

Summary Sheet

Name of Committee and Date of Committee Meeting:

Standards and Ethics Committee 21st March 2019

Report Title:

Differences between the requirements for Members and Officers with regards to Declarations for Gifts and Hospitality.

Is this a Key Decision and has it been included on the Forward Plan?:

No

Strategic Director Approving Submission of the Report:

Judith Badger, Strategic Director Finance and Customer Services

Report Author(s):

David Webster, Head of Internal Audit
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Ward(s) Affected:

All

Executive Summary:

A report informing the committee of the requirements to declare gifts and hospitality received by Members and Officers.

Recommendations:

That the Committee notes the content of the report.

List of Appendices Included:

Appendix A – Staff Code of Conduct, Gifts and Hospitality
Appendix B – Financial Procedure Rules, Gifts, Loans and Sponsorship

Background Papers:

Terms of Reference for the Standards and Ethics Committee.

Consideration by any other Council Committee, Scrutiny or Advisory Panel:

None.

Council Approval Required:

No

Exempt from the Press and Public:

No.

Declarations of Gifts and Hospitality – Member and Officer requirements

1. Recommendation

- 1.1 That the Committee notes the content of the report.

2. Background

- 2.1 One of the items in the Terms of Reference for the Standards and Ethics Committee is “To Review the Application of the Council’s Standing Orders, Financial Regulations, contract arrangements and other such provisions.”
- 2.2 The Internal Audit department works to an annual plan designed to enable the Head of Internal Audit to give an annual opinion on the adequacy and effectiveness of governance, risk management and control within the Council as a whole. Reports are presented to the Audit Committee throughout the year to give them assurance on the areas audited, contributing to their knowledge in advance of their review of the Annual Governance Statement.
- 2.3 The Internal Audit plan includes reviews of aspects of governance and financial processes. There is therefore an overlap with the remit of the Standards and Ethics Committee. In December 2018 the Head of Internal Audit presented a paper to the committee including summary findings from two audit reviews in these areas.
- 2.4 The Committee welcomed the reports but sought clarification on the differences between the Members and Officers declarations for gifts and hospitality. They requested a report be submitted to this meeting.

3. Key Issues

Members

- 3.1 There is very little guidance for Members. The Code of Conduct for Members and Co-Opted Members, Appendix 6 to the Constitution includes ‘You have a personal interest in any business of the Council where either it relates to or is likely to affect - the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25’
- 3.2 The Members Handbook includes, para 27, A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority’s Monitoring Officer of the existence and nature of that gift or hospitality. A member must similarly provide written notification of gifts and hospitality received on more than one occasion during a twelve month period from the same person or body, even though each gift or hospitality is of a lesser value than £25,

unless the gifts are of nominal value for publicity purposes. Help and advice is available from the Monitoring Officer.

- 3.3 Members declare gifts and hospitality in the Register of Interests, which is available online.

Officers

- 3.4 Guidance for Officers is much more detailed. The staff Code of Conduct includes para 16 Gifts and Payments and para 17 Hospitality. Para 16 states that, as a general rule, gifts should be refused. Where that is not possible gifts should be recorded in the Corporate Gifts and Hospitality Register, available from the management support team. Para 17 states that employees should exercise discretion in offering and accepting hospitality, with regard given to seven criteria. Again, any hospitality received or offered should be recorded in the Corporate Gifts and Hospitality Register. A copy of Paragraphs 16 and 17 is given in Appendix A.

- 3.5 Financial Procedure Rule number 34 gives overall guidance for Gifts, Loans and Sponsorship – defining them as the voluntary provision to the Council of non-public funds, services, equipment or other resources. It states that gifts, loans and sponsorship must not be accepted where there is a risk of damaging the integrity or propriety of the Council, and provides guidance of offers that should be avoided. It also states that Strategic Directors have discretion to accept individual gifts, loans or sponsorship related to their directorates in accordance with the above guidance up to a value of £25,000. Above this value, the approval of Cabinet is required. A copy of FPR 34 is given in Appendix B.

4. Options considered and recommended proposal

- 4.1 The recommendation is to note the content of the report.

5. Consultation

- 5.1 Not applicable.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Not applicable.

7. Financial and Procurement Implications

- 7.1 There are no immediate financial and procurement implications associated with this report.

8. Legal Implications

8.1 There are no immediate legal implications associated with this report.

9. Human Resources Implications

9.1 There are no Human Resources implications associated with this report.

10. Implications for Children and Young People and Vulnerable Adults

10.1 There are no immediate implications associated with this report.

11. Equalities and Human Rights Implications

11.1 There are no immediate implications associated with this report.

12. Implications for Partners and Other Directorates

12.1 There are no immediate implications associated with this report.

13. Risks and Mitigation

13.1 The implementation of the recommendations in the two audit reports is designed to minimise the Authority's exposure to risk.

