

Report to: Council

Date of Meeting 15 October 2025

Heading/Title: Changes to the Constitution - Councillors' Gifts and Hospitality Protocol

Cabinet Member(s): Communications and Democracy (Councillor Sarah Jackson)

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Key decision No

If a Key Decision has it appeared on Forward Plan N/A

Document classification: Part A Public Document

Exemption applied: None

Report Summary and Recommendations/Decision

The report includes an update on amendments to the Council's Constitution following a review of the Constitution by the Constitution Working Group.

In accordance with the Council's Constitution Full Council is responsible for the changes to the Constitution.

The only guidance available to Councillors on the declaring of Gifts and Hospitality is included in the Councillors' Code of Conduct. This guidance is limited in its application and therefore the opportunity has been taken to write a separate Protocol, to form part of the Constitution, which gives more detailed guidance to councillors (including co-opted members) on the appropriateness of accepting gifts and hospitality and the factors they should take into account when making a decision.

The protocol has been considered by the Standards Committee and was recommended to the Constitution Working Group. The Constitution Working Group recommend that Council adopts the protocol.

RECOMMENDATIONS:

That the Council:

1. Approves the Councillors' Gifts and Hospitality Protocol and to include the protocol in the Council's Constitution.
2. Delegates authority to the Monitoring Officer in consultation with the Portfolio Holder for Communications and Democracy to make any minor drafting changes to the protocol prior to publication on the Council's website.

1. Background

Updating of the Constitution

- 1.1 The Constitution Working Group has been carrying out a phased review of key elements of the Constitution over a series of working group meetings.
- 1.2 The Constitution Working Group was set up in 2024 at Annual Council to review the Constitution. The Constitution Working Group is a cross-party membership consisting of:

Councillor Sarah Jackson (Chair & PFH for Communications & Democracy), Councillors Paul Arnott, John Loudoun, Tim Dumper, Mike Goodman, Jenny Brown, Mike Howe, Peter Faithfull and Kim Bloxham and officer support is provided by the Monitoring Officer and Democratic Services Team.
- 1.3 At present the main guidance on the acceptance of Gifts and Hospitality by Councillors is included in the adopted Councillor Code of Conduct.
- 1.4 As well as having the Code of Conduct, many authorities have separate guidance for councillors and co-opted members which goes into more detail on the matters that they should consider when offered gifts and/or hospitality.
- 1.5 In the circumstances, the opportunity has been taken to prepare a draft Protocol which will provide more detailed guidance to councillors and co-opted members in these circumstances.
- 1.6 The guidance covers the following areas:-
 - a. The scope of the Protocol i.e. its application to all councillors of East Devon District Council including co-opted members.
 - b. The fact that it does not apply to gifts from friends and family, including a definition of gifts and hospitality.
 - c. The types of gifts and hospitality that need to be declared.
 - d. Sets out what constitutes acceptable and prohibited gifts and hospitality.
 - e. The general considerations that Members should have regard to when deciding whether or not to accept gifts or hospitality.
 - f. The wording that can be used to respectfully decline gifts or hospitality.
 - g. The procedure for declaring gifts and hospitality.

h. Guidance as to whether gifts and hospitality below the £50 threshold should be declared in any event.

i. Reminds members that this Committee will oversee the Gifts and Hospitality register every six months.

j. That the Protocol will be reviewed every five years.

- 1.7 The protocol has been reviewed by the Standards Committee and their comments have been included in this new protocol.

2. Reasons for Recommendations/Decision

- 2.1 It is important that the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose and meets the Council's requirements.

- 2.2 This report recommends the approval of a Councillors' Gifts and Hospitality Protocol which gives more detailed guidance to councillors (including co-opted members) on the appropriateness of accepting gifts and hospitality and the factors they should take into account when making a decision.

3. Options

- 3.1 As this is a requirement of legislation and the Council's Constitution no other options were considered.

4. Relevance to Council Plan/priorities

Set out how report links to the Council Plan/priorities:

- ☒ A supported and engaged community that has the right homes in the right places, with appropriate infrastructure.
- ☒ A sustainable environment that is moving towards carbon neutrality and which promotes ecological recovery.
- ☒ A vibrant and resilient economy that supports local business, provides local jobs and leads to a reduction in poverty and inequality.
- ☒ A well-managed, financially secure and continuously improving council that delivers quality services.

Having an up-to-date Constitution ensures the Council is able to support its Council Plan and priorities through the governance arrangements set out in the Constitution.

5. Financial Comments/Implications

- 5.1 There are no financial implications arising from this report as the budget for special responsibility allowances and basic allowances is from within existing budgets.

6. Legal Comments/Implications

- 6.1 Under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

7. Risk Implications

- 7.1 It is important that the Council keeps its Constitution up to date to reflect best practice and any changes in legislation.

