

# Declaration of Interests, Gifts and Hospitality Policy

**Date – Live from 1/4/2020**

**This policy has been produced collaboratively by Internal Audit, Human Resources and Law & Governance**

Author: Nigel Stannard, Head of Audit & Management Assurance

Version: V2020.1

Review Date: Subject to (at least) annual evolution



## **1. Purpose Statement**

- 1.1 The purpose of the policy is to protect the Council and employees against conflicts of interest and allegations of impropriety. The public must be confident that decisions made by employees of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.
- 1.2 The Council is entitled to put in place a series of precautionary measures to ensure that conflicts or potential conflicts of interest are notified to the Council at an early stage.

The Bribery Act 2010, and the Local Government Act 1972 are relevant.

The Bribery Act 2010 makes it an offence for an employee to give advantage to someone in return for favours in relation to the Council's business.

Section 117 of the Local Government Act 1972 requires that employees notify the authority in writing of any direct or indirect financial interests which they have in any Council contracts, or proposed contracts, of which they become aware. Breach of Section 117 is a criminal offence subject to a fine.

- 1.3 All but incidental gifts and hospitality received by a council employee may be perceived as a potential conflict or may be viewed as a potential bribe. The Council generally requires all but incidental gifts and hospitality to be declared on Form 1 or Form 2 as appropriate.

## **2 Who the policy applies to**

- 2.1 This policy applies to all BCP Council employees, including casual, part-time and temporary staff including those supplied by employment agencies.
- 2.2 This policy does not apply to BCP 'maintained' schools' employees where an individual school policy exists. A BCP 'maintained' school may use all or parts of this policy if they wish to do so.

## **3 This policy replaces**

- 3.1 This policy replaces sections of any legacy Councils' respective Code of Conduct or any standalone policies, procedures or guidance of legacy Councils relating to conflicts of interest and or accepting/declaring gifts or hospitality.
- 3.2 This policy operates in conjunction with the BCP Council Code of Conduct for employees and the disciplinary procedure. The BCP Code of Conduct states – 'Employees are required to follow the 'Declaration of interests, gifts and hospitality policy' (this policy).

## **4 Approval process**

- 4.1 This policy is approved by the Corporate Management Team.
- 4.2 The Audit & Governance Committee review the policy as part of their role to ensure the adequacy of governance arrangements in place to prevent fraud and corruption.

## **5 Links to Council Strategies**

- 5.1 This policy supports BCP Council's [Corporate Strategy](#), specifically the core value – “we have integrity” and also so supports “we are a modern, accessible and accountable council”.

## **6 The Policy**

### **In relation to Conflict of Interest**

- 6.1 A conflict of interest is a conflict between the public duty and the private interest of an individual in which that individual private capacity interest could improperly influence the performance of their Council duties and responsibilities.
- 6.2 Employees may hold interests for which they cannot see obvious potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.
- 6.3 The Council requires all employees to declare the following interests:
- a direct or indirect financial interest in any contracts with the Council or under consideration by the Council. The financial interests of a person with whom you live also counts for this purpose (this is a requirement of Section 117 of the Local Government Act 1972; it is potentially a criminal offence not to declare such an interest);
  - a financial interest or employment or other role in any business or organisation which has a business, funding or regulatory relationship with the Council;
  - any personal membership or their partner/relative/close friend may have with any organisation or association not open to the public without formal membership and/or commitment of allegiance and/or has secrecy about rules or membership or conduct;
  - any partner/relative/close friend who has an interest in an organisation which could have a relationship with the Council; and
  - any partner/relative/close friend who works for the Council or is a councillor.
- 6.4 Appendix A includes the definitions of the terms used in this section.

### **In general terms – Relating to receiving gifts and hospitality**

- 6.5 If it is likely that a typical member of the public would think that a specific gift or incidence of hospitality is inappropriate, then it probably is and should therefore be declined. It is always better to be cautious and politely decline any offer of a gift or hospitality.
- 6.6 The overriding principle is that employees should not compromise their position as public service workers by accepting gifts or hospitality and allowing themselves to reach the position where they might be, or might be thought by others to have been, influenced in making a certain decision as a consequence.
- 6.7 Employees must:
- Treat any offer of a gift or hospitality if it is made to them personally with extreme caution;
  - Not receive any payment or fee other than their salary;

- Never accept cash or cheques or other monetary gifts (including gift vouchers) of any kind\*;
- Always refuse offers of gifts, hospitality or services to them (or their family members) from organisations or persons who do, or might, provide work, goods or services, to the Council or who require a decision from the Council\*\*; and
- Always report any such offers above to their line manager.

