

Policy on the Acceptance of Gifts by Staff from Students

Introduction

On occasion, students or their families offer gifts to members of the University's staff. Such gifts are usually offered to members of the academic staff, although other employees, especially in the Halls of Residence, may also be recipients.

There is a risk that such gifts may be seen as leading to a potential conflict of interest, especially regarding examination results and degree classes. In contrast, to refuse a gift may cause offence.

This policy is intended to provide guidance for both staff and students, and to prevent such problems occurring in future.

University Statutes, Ordinances and Regulations

University Ordinance XVIII is of relevance to this area:

“Code of Conduct, Conflicts of Interest and the Conduct of Reserved Business

1. The Board expects all Members of the University to conduct themselves with due regard to probity and propriety in the course of their employment (if applicable), and in their other dealings with the University, according to the principles of behaviour set out in Article III.4 of the Charter. They should declare to the appropriate authority, in accordance with issued guidance, any personal interest that may compromise or might reasonably be deemed to compromise impartiality, conflict with duty as an employee, or result in private benefit. In particular, Members of the University serving on University committees or other similar bodies must declare any personal interest in the business to be discussed and, if necessary and as required, withdraw from the consideration of such business”.

Ordinance XVIII is developed further in the University's Financial Regulations (see Appendix A) and Financial Procedures. Although these documents focus more on the staff involved in the procurement of goods and services and other financial transactions, they establish some helpful precedents and procedures for questions such as the acceptance of gifts from students.

Financial Procedure 8.62 explicitly forbids staff from accepting gifts and other inducements from suppliers:

“Personal inducements to employees from suppliers are forbidden. Any instances of such inducements being offered must be immediately advised to the Registrar and Secretary and the Procurement Manager”.

The Financial Procedures also include a lengthy Code of Conduct, designed to expand and illuminate the requirements of Ordinance XVIII. This is reproduced in full in Appendix B, but the salient aspects include:

1. Ordinance XVIII and the Code of Conduct apply to **all** staff.
2. Any personal interest that may compromise **or might be reasonably deemed** to compromise impartiality, conflict with duty as an employee or result in private benefit must be declared.
3. The only exception is that items of small intrinsic value, such as diaries, calendars, stationery etc may be accepted. Gifts of a higher value must be declared immediately to the Head of School or the Registrar and Secretary.

4. The term “gifts” is deemed to include:
 - goods provided for personal or other private use;
 - personal services;
 - loans of equipment, vehicles etc for personal use; and,
 - the provision of goods and/or services at preferential cost (including loans of money) for personal or other private use.
5. Heads of Schools and the Registrar and Secretary must maintain a register where their staff shall declare the receipt of gifts or hospitality forthcoming as a result of their employment by the University, and to declare any personal interest in University business or negotiations in which they are involved.

Gifts from Students

The above procedures are applicable to gifts from students or their families as well as from potential suppliers. However, the nature of the low value gifts that may be accepted could be slightly different. For example, a gift of chocolates or a single bottle of wine may be regarded as being of “small intrinsic value”. A value of £20 may be regarded as the top limit for a gift to be so regarded.

Above that value, any gifts should be reported without delay to the Head of School and recorded in the School’s Register of Interests. A series of small gifts should be regarded as a single large gift and be declared.

Gifts may sometimes take the form of handicrafts or souvenirs from a student’s home country. Such gifts may be regarded as being of “small intrinsic value” unless the recipient has reason to believe that their value exceeds the £20 limit.

However, staff should be careful to ensure that such gifts comply with the laws and rules on conservation (gifts made from endangered species) and the importation of antiquities.

Declaration of Interests

Should the recipient of the gift be in a position to influence any matter relating to the donor, he or she should declare that they have an interest without delay. The best response is to withdraw from any involvement in the matter.

Some possible situations where such conflicts may arise include:

- Marking or assessment (including moderation) in any “non-anonymous” examinations.
- Discussions at meetings of Boards of Examiners.
- Membership of oral examination panels, including those for PhD theses.
- Membership of Student Complaints Panels, Programme Committees and any involvement with student discipline under University Regulation XVII, including membership of the Student Discipline Committee.
- Any other involvement in University committees or decision making processes relating to the donor of a gift.

Time of Acceptance

In view of the above, staff are advised strongly only to accept gifts once a student has completed their final examinations and the member of staff’s professional involvement with them has ceased.