8. Equality Implications (Public Sector Equality Duty)

- 8.1 No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regards to its legal duties under the Equality Act 2010. The arrangements for committee meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.

9. HR and Workforce Implications

- 9.1 There are no HR and Workforce implications arising from the recommendations in the report.

10.2 Community Safety Implications (Crime and Disorder)

- 10.1 There are no Community Safety Implications arising from the recommendations in this report.

11. Climate Change Implications

- 11.1 There are no Climate Change implications arising from the recommendations in this report.

12. Health & Safety and Health & Wellbeing Implications

- 12.1 There are no public health, health and safety or health and wellbeing implications arising from the recommendations in this report.
- 12.2 There are no safeguarding issues that may arise from the recommendations in the report.

13. Procurement and Social Value implications

- 13.1 There are no procurement and social value implications arising from the recommendations in this report.

14. Land and Buildings (non-housing)/Asset Management Implications

- 14.1 There are no land and buildings/asset management implications arising from the recommendations in this report.

15. Overview and Scrutiny Committees Comments/Recommendations

- 15.1 N/A.

16. Digital and Data

- 16.1 N/A

17. Consultation and Engagement

- 17.1 Consultation on the proposals from the Constitution Working Group has been undertaken with the Group Leaders and the Standards Committee.

18. Communications

- 18.1 Subject to approval by full Council the Council's website will be updated.

19. Next Steps

- 19.1 To update the Council's website to reflect the recommendations arising from this report.

20. Appendices

Appendix 1 – Councillors' Gifts & Hospitality Protocol.

21. Background Papers

- 21.1 None.

APPENDIX A

East Devon District Council

Councillors' Gifts and Hospitality Protocol

1. Introduction

- 1.1 This protocol outlines the principles and procedures for the acceptance and registration of gifts and hospitality by councillors of East Devon District Council. It aims to ensure transparency, maintain public trust, and prevent any conflicts of interest.
- 1.2 The public are entitled to demand of councillors, conduct of a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives. It is a serious criminal offence for councillors to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in an official capacity. If an allegation is made in such circumstances, it will be for the councillor to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for all councillors.
- 1.3 This protocol is intended to assist councillors in making a decision as to whether a gift or hospitality can be accepted. Councillors are reminded that a breach of this guidance may result in a complaint against them to the Monitoring Officer.

2. Scope

- 2.1 This protocol applies to all councillors of East Devon District Council including co-opted members. It should be read in conjunction with the Members' Code of Conduct.
- 2.2 It only applies to your role as a councillor. You do not need to register gifts and hospitality which are not related to your role, such as Christmas gifts from your friends and family. However, you should apply common sense when you consider how receipt of a gift might be interpreted. For example, if you are the chair of the planning committee and a birthday present arrives from a family friend who is also an applicant just before a planning application is due to be considered, then you need to think about how this would be interpreted by a reasonable member of the public.
- 2.3 Hospitality does not need to be registered where it is provided or reimbursed by the authority or where it is clearly ancillary to the business being conducted, such as an overnight stay for an external training event. Therefore, hospitality at a civic reception arranged by the council would not need to be registered. However, the hospitality should be registered if it is provided by a person or body other than the authority and is over and above what could reasonably be viewed as ancillary to the business conducted. You might meet dignitaries or business contacts in Council offices. **However, if such meetings take place in other venues, such as at cultural or sporting events, this should be registered as hospitality.**
- 2.4 Gifts that are clearly made to the Council, for example, a commemorative goblet which is kept on display in the Council's offices, do not need to be registered in the register of gifts and hospitality. However, such gifts should be recorded by the Council for audit purposes.

3. General Principles

- **Integrity and Honesty:** Councillors must act with integrity and honesty, avoiding any actions that could be perceived as improper.
- **Transparency:** All offers of gifts and hospitality, whether accepted or refused, with an estimated value of at least £50 or a number of gifts or hospitality from the same donor which individually are below the estimated threshold but which cumulatively result in an estimated value of at least £50 in any financial year, must be declared appropriately and recorded to maintain transparency.
- **Accountability:** Councillors are accountable for their actions and decisions regarding the acceptance of gifts and hospitality.

4. Definitions

- **Gift:** Any item or service received without payment or at a discount not available to the general public.
- **Hospitality:** Any form of entertainment, meals, or accommodation provided free of charge or at a reduced rate.

5. Acceptable Gifts and Hospitality

- 5.1 Gifts and hospitality up to an estimated value of £50 may be accepted without declaration. However, you should always consider whether it is appropriate to accept it and the presumption should always be not to accept significant gifts or hospitality.
- 5.2 All other offers of gifts or hospitality of an estimated value of £50 or over must be declared and recorded.