\*Any exceptions to this specific policy bullet point must be agreed in writing by the Chief Executive and lodged with the Monitoring Officer.

\*\*Incidental promotional gifts, such as calendars, diaries, pens, mugs etc. may be accepted, but should be declared if the total estimated value is £25 or more.

### **In specific terms – Relating to receiving gifts**

- 6.8 A gift is any item or service that an employee receives free of charge. It also includes any goods or services which are personally offered at a discounted rate or on terms not available to the general public. It does not include staff offers / discounts which are negotiated corporately.
- 6.9 When deciding whether or not to accept an offer of a gift, the context is very important. An offer from an organisation seeking to do business with or provide services to the Council or in the process of applying for permission or some other decision from the Council should not be accepted, regardless of the value of the gift. By contrast, a gift of modest value given at Christmas by a service user as a gesture of appreciation to an employee will generally be acceptable and could cause offence if returned.
- 6.10 Employees must declare (on Form 1 or Form 2 as appropriate) all instances where gifts are accepted or where they are declined except in these specific circumstances:
- Employees may accept a gift which is a one-off or infrequent gesture, from a service user and which has only a small or token value, estimated to be less than £25 in value, without making a declaration or obtaining the approval of a more senior officer. Please note, employees should always politely and courteously decline a gift from a service user if the estimated value is more than £25 and/or becomes more frequent than one-off.
  - If the gift is from a representative of organisation or persons who do, or might, provide work, goods or services to the Council or who require a decision from the Council and is incidental promotional items such as a calendar, diary, pen etc with an estimated total combined value of less than £25, then these may be accepted without needing to be declared.
- 6.11 If as a result of their employment an employee becomes a beneficiary in a service user's Will, this must always be reported to their line manager and Service Director. The employee must not accept the bequest, regardless of its size or value unless granted explicit permission by their Service Director. Permission will only be granted where the legacy is of little financial value, such as a sentimental item.
- 6.12 In exceptional circumstances a gift from a third-party representative (not a service user) may be accepted if the employee is accepting the gift of behalf of the Council (or residents) and they deem that refusing the gift would cause significant offence; for example, a gift from a 'twinning association'. In this circumstance the relevant Corporate Director or Service Director must be informed as soon as possible, and they will decide what will happen to the gift.

### **In specific terms – relating to receiving hospitality**

- 6.13 Hospitality is the offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event offered as a result of being employed by BCP Council.
- 6.14 Employees may accept hospitality including invitation to events or functions where the employee is demonstrably representing the Council. e.g. opening ceremonies, trade shows, events where they are invited to speak, events hosted or sponsored by the Council, working lunches provided to enable the parties to continue to discuss business, refreshments offered in connection with any meeting, meals or refreshments funded by other public sector partners as part of joint working or collaboration, meals or refreshments provided as part of a ceremony or event to promote or launch a project or initiative supported by the Council.
- 6.15 Hospitality accepted, after applying 6.14 above, must be declared (on Form 1 or Form 2) as appropriate if the estimated value is more than £50. Hospitality accepted, as per 6.14 above, does not need to be declared if the estimated value is less than £50.
- 6.16 The following hospitality should not be accepted\*\*\*:

- hospitality of any kind attended in the employee's own time and/or where the employee is not demonstrably representing the Council;
- hospitality offered to a partner/relative/close friend (of the employee);
- hospitality from a tenderer in the immediate period before tenders are invited or during the tender process. If employees are carrying out site visits as part of the tender process, they can accept the offer of light refreshments (only) provided it is proportionate and not extravagant;
- Lavish or extravagant hospitality including meals; or
- Offers of holidays, overnight stays, air or rail travel, use of a company's own holiday accommodation, after dinner speaker celebrity events, sporting or cultural events (e.g. theatre tickets, football match, golfing event).

\*\*\*Any exceptions to these specific policy bullet points must be agreed in writing by the Chief Executive and lodged with the Monitoring Officer.

