage in the conduct of business.
- **failure of commercial organisations to prevent bribery** (section 7). A relevant commercial organisation is guilty of an offence under this section if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organisation. It is a defence for the

organisation to prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct.

3.5 The maximum penalties under the act are 10 years' imprisonment/unlimited fine for individuals and an unlimited fine for organisations.

3.6 Anyone committing offences of this nature will also be subject to disciplinary action.

3.7 Government guidance on the act confirms that "The Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act...."

4.0 Officers' Code of Conduct:

4.1 Apart from the legal rules, officers are bound by their contract of employment to comply with the Accountable Body's standards of conduct procedure. They are also bound by the signed LEP Code of Conduct for Officers.

These specifically provide that with the exception of the minor items referred to at paragraph 4.3 below, all benefits such as accommodation, travel, entertainment, presents, gifts or bequests should be refused. If they are accepted disciplinary action may be taken. Gifts received through the post should be returned to the sender with an appropriately worded letter.

4.2 Gifts and Bequests: Officers must always inform their manager of any offer of gifts or bequests received during the course of their employment. They should also complete a form of registration of gifts and hospitality which is signed also by their manager and retained appropriately within the LEP's register of gifts and hospitality. A copy must also be provided to the Head of Assurance who maintains a central register of gifts and hospitality. The central register enables monitoring of where, across the LEP, benefits are being offered and accepted and by whom, so that any problems can be identified. Officers should also register gifts, hospitality and benefits offered but refused as a matter of good practice (please see paragraph 8.1 below for further details). Heads of Service should also ensure that LEP service users are aware that there is no expectation or obligation on them to offer gifts of any kind.

4.3 There are exceptions in relation to minor items such as diaries, calendars, blotters or other items of low value. This would include items with a monetary value of no more than £10, and on a single occasion only. Any repeated offer should be declined. Offers and receipt must nevertheless be notified to and recorded by the employee's manager. Under no circumstances should offers/gifts of money (of whatever amount) be accepted.

4.4 Hospitality: The standards of conduct procedure also regulates the acceptance of hospitality. There are sometimes occasions where it is in order to accept hospitality, but only if there is a genuine benefit to the LEP which would not otherwise be available. Examples are given below. Invitations to attend purely social or sporting functions should be accepted only when these are part of the life of the community served or where the LEP should be seen to be represented. Attendance must be properly authorised and recorded by the appropriate head of service or LEP Chief Operating Officer in the case of a Head of Service. When hospitality has been declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the LEP.

4.5 When considering whether it is appropriate to accept hospitality, officers and their managers should be particularly sensitive as to its timing having regard to any decisions the LEP may be taking affecting those providing it.

4.6 Acceptance of hospitality at conferences and courses or events is acceptable where it is clear that the hospitality is corporate rather than personal, where it is authorised and where any contracting decisions are not compromised. Where hospitality is offered in connection with visits to inspect equipment etc, officers should ensure that the LEP meets the cost of the visit to avoid compromising the integrity of subsequent decisions on the contract. More examples in relation to hospitality are set out below.

4.7 Sponsorship – giving and receiving: Where an outside organisation wishes to sponsor a LEP activity, whether by invitation, tender negotiation or voluntarily, the above conventions concerning acceptance of gifts or hospitality apply. Again, care must be taken when dealing with contractors or potential contractors.

4.8 Where the LEP wishes to sponsor an event or service, officers, their partners, relatives or other close associates must not benefit from such sponsorship in a direct way without there being full disclosure to the Head of Assurance of any such interest. Similarly where the LEP, through sponsorship, grant aid, or finance by other means, gives support in the community, officers must ensure that impartial advice is given and that they have no conflict of interest in the matter.

5.0 What does it mean in practice? – A summary of some general principles and examples

5.1 These are some practical points which should help officers and their managers deal with offers of gifts or hospitality:

(a) Never accept a gift (other than the minor items referred to at 4.3 above).

Acceptance of a gift is very unlikely likely to confer any advantage on the LEP. A presumption would arise that acceptance is purely for an officer's personal benefit. There are very few exceptions to this - some minor ones are set out below at paragraph 6.0.

(b) Never accept hospitality as an inducement or reward for anything you do as a LEP officer. Hospitality should not be accepted unless there is commensurate benefit to the LEP.

The only proper reason for accepting any hospitality is that there is a benefit for the LEP which would not otherwise be available. An example is an opportunity to progress the business of the LEP expeditiously through a working lunch, or to canvas or promote the interests of the LEP and its area at a meeting where there is incidental hospitality.