However, irrespective of when it is received, any gift worth over £20 must still be reported to the Head of School and recorded in the Register of Interests.

Once a gift has been offered or promised, staff should act as if it has already been received. Staff should not try to evade the Code of Conduct by deferring actual receipt until after the final examinations are complete.

Tax Implications

Staff should also be aware that HM Revenue and Customs may regard gifts received by University staff as taxable and also subject to National Insurance contributions. A crucial test is that the gift arises from a person's employment. The fact that a person's employer has not provided the gift is irrelevant.

All UK citizens and residents are required by law to inform HM Inspector of Taxes of any additional income, which may include gifts arising from their employment, that has not been taxed at source under the PAYE scheme.

The limit suggested above of £20, below which a gift is considered to be of low intrinsic value, is an internal University rule. HM Revenue and Customs may still regard such gifts as taxable. However, guidance from HM Revenue and Customs (see Appendix C below), suggests that small **non-cash** gifts may be exempt from tax in certain circumstances:

- the gift is not provided by the employer, or a person connected with the employer
- neither the employer, nor a person connected with the employer, directly or indirectly procured the gift
- the gift is not made in recognition, or in anticipation, of particular services performed by the employee
- the gift is not in cash or in vouchers or securities that can be converted into cash
- the total cost to the donor of all eligible gifts to the employee in a tax year does not exceed £250 (before 6 April 2003 the figure was £150). The cost to the person making the gift includes any VAT paid, whether or not it is reclaimable.

Where the cost of a gift (or gifts) an employee receives from the same third party in a tax year exceeds £250, tax will be payable on the full amount of the gifts.

Staff are advised strongly to seek the advice of HM Revenue and Customs or a qualified professional advisor should they have any doubts regarding the taxable status of a gift. The Government may also vary or revoke the exemption above at short notice.

Gifts may also affect entitlement to various benefits. Staff should seek appropriate advice from the official body concerned.

Appendix A: Extract from the University's Financial Regulations

CODE OF CONDUCT FOR STAFF AND MEMBERS OF THE BOARD

12.33 The University, as set out in Ordinance XVIII, expects that staff at all levels will observe the University's code of conduct in respect of conflicts of interest and related matters. This reflects three fundamental principles of openness, integrity and accountability, and covers:

- probity and propriety;
- selflessness, objectivity and honesty; and,
- relationships.

The Ordinance stresses the need for all Members of the University to conduct themselves with due regard to probity and propriety in the course of their employment and in their other dealings with the University, according to the principles of behaviour set out in Article III.4 of the Charter. They should declare to the appropriate authority, in accordance with issued guidance, any personal interest that may compromise or reasonably be deemed to compromise their impartiality, conflict with their duty as an employee or result in private benefit.

Notes on Interpretation

As the Financial Regulations form part of the General Regulations of the University, compliance with them is mandatory for all members of the University. Members of the University who fail to comply with the Financial Regulations may be subject to appropriate action under the University's disciplinary procedures.

The Financial Regulations set out "higher level" controls, while more detailed operational issues are dealt with in the Financial Procedures.

In all cases where there may be any doubt or apparent conflict, the University's Financial Regulations shall prevail over the Financial Procedures, which will prevail over any such supplemental rules or guidelines.

Copies of the Financial Regulations and Financial Procedures may be found at:

www.campus.manchester.ac.uk/finance

www.manchester.ac.uk/policies

Appendix B: Extract from the University's Financial Procedures

CODE OF CONDUCT FOR STAFF AND MEMBERS OF THE BOARD

Registration and Declaration of interests by members of staff

12.62. All staff are expected to adhere to the University's code of conduct contained in Ordinance XVIII, and observe ethical standards to protect the interests of both the University and staff conducting business on its behalf. Guidelines are reproduced below and advice, in cases of doubt, can be sought from the Registrar and Secretary, the Director of Finance and the Director of Human Resources.

Declaration of Interests

12.63. Any personal interest that may compromise or might be reasonably deemed to compromise impartiality, conflict with duty as an employee or result in private benefit must be declared.

12.64. Heads of Schools must maintain a register where staff shall declare the receipt of gifts or hospitality forthcoming as a result of their employment by the University, and to declare any personal interest in University business or negotiations in which they are involved. This includes for example the need to declare an interest in the appointment of staff and/or payment of fees and expenses or other personal payments to non-staff where a personal interest arises. Staff must also declare an interest in dealings with any company or outside body in which they have a material and personal interest. The Registrar and Secretary will maintain a similar register for administrative staff.