- 6.17 Hospitality declined, after applying 6.16 above, must be declared (on Form 1 or Form 2 as appropriate) if the estimated value is more than £50. Hospitality declined, as per 6.16 above, does not need to be declared if the estimated value is less than £50.

### **In specific terms – relating to giving hospitality**

- 6.18 Only Service Directors, Corporate Directors and the Chief Executive have delegated authority to approve expenditure to give hospitality; where they consider this to be in the interests of the service or the Council and is capable of public justification.

### **In specific terms – relating to receiving and giving sponsorship**

- 6.19 Where an external organisation wishes to sponsor, or is seeking to sponsor, a BCP Council activity, whether by invitation, tender, negotiation or voluntarily, this policy will apply. Particular care must be taken when dealing with contractors or potential contractors who make offers of sponsorship.
- 6.20 From time to time BCP Council sponsors, or gives grants for, sporting and cultural events such as exhibitions, plays or performances, or games. No employee or any member of the employee's family should receive any benefit from such sponsorship or

grant in a direct or indirect way without there being full disclosure to their line manager.

## 7 How to use this policy

- 7.1 Whilst implementing the requirements of this policy employees must follow the 'Procedures for declaring interests, gifts and hospitality (accepting and declining)' Appendix B.

## 8 Roles and responsibilities

### 8.1 Core roles and responsibilities of all Employees

- Make a personal declaration to their Line Manager/Team Leader/Head of Service and keep this declaration up to date as required.
- Work with the Line Manager/Team Leader/Head of Service to agree any mitigation (of conflict risks) actions or strategy.
- Maintain discussion with the Line Manager/Team Leader/Head of Service at one to one meetings to ensure on-going review of the mitigation actions or strategy.
- Declare on Form 1 or Form 2 as appropriate any gifts or hospitality accepted or declined (*One-off gifts from a service user or incidental promotional items such as calendars and pens, with a total estimated value of less than £25, do not need to be declared*).

### Additional roles and responsibilities of Line Managers/Team Leaders/Heads of Service

- Promote and ensure Policy compliance in their teams/service areas.
- Where a potential conflict of interest is declared by an employee, assess any risk to the Council and the employee.
- Work with the employee to agree any mitigation (of conflict risks) actions or strategy and document this on the employee's declaration (Form 1 or Form 2 as appropriate).
- Escalate to the Service Director any issues that cannot be satisfactorily agreed.
- Maintain discussion with the employee at one to one meetings to ensure on-going review of the mitigation actions or strategy.
- Lead on any disciplinary action that may be necessary where employees have failed to comply with this Policy.

### Additional roles and responsibilities of Heads of Service (Tier 4 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.

### Additional roles and responsibilities of Service Directors (Tier 3 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.
- Promote and ensure Policy compliance in their teams/service areas.
- Securely store (for their Service area) all employee declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format (Form 1).
- Determine any mitigation (of risk) actions or strategy in escalation instances, where the employee, Line Manager/Team Leader/Head of Service have been unable to agree.
- Escalate to the Corporate Director any issues that cannot be satisfactorily agreed.
- In exceptional circumstance, determine what happens to gifts which have been accepted by an employee in their service area, where the employee has made a judgement that refusing the gift would cause significant offence (*in cases where the estimated value of the gift exceeds £25 and is from a service user, or in cases where some other third party has given any gift of any value*).

- Lead on any disciplinary action that may be necessary where a manager/team leader/head of service has failed to comply with this Policy.

#### Additional roles and responsibilities of Corporate Directors (Tier 2 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.
- Promote and ensure Policy compliance in their teams/service areas.
- Review at least annually the declarations made to Service Directors in their directorate.
- Lead on any disciplinary action that may be necessary where a Service Director (Tier 3 officer) has failed to comply with this Policy.

#### Additional roles and responsibilities of the Monitoring Officer

- Make a personal declaration on Form 2 to the Chief Executive, of interests, gifts and hospitality (accepted and declined); nil declarations are required, and the Monitoring Officer must keep this declaration up to date as required.
- Promote and ensure Policy compliance in their teams/service areas.
- Securely store Service Director, Corporate Director and Chief Executive declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format.
- Prepare an annual report to the BCP Audit & Governance Committee summarising the declarations of interest, gifts and hospitality (accepted and declined) of the Council's Tier 4 officers and above.