6. Prohibited Gifts and Hospitality

- 6.1 Gifts or hospitality that could be perceived as an attempt to influence decision-making or secure preferential treatment must not be accepted.
- 6.2 Frequent or lavish gifts and hospitality from the same source must be avoided.
- 6.3 Gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission (e.g. planning permission), licence or other significant advantage.

7. General Considerations: Gifts

- 7.1 In general, gifts should be refused.
- 7.2 A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the Council or one who has an interest in a Council decision. Simply accepting gifts or hospitality and then registering it does not mean that it becomes reasonable in such circumstances.
- 7.3 In normal circumstances, only minor gifts of token value, should be accepted e.g. diaries, pens etc

8. General Considerations: Hospitality

- 8.1 The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality should be declined.
- 8.2 It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the Council, or where purchasing decisions may be potentially compromised.
- 8.3 Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the Council's wider interest in the community.
- 8.4 For example, if you have been invited as a ward councillor to a local festival along with other members of the community then it may be entirely appropriate to accept the hospitality. However, you should always exercise particular caution if the organisers are involved in ongoing negotiations with the Council on a particular matter.
- 8.5 It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.
- 8.6 As with gifts, accepting an expensive meal from somebody who is negotiating for a contract with the Council, for example, is not 'made right' by being recorded on a public register.
- 8.7 The following should be considered when deciding whether or not to accept offers of hospitality:
- a) whether the nature of the hospitality is appropriate.
 - b) whether the scale of the hospitality is appropriate to the circumstance.
 - c) whether the hospitality is modest and can be considered as part of a normal councillor role to foster good relations.
 - d) whether the hospitality is offered by a person or organisation who is tendering or about to tender for Council business or submitting an application to the Council e.g. an application for planning permission or a licence.
 - e) whether it is more appropriate to bear the expense oneself.

9. Declining Gifts and Hospitality

9.1 If offers of hospitality are declined, those persons or organisations making the offer may be courteously informed of the procedures and standards operating within the Council with, if appropriate, the following or similar statement:

"Thank you for your kind offer of [insert details of gifts or hospitality]. Unfortunately, the Council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."

10. Declaration and Registration

- 10.1 All offers of gifts and hospitality over the financial threshold in paragraph 5 must be declared within 28 calendar days of receipt.
- 10.2 Councillors must register offers (whether accepted or refused) with the Monitoring Officer (via Democratic Services) using the online form provided.
- 10.3 Councillors must also disclose the existence of any gift or hospitality at a Council meeting where the gift or hospitality received is relevant to the matter of business being discussed, irrespective of whether it has been registered with the Monitoring Officer.

11. Procedure for Declaring Offers of Gifts and Hospitality

- 11.1 **Complete the Declaration Form:** Councillors must complete the relevant online declaration form, providing details of the gift or hospitality offered, its estimated value,

identifying the person or organisation offering it, the circumstances of the offer and whether it was accepted. If you do not know the value, please estimate how much you think it is worth.

11.2 Submit the Form: Submit the completed form to the Monitoring Officer via Democratic Services using the online form.

11.3 Record Keeping: The Monitoring Officer will maintain a register of all declared gifts and hospitality indicating whether they were accepted or refused.

12. What about gifts or hospitality that fall below the threshold in the code?

12.1 Councillors should consider whether a gift or hospitality **offered** below the estimated value of £50 threshold should also be declared, for example:-

- You should always notify the Monitoring Officer of any gift or hospitality offered to you if it could be perceived as something offered to you because of your position, especially where the gift or hospitality is from somebody who has put in an application to the Council (or is about to) even where that gift or hospitality falls below the limit set. While that would not be a matter for the public register, it allows the Council to be aware of any patterns.
- Also, an accumulation of small gifts **or hospitality offered or that** you receive from the same source over a financial year that add up to a sum over the threshold should be registered in the interests of transparency and to ensure compliance with the Members' Code of Conduct.

13. Review and Monitoring

13.1 The register of gifts and hospitality will be reviewed every six months by the Standards Committee to ensure compliance with this protocol. The name of the councillor receiving the gift and details of the donor shall be disclosed.

13.2 Any breaches of this protocol may result in a complaint to the Monitoring Officer.

14. Training and Awareness

14.1 Regular training sessions will be provided to councillors to ensure understanding and compliance with this protocol.

14.2 This protocol will be included in the induction program for councillors.

15. Open Register

15.1 The Register of Gifts and Hospitality is a public register and details of offers declared will be published on the Council's website to ensure openness and transparency.

16. Review of Protocol

16.1 This protocol will be reviewed every five years to ensure it remains fit for purpose and compliant with any changes in legislation or best practice. **Date for review to be added.**