12.65. The registers must be available for inspection by the Registrar and Secretary and the University auditors.

12.66. The guidelines shown in the paragraphs below for members of the Board provide a useful framework for the registers that should be established by Heads of Schools.

Gifts and Hospitality

12.67. Items of small intrinsic value, for example, diaries, calendars, stationery etc may be accepted. Gifts of a higher value must be declared immediately to the Head of School or to the Registrar and Secretary.

12.68. The term "gifts" is deemed to include:

- goods (other than the type illustrated above) provided for personal or other private use;
- personal services;
- loans of equipment, vehicles etc for personal use; and,
- the provision of goods and/or services at preferential cost (including loans of money) for personal or other private use.

12.69. Modest hospitality is an accepted courtesy of business relationships. Recipients must not, however, allow themselves to reach a position whereby they might be,

or might be deemed to be, influenced in reaching a decision by means that may cast doubt upon its propriety.

- 12.70. Personal inducements to employees from existing and potential suppliers of goods or services to the University must be reported immediately.
- 12.71. The soliciting of gifts or hospitality by members of staff is prohibited and will be treated as a serious disciplinary matter.
- 12.72. The guidance below adopted for members of the Board is offered as an example to Heads of School in setting up a register of interests.

Registration and Declaration of Interests by Members of the Board

- 12.73. As required by Ordinance XVIII, all members of the Board must be aware and take proper account of any conflict of interest which may arise from their membership of the Board (or of any Committee or Working Party established by the Board to advise it or act on its behalf) on the one hand, and membership of or association with external bodies on the other. This is achieved in two ways:

Register of Interests

- 12.74. The Registrar and Secretary will keep and maintain a Register of Members' Interests in which any third party pecuniary, family or other personal interests may be registered if the member considers that a conflict of interest could arise, or be perceived to arise. In this context, it is advisable for members to consider including relevant known interests of spouse's partners or close family members. It is for individual members to decide which (if any) interests should be disclosed.
- 12.75. Members are asked to notify the Registrar and Secretary of any substantive changes in their registration whenever they occur, and the information held will be referred to members annually for confirmation or amendment.
- 12.76. The Register will be available for inspection by Officers of the University, other members of the Board and administrative staff having responsibilities for servicing Board meetings and its committees and sub-committees, and the internal and external auditors. The Registrar and Secretary may, at the request of those demonstrating a legitimate interest therein, make the Register available to other members of the University and to members of the public.

Declaration of Interests

- 12.77. Members will be reminded, by a notice on the Agenda paper for each meeting of the Board that they are required to declare any personal interest, financial or otherwise, which they may have in relation to the business before the Board for discussion and/or decision. A 'personal' interest is one which arises out of circumstances not associated with their duties and responsibilities as a member of the Board. Such a declaration may be made at the appropriate point during the meeting, or in advance to the Chair or to the Registrar and Secretary, who will advise the meeting accordingly.

Appendix C: Extract from HM Revenue and Customs guidance on Gifts

EIM21715 – Particular benefits: small gifts in kind from third parties

Section 324 ITEPA 2003

Small gifts of goods made to employees (or a member of their family or household) are exempt from tax if the following conditions are met:

- the gift is not provided by the employer, or a person connected with the employer
- neither the employer, nor a person connected with the employer, directly or indirectly procured the gift
- the gift is not made in recognition, or in anticipation, of particular services performed by the employee
- the gift is not in cash or in vouchers or securities that can be converted into cash
- the total cost to the donor of all eligible gifts to the employee in a tax year does not exceed £250 (before 6 April 2003 the figure was £150). The cost to the person making the gift includes any VAT paid, whether or not it is reclaimable.

Where the cost of a gift (or gifts) an employee receives from the same third party in a tax year exceeds £250, tax will be payable on the full amount of the gifts.

Source: www.hmrc.gov.uk

Notes (not part of HM Revenue and Customs guidance)

ITEPA is the Income Tax (Earnings and Pensions) Act 2003

The above advice was current in September 2005. HM Revenue and Customs may vary or revoke the exemption above at short notice.

Staff are advised strongly to seek the advice of HM Revenue and Customs or a qualified professional advisor should they have any doubt regarding the taxable status of a gift.