#### Additional roles and responsibilities of the Chief Executive

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and the Chief Executive must keep this declaration up to date as required.
- Promote and ensure Policy compliance amongst the Corporate Management Board (CMB).
- Securely store the Monitoring Officer's declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format.
- Lead on any disciplinary action that may be necessary where a Corporate Director (Tier 2 officer) has failed to comply with this Policy.

## **9 Enforcement and sanctions**

- 9.1 Employees must comply with the requirements in this Policy. Failure to do so is a disciplinary matter, and disciplinary action may be taken, regardless of whether the actions amount to a criminal offence.
- 9.2 Criminal charges will apply if an employee fails to declare an interest in a contract or proposed contract or they or a relative have abused their position to influence Council contracts for their or their relatives gain.
- 9.3 It is also a criminal offence for any employee to demand or accept a gift or reward in return for allowing oneself to be influenced as a local government employee.

## **10 Further information and evidence**

- 10.1 Employees should be aware that:

- Under the Bribery Act 2010, both individuals and organisations are liable for conviction in court, imprisonment and/or fines if found guilty of an offence;

- Fraud is defined as “deliberate deception intended to provide a direct or indirect personal gain”; and that
- Corruption is defined as the “deliberate use of one’s position for direct or indirect illegitimate personal gain”.

10.2 Any queries or concerns about whether a particular interest or offer of, or the receipt of a gift or hospitality is appropriate, or if any clarification is required about this policy employees should approach their line manager in the first instance.

10.3 If a line manager is unable to answer the query, the line manager, can seek clarification from the Head of Audit & Management Assurance, the Head of Human Resources or the Monitoring Officer.



## **Appendix A – Definitions of terms (relevant to para 6.3)**

“Partner” means a spouse, civil partner or the other member of a couple consisting of two people who are not married to each other but are living together as a couple.

“Close Friend” means someone who you know well and whom you regard with liking, affection or loyalty. A closer relationship is implied than that of mere acquaintance or work colleague.

“Relative” means a parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, cousin, step-child/sibling/parent, mother/father/son/daughter/brother/sister in-law. All of the aforementioned include adoptive relationships and relationships of full blood or half blood and including the relatives of the employee’s partner. For these purposes, relative also includes a guardian or special guardian or ward.

