

Gifts & Hospitality

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Introduction

1. Your working relationships may bring you into contact with outside organisations where it is normal business practice or social convention to offer hospitality, and sometimes gifts, to facilitate useful contact and working relationships. Offers of this kind to you or to your family can place you in a difficult position. To refuse may cause misunderstanding, or offence to the giver, especially if the offer comes from an overseas Government or government organisation - (see paragraphs 12-14). To accept could involve criminal liability or otherwise give rise to questions of impropriety or suspicion of conflict of interest.

2. The correct course to be followed will be determined by the context in which the offer is made. The nature of the relationships with outside organisations varies across the organisation and at different working levels, and the types of offers range widely. What is legitimate in one circumstance may be improper (or illegal) in another. The topics that follow set out the guiding principles on the acceptance of gifts (Principles), the law in relation to corrupt receipt of gifts (Legal Position), specific guidance on certain illustrative types of situation, and guidance on how to conform with the general principles and rules of conduct in relation to the acceptance of gifts, rewards or hospitality (Guidance).

3. The guiding principles are that:

- your conduct should not foster the suspicion of any conflict between your official duty and your private interests;
- your actions when acting in an official capacity should not give the impression to any member of the public, to any organisation with which you deal or to your colleagues that you have been or may have been influenced by a gift or consideration to show favour or disfavour to any person or organisation;
- if you are in doubt about the propriety of accepting a gift or an item of hospitality you must consult the HR Shared Service Centre. In areas where the offer of gifts is a frequent occurrence, Deputy Directors or Chief Professional Officers may wish to consult the HR Shared Service Centre about the possibility of introducing guidance specific to their staff's needs.

Legal Position

4. The legal position on corrupt receipt of gifts is that it is an offence under the Prevention of Corruption Act 1906 for civil servants in their official capacity corruptly to accept any gift or consideration as an inducement or reward for doing, or refraining from doing, anything; or showing favour or disfavour to any person.

5. Under the Prevention of Corruption Act 1916, any money, gift, or consideration received by a civil servant from a person or organisation holding or seeking to obtain a government contract will be deemed by the courts to have been received corruptly unless proved to the contrary.

6. If you are in an area concerned in any way, either directly or indirectly, with contracts, purchasing or the letting of consultancies, you should note the contents of paragraphs 4 and 5 and exercise the utmost care.

Guidance

7. You may be asked to accept speaking engagements etc in connection with your official duties and these may give rise to gifts or offers of fees. The rules on undertaking speaking engagements and writing articles involving the use of official information or experience are set out in CONFIDENTIALITY AND OFFICIAL INFORMATION; the concern here is solely with rewards for such activities. Hospitality, for instance in the form of a working lunch, may be accepted. A token gift in lieu of a fee may be accepted if it is of a trivial or ephemeral nature. If the question of a fee arises, the HR Shared Service Centre should be consulted. You may be permitted to retain the whole or part of a fee if the work involved has been undertaken substantially outside office hours or official time spent on the work has been made up.

8. You may also be invited in connection with your official duties to conferences or other functions which are, overtly or otherwise, intended by the organisers as sales promotions and where hospitality may be dispensed. Approval to attend should be sought from your Director. (Where the nature of official duties obliges you frequently to attend such functions, continuing authority may be given for attendance and participation by you while you occupy that particular post and while such duties are required.) On receiving such invitations you should be alert to the need to avoid subsequent allegations of corruption.

9. Invitations, whether work-related or not, to occasions such as concerts or sports events organised or subsidised by a commercial firm as a public relations exercise present a particular problem, because many invitations to a particular event may be received throughout the Scottish Government. In such circumstances it is essential that the number of invitations accepted by Scottish Government staff is not so great as to cause adverse comment. In order to avoid such a situation line management should consult the HR Shared Service Centre who will advise whether the invitation(s) may be accepted.