Officers 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. If an employee has any suspicion that the motive is an inducement or reward s/he should *decline*.

(c) Never accept if acceptance might be open to misinterpretation.

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

Officers must therefore consider whether the acceptance of the hospitality is capable of being interpreted as a sign that the LEP favours any particular person, company or section of the community, or is placing the officer under any improper obligation to any person or organisation.

Certain occasions are particularly sensitive and require the avoidance of any opportunity for misunderstanding. These include:

- when the LEP is conducting a competitive procurement process, in respect of any indication of favour towards particular tenderer(s);
- funding decisions when the LEP is determining a grant or loan application by any organisation or person;
- decisions about the allocation of work to current partners which will affect the amount of income the partner might gain from the LEP;
- when the LEP is engaged in legal proceedings, hospitality from other parties to the proceedings would be inappropriate.

(d) Do not accept 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 an officer accepts improperly, it is possible that they may seek to use this to persuade him/her to determine an issue in their favour.

(e) Do not solicit a gift or hospitality.

Officers must never solicit or invite an offer of a gift or hospitality in connection with their position as a LEP officer. Also, officers should take care to avoid giving any impression that they might be open to any such improper offers.

(f) Some other situations to avoid:

- hospitality in situations where the officer would be the sole guest;
- hospitality of significant value.

6.0 Gifts and hospitality which it is appropriate to accept

6.1 There are some circumstances where it is in order to accept hospitality, though some situations will nevertheless require the exercise of careful judgment.

(a) Official hospitality such as civic reception or a working/business lunch in LEP or Accountable Body owned premises (provided it is ancillary to the business being conducted).

(b) Civil hospitality provided by another public authority.

(c) Refreshments in connection with any meeting in the course of an officer's work e.g. normal refreshments – tea/coffee/fruit juice etc.

(d) Meals or refreshments funded by other public sector partners as the part of joint working/collaboration, and provided it is ancillary to the business being conducted.

(e) Meals or refreshments being provided as part of a ceremony or event to promote or launch a project or initiative.

(f) Meals or refreshments provided at design/progress meetings, by a consultant, contractor or adviser who is already appointed by the LEP for that project, scheme or initiative (provided it is ancillary to the business being conducted).

(g) Gifts given to the LEP which an officer accepts formally on the LEP's behalf and which are retained by the LEP but not by the officer personally e.g. a commemorative item.

(h) Gifts given as prizes at exhibitions, conferences, seminars etc as part of a free raffle or draw.

(i) Gifts known to be available to all officers e.g. badges etc.

(j) Hospitality known to be available to all officers.

(k) Hospitality ancillary to the LEP's business being conducted such as an overnight stay for an away day with a partner organisation of the LEP.

(l) Hospitality ancillary to attendance at conferences, seminars and courses where hospitality is corporate rather than personal.

(m) Hospitality ancillary to attendance at functions where an officer represents the LEP e.g. ceremonies, public speaking events, conferences where hospitality is ancillary.

7.0 Reporting of inappropriate gifts and hospitality offered

7.1 As stated above, it is a criminal offence for a person to offer, promise or give a financial or other advantage as an inducement or reward for an officer improperly to do or not do something in their employment. Officers must immediately report to their manager or the Head of Assurance any circumstances where inappropriate gifts or

hospitality have been offered to them. The officer may then be required to assist the police in providing evidence.

8.0 Procedure for registration of gifts and hospitality

8.1 Before accepting hospitality or other benefit officers must seek approval from their manager, complete a registration form setting out the reasons for acceptance, or the fact that it has been declined, have the form signed by their manager, have it recorded in the LEP's register and send a copy of the form to the Head of Assurance. Officers should register gifts, hospitality and benefits offered but refused as a matter of good practice.

9.0 The register of gifts and hospitality

9.1 The LEP keeps a register of gifts and hospitality for their Board members and officers. The Head of Assurance retains all completed registration forms in the central register of gifts and hospitality and maintains the register on the LEP's behalf.

9.2 The registers are not available to the public.

9.3 Officers are able to have access to any of their own forms contained in the register, but not anyone else's. Officers' managers and heads of service will be able to access their forms to ensure that gifts and hospitality are appropriately monitored, and the register is additionally open to inspection by the following:

- (a) The chief executive operating officer;
- (b) The Head of Assurance;
- (c) The Accountable Body Section 151 Officer;
- (d) The LEP's internal auditor;
- (e) The LEP's external auditor;
- (f) Any other party with a legal entitlement to inspect it.

10.0 Conclusion

10.1 Should Board members or officers have any queries relating to the acceptance and registration of gifts and hospitality, please contact the Head of Assurance.