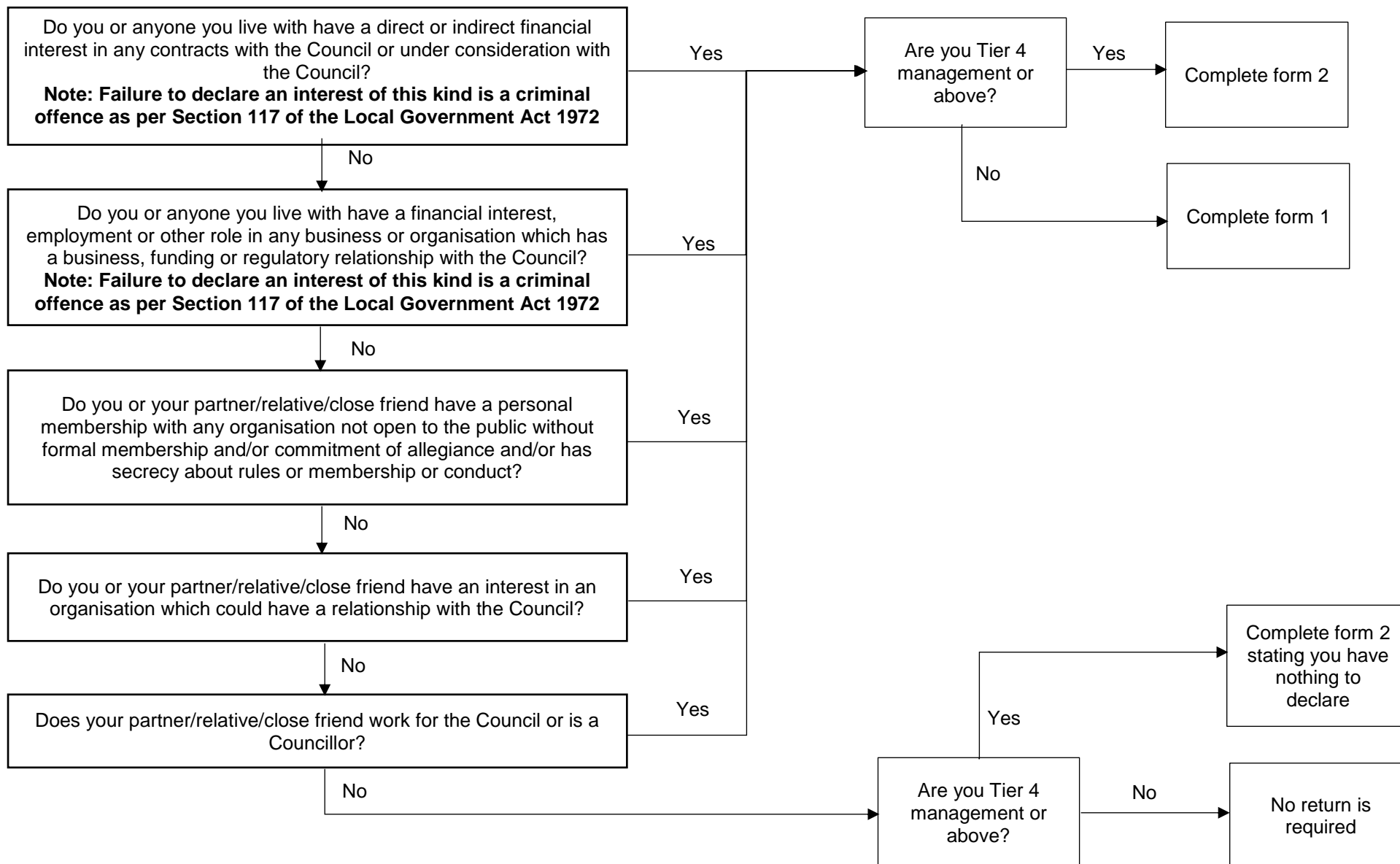
“Business” means any company, partnership or other business arrangement in which the employee has an interest, whether in the form of shares, dividends, bonds, or otherwise and where the value of that interest exceeds 5% of the value of the business. Business also includes any business in which the employee is employed.