10. The criteria to be applied when considering whether to accept (personally or on behalf of family or friends) a gift, reward, benefit or other item of hospitality from a member of the public or organisation with whom (or with which) official contact has been made are:

- **Type:** A distinction can be drawn between gifts, which in general should be refused (although there are exceptions) and conventional hospitality which normally may be accepted.
- **Relationship:** The danger of creating an apparent obligation or embarrassment varies according to the relationship between the department and the outside body. It is particularly acute where the relationship is, or could be, contractual or regulatory. Contacts which are merely promotional or information gathering are less sensitive.
- **Legitimate Interest:** There is a clear obligation on both the Scottish Government and the outside body concerned to be able to demonstrate that the contact is legitimate in terms of normal working relationships. Your official position must, therefore, accord with this obligation.
- **Value:** Gifts and benefits of a trivial or inexpensive nature or promotional gifts intended as advertising material and of little value can be distinguished from more substantial offers. All gifts which have a retail value clearly under £15, and which are acceptable in terms of the other criteria, may be accepted without reference to the HR Shared Service Centre. Gifts which have a retail value between £15 and £30 must be reported to the HR Shared Service Centre, and subject to the other criteria, may be accepted or retained on the judgement of the recipient. All gifts worth more than £30 in terms of retail value must be reported to the HR Shared Service Centre and may be retained only with the HR Shared Service Centre's approval. For hospitality there is a similar distinction on the basis of value, as between, for instance, working lunches and more expensive social or sporting functions, travel or accommodation.
- **Frequency:** Acceptance of regular invitations, particularly from the same source, would breach the required standards of conduct. Isolated acceptance of, for example, a meal, or tickets to a public, sporting, cultural or social event may be acceptable if attendance is justifiable in the interest of the Scottish Government (but see paragraph 9 above).

11. In the application of these principles and criteria you should consult the HR Shared Service Centre in any case where you feel doubt about the propriety of acceptance of any gift, hospitality or benefit by yourself or a member of your family.

12. You are required to record information about all gifts and hospitality offered with an estimated retail value of £15 and above on the case management section of the eHR self referral facility. See section on Recording of Gifts and Hospitality below.

13. Information in relation to Frequent Traveller Schemes, including air miles, is available within the Travel Management section of the Intranet.

Gifts from Overseas Governments and Organisations

14. Special considerations apply to gifts and hospitality from overseas Governments or organisations, where there may be particular difficulty about refusing a gift without the risk of apparent discourtesy. Although the principles set out above apply generally to such gifts, on some occasions it may be necessary that the gift be accepted and a gift offered in return. In such cases guidance should be obtained from the Foreign and Commonwealth Office, through the HR Shared Service Centre. If you are offered a decoration or medal from a

foreign government the Foreign and Commonwealth Office must be consulted through the HR Shared Service Centre.

15. If a gift is accepted its receipt must, in all cases of significant value, be reported to the HR Shared Service Centre.

16. When the acceptance of a gift is reported, it is open to the Scottish Government to follow one of the following courses:

- the gift may be disposed of by sale; or
- it may be retained and, where appropriate, arrangements made for you to use or display the gift on some future occasion as a mark of politeness; or
- if the gift is of small value, you may be allowed to retain it.

17. In all cases of non-exempt gifts imported by you or on your behalf or sent from abroad, liability to duty and Value Added Tax should be resolved with HM Customs and Excise, Branch VI3, New King's Beam House, 22 Upper Ground, London SE1 9PJ. This responsibility lies with you if the gift has been retained. HM Customs and Excise must also be consulted if, having been relieved of duty and tax at the time of importation, the gift is to be disposed of within 2 years. Again this responsibility falls to you if the gift has been retained.

18. You are required to record information about all gifts and hospitality offered with an estimated retail value of £15 and above on the case management section of the eHR self referral facility. See section on Recording of Gifts and Hospitality below.

Awards or Prizes

19. If you are approached by an outside organisation about the offer of an award or prize in any way connected with your official duty you should consult the HR Shared Service Centre. Retention of the award or prize will normally be allowed, having due regard to considerations of propriety and risk of public criticism, provided the award or prize is:

- offered in recognition of personal achievement;
- not in the nature of, or such that it could be construed as, a gift, an inducement or payment for a publication or invention to which other rules apply.

Recording of Gifts and Hospitality

20. You are required to record information about all gifts and hospitality offered with an estimated retail value of £15 and above on the case management section of the eHR self referral facility.

21. The information you are required to record is:

- Type (Benefits, Cash/Cheque, Vouchers, Goods, Hospitality)
- Description
- Name of organisation
- Relationship
- Date offered

- Date received
- Circumstances in which the gift/hospitality was offered
- Estimated retail value (less than £15, £15-£30, over £30 - if over £30 you must specify the amount)
- Is it a group gift/hospitality
- Does acceptance give rise to an actual or potential conflict of interest
- Has gift/hospitality been accepted
- Comments from employee
- Comments from manager