“Business Interest” and “business relationship” shall be construed in relation to the terms “Business” and relationship to “Partner”, Close Friend” and “Relative” above.

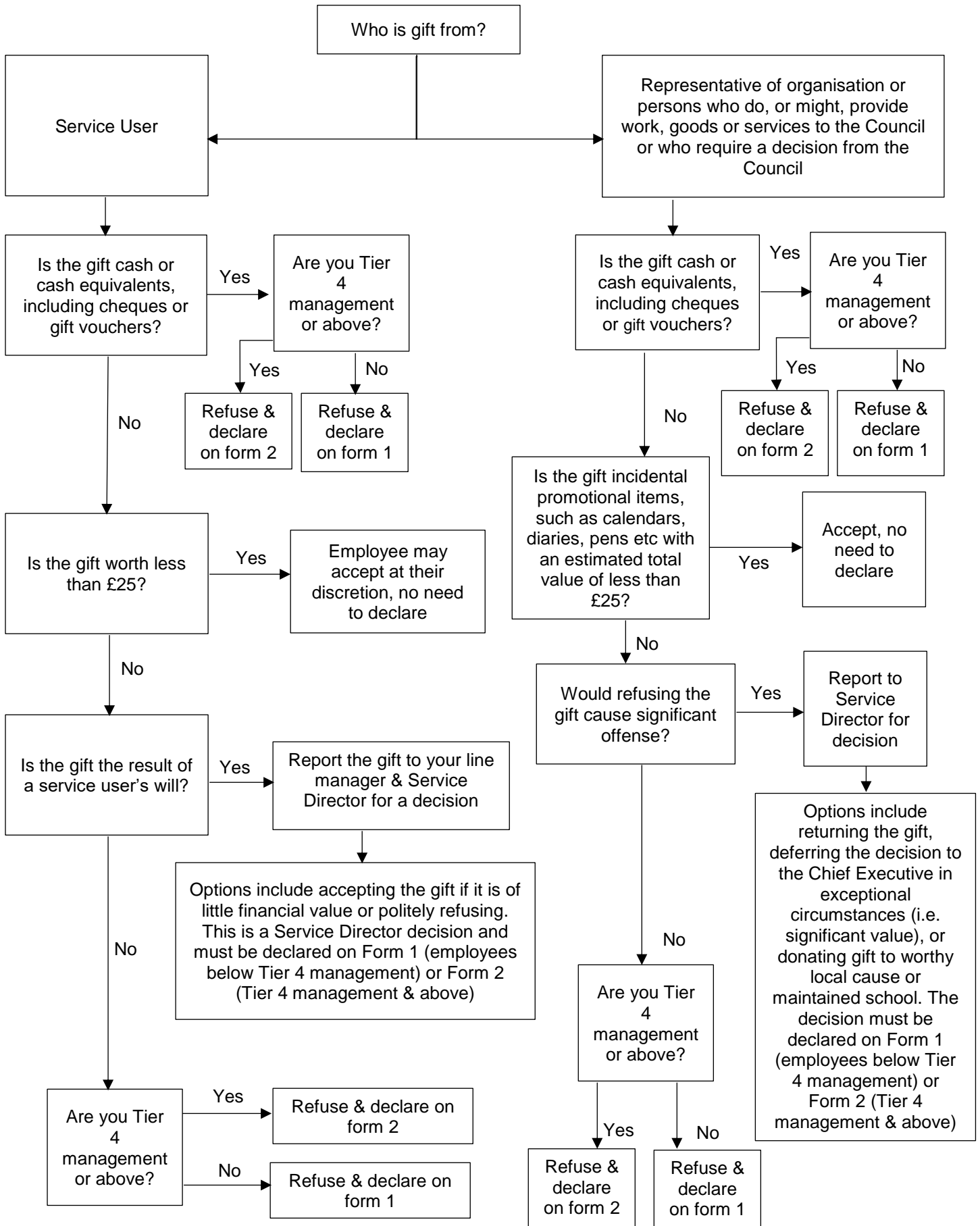
“Business Associate” means a person with whom the employee has a business relationship.

## Appendix B – Procedures for declaring interests, gifts and hospitality (accepting and declining)

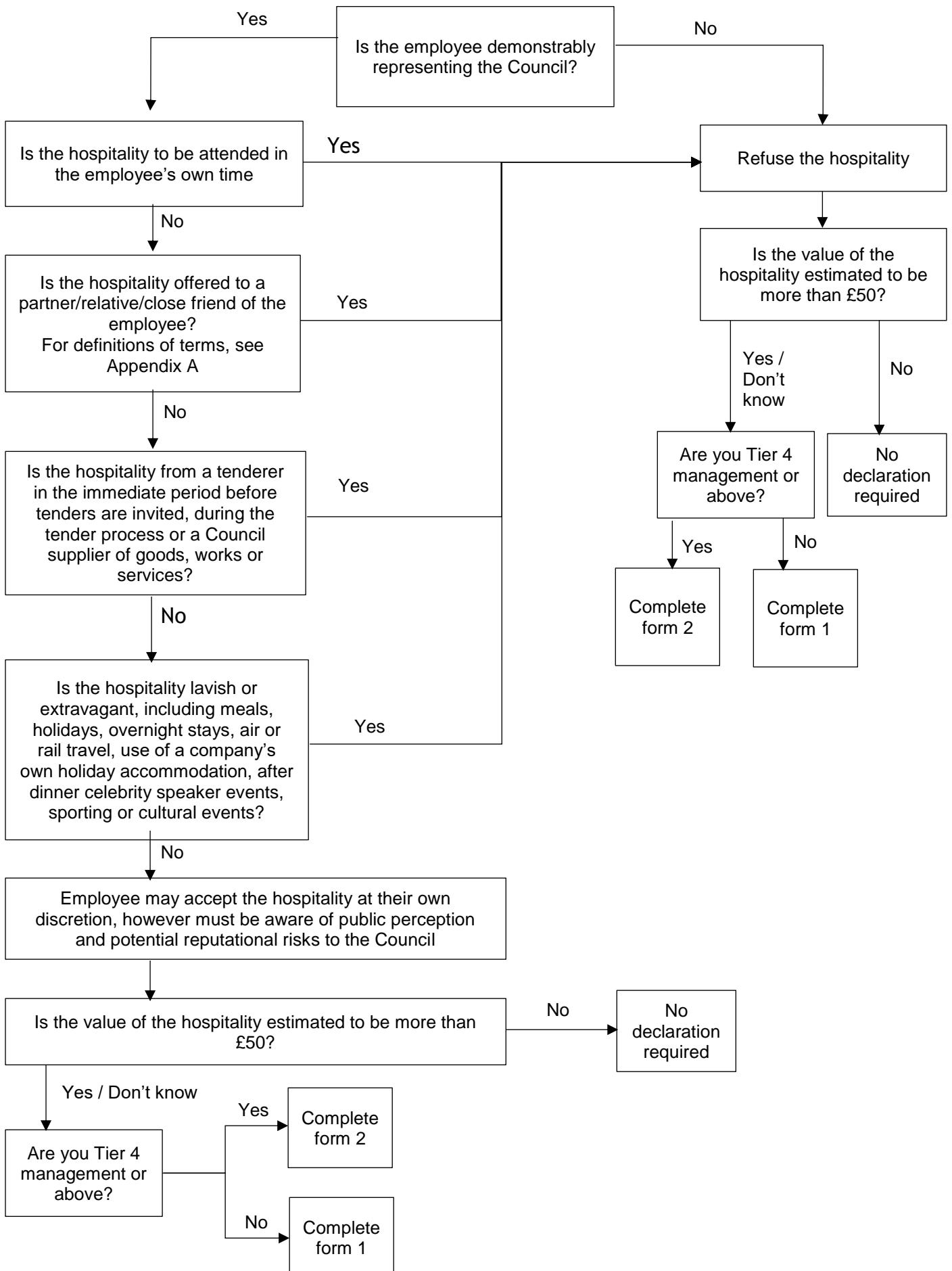
### Declarations of Interest procedure



# BCP Gifts Flowchart



# Hospitality flowchart



# DECLARATION OF INTEREST, GIFTS OR HOSPITALITY



## FORM 1

### PART A – To be completed by the employee making the declaration

<b>Employee Name:</b>																	
<b>Job Title:</b>																	
<b>Service:</b>	Choose an item.																
<b>Section / Team:</b>																	
<b>Date of Declaration:</b>																	
<b>Type of Declaration:</b>	<table><tr><td>Other Employment</td><td><input type="checkbox"/></td><td>Close Personal Relationship</td><td><input type="checkbox"/></td></tr><tr><td>Gift and / or Hospitality</td><td><input type="checkbox"/></td><td>Close Personal Relationship</td><td><input type="checkbox"/></td></tr><tr><td>Business Interest</td><td><input type="checkbox"/></td><td>Close Personal Relationship</td><td><input type="checkbox"/></td></tr><tr><td>Business Interest</td><td><input type="checkbox"/></td><td></td><td></td></tr></table>	Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>	Gift and / or Hospitality	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>	Business Interest	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>	Business Interest	<input type="checkbox"/>		
Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>														
Gift and / or Hospitality	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>														
Business Interest	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>														
Business Interest	<input type="checkbox"/>																

Please provide as much detail as possible in relation to your declaration.

In the case of other employment, please include details relating to who the other employer will be, the nature of the role (including duties and responsibilities) and the times/days that you are proposing to work.

In the case of gifts and hospitality, please include details of the donor, the reason for the offer and the estimated value.

In the case of a close personal relationship with a fellow employee, please provide details of that person.

Please forward your completed form to your line manager for consideration.

## PART B - To be completed by the approving manager

The Manager is responsible for considering the contents of this form and making a decision on the declaration.

I confirm that I consider:

Please tick

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role and no further action is required

☐

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role, providing that the changes and/or actions detailed below are completed.

☐

The declared personal interest or offer of gift or hospitality to be unacceptable within the employee's role for the reasons detailed below.

☐

Please include any changes, actions or reasons relevant to the above decision:

**Line Manager's Name:**

**Job Title:**

**Date:**

**A copy of the completed form should be e-mailed to the employee and a copy held centrally within the Service Unit**

# DECLARATION OF INTEREST, GIFTS OR HOSPITALITY



## FORM 2 (for Tier 4 Officers and above)

### PART A – To be completed by the employee making the declaration

<b>Employee Name:</b>																	
<b>Job Title:</b>	Choose an item.																
<b>Service:</b>	Choose an item.																
<b>Date of Declaration:</b>																	
<b>Type of Declaration:</b>	<table border="0"> <tr> <td>Other Employment</td> <td><input type="checkbox"/></td> <td>Close Personal Relationship</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Gift and / or Hospitality</td> <td><input type="checkbox"/></td> <td>Financial Interest</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Business Interest</td> <td><input type="checkbox"/></td> <td>Personal / Other Interest</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Organisation not open to the Public</td> <td><input type="checkbox"/></td> <td>'Nil' Return</td> <td><input type="checkbox"/></td> </tr> </table>	Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>	Gift and / or Hospitality	<input type="checkbox"/>	Financial Interest	<input type="checkbox"/>	Business Interest	<input type="checkbox"/>	Personal / Other Interest	<input type="checkbox"/>	Organisation not open to the Public	<input type="checkbox"/>	'Nil' Return	<input type="checkbox"/>
Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>														
Gift and / or Hospitality	<input type="checkbox"/>	Financial Interest	<input type="checkbox"/>														
Business Interest	<input type="checkbox"/>	Personal / Other Interest	<input type="checkbox"/>														
Organisation not open to the Public	<input type="checkbox"/>	'Nil' Return	<input type="checkbox"/>														

Please provide as much detail as possible in relation to your declaration.

In the case of other employment, please include details relating to who the other employer will be, the nature of the role (including duties and responsibilities) and the times/days that you are proposing to work.

In the case of gifts and hospitality, please include details of the donor, the reason for the offer and the estimated value.

In the case of a close personal relationship with a fellow employee, please provide details of that person.

Please forward your completed form to your line manager for consideration

## PART B - To be completed by the approving manager

The Manager is responsible for considering the contents of this form and making a decision on the declaration. In situations where the declaration relates to a Service Director, approval should be sought from the relevant Corporate Director. For declarations involving a Corporate Director and the Chief Executive, approval should be sought from the Monitoring Officer (i.e. Director of Law & Governance). For the Monitoring Officer's declaration, approval should be sought from the Chief Executive.

I confirm that I consider:

Please tick

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role and no further action is required.

☐

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role, providing that the changes and/or actions detailed below are completed.

☐

The declared personal interest or offer of gift or hospitality to be unacceptable within the employee's role for the reasons detailed below.

☐

The declared 'Nil' Return to be acceptable.

☐

Please include any changes, actions or reasons relevant to the above decision:

**Line Manager's Name:**

**Job Title:**

**Date:**

**A copy of the completed form should be e-mailed to the employee and to the monitoring officer (i.e. Director of Law & Governance).**



## Appendix D - Equality Impact Assessment

### Public Sector Equalities Duty

*Please answer all the questions and provide a summary of the answers in the Summary and Conclusions box below. Please send a copy of this document to the Policy and Performance Team*

1. Project Title:	<b>BCP Declaration of Interests, Gifts and Hospitality Policy</b>
2. Service Unit:	<b>Jointly produced by Finance, Organisational Development &amp; Law and Governance</b>
3. Summary of Project:	The purpose of the policy is to protect the Council and employees against conflicts of interest and allegations of impropriety.

Equality Impact Assessment Screening Tool	Response Yes/No/Maybe/Don't Know
4. Will the policy or service change affect service users, employees or the wider community?	Yes
5. Is there likely to be a positive or negative impact in terms of equality? Use the <a href="#">9 protected characteristics</a> to determine if this decision will affect any characteristic disproportionately.	No
6. Does it relate to a sector or physical area where there are known inequalities?	No
7. Does it relate to a service that is currently underused by people it should reach?	No
8. Does the policy or service change relate to functions that previous consultation has identified as important to a particular group?	No
9. Do different groups have different needs or experiences in relation to the policy/service?	No

### Summary and conclusions

*Please use this section to support the responses above and to determine if you will/will not carry out a full EIA.*

*It is important to remember that even when it has been decided not to carry out a full EIA the outcome of this decision record remains subject to the general duties and not carrying out a full EIA places the Council at greater risk of legal challenge*

This policy will affect all employees and will apply equally, irrespective of any of the protected characteristics. The policy places more stringent requirements on higher levels of management, but this is due to the employee's position within the organisation and not due to a protected characteristic.

Will this decision record be supported by a full EIA?	No
Assessment Screening Tool completed by: Jon Cockeram & Nigel Stannard	Date: 03/03/2020