14. Accountable Officer(s):

David Webster, Head of Internal Audit

Approvals Obtained from:-

Strategic Director of Finance and Customer Services: Judith Badger

Staff Code of Conduct

Gifts and Payments

16.1 Gifts and payments to employees related to employment

16.1.1 Employees must be careful in the exercise of their duties not to show by their behaviour that they may be influenced by any gifts whilst acting in an official capacity.

16.1.2 The Prevention of Corruption Acts 1906 and 1916 make it a criminal offence for employees to demand or accept any gift or reward in return for allowing themselves to be influenced in their official capacity by any person seeking to obtain a contract from a local authority.

16.1.3 As a general rule, therefore, all gifts and other benefits must be refused. If gifts are delivered or sent by post to the place of work, they should be returned if the sender can be identified with an appropriately worded letter. Offers should be declined tactfully, with an explanation that this is Council policy. Where it is not possible to return a gift, or if it is considered that refusal would cause unnecessary offence, then the gift may be appropriated for the benefit of the Council and donated to the Mayor's Charity or other suitable similar purpose.

16.1.4 Employees must record any gift, received or offered, in the Corporate Gifts and Hospitality Register, available from the management support team and monitored by each Director. The record should include the following information:

- 1) the date and time of offer/receipt;
- 2) the person making the offer;
- 3) persons present;
- 4) the nature of the gift;
- 4) the approximate value;
- 5) whether accepted or declined;
- 6) reasons for acceptance (if applicable).

16.1.5 The only gifts not required to be recorded in accordance with the above paragraph are those of a nominal value issued for publicity purposes such as pens, diaries and calendars.

16.2 Gifts and payments to employees unrelated to employment

16.2.1 Employees on occasion receive payment or gifts for personal care/work, which is unassociated with their employment with the

Council. All employees who carry out such work for members of the public who are in receipt of services from the Authority and particularly Adult Social Services (e.g. home care, warden service, social work support) must declare these arrangements to their Director in writing. Any such declaration must be acknowledged and the service user advised that next of kin should be made aware of the arrangement.

Hospitality

- 17.1 Employees should exercise discretion in offering and accepting hospitality. Acceptance of meals and refreshments for example may be a necessary part of Council business, i.e. provided to enable the parties to continue discussion. The meals or refreshments must be of a modest kind and if possible the employee should pay for their own meal and claim for reimbursement under the Conditions of Service.
- 17.2 In deciding whether to accept hospitality, regard should be given to the following: -
- (i) whether the person or firm offering the hospitality is likely to benefit from the hospitality;
 - (ii) whether that person or firm is seeking a contract, or one has already been awarded;
 - (iii) the timing of the hospitality in relation to decisions which the Council may take which will affect those offering it;
 - (iv) whether it is preferable in the circumstances to entertain the person or persons concerned at the Council's premises or at the Council's expense;
 - (v) the scale and location of the hospitality and whether it falls within working hours;
 - (vi) whether a proposed visit is genuinely instructive or constitutes more of a social function;
 - (vii) the frequency of the hospitality.

In all cases employees should be able to justify the arrangements they have made in the interests of the Council.

- 17.3 If an employee has any doubt about the acceptance of an invitation, this should be discussed with his/her Director. Employees must discuss any offers of hospitality over and above meals and refreshments with their Head of Service prior to accepting or declining them.
- 17.4 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

- 17.5 Employees must record any hospitality, received or offered, in the Gifts and Hospitality Register as detailed at point 16.1.4.
- 17.6 The only hospitality not required to be recorded in accordance with the above paragraph, is hospitality of a modest kind received during normal working hours in the course of conducting the Council's business. This would include light refreshments such as tea, coffee, biscuits and sandwich lunch or similar.

Financial and Procurement Procedure Rules

Gifts, Loans and Sponsorship

- 34.1. Gifts, loans and sponsorship can be defined as the voluntary provision to the Council of non-public funds, services, equipment or other resources. In some circumstances they may be accepted from a source which has genuine and well-intentioned reasons for wishing to support specific projects.
- 34.2. For the avoidance of doubt this financial regulation does not apply to any funding received pursuant to any service delivery partnership entered into with another public body or voluntary organisation.
- 34.3. Gifts, loans and sponsorship must not be accepted where there is a risk of damaging the integrity or propriety of the Council. For example, gifts, loans and sponsorships should not be accepted:
 - 34.3.1. from sources which come under the direct scrutiny of the Council;
 - 34.3.2. where the provider seeks endorsement of a product or service in order to gain preferential treatment in supplying or contracting goods and services to the Council; or
 - 34.3.3. to influence the direction of a particular policy or operation.
- 34.4. Gifts, loans and sponsorship should only be used to support Council activities which can readily be discontinued, since the donations can be withdrawn at any time on the initiative of the donor.
- 34.5. Where gifts, loans, or sponsorship come from more than one organisation in a competing market, care must be taken to demonstrate an even handed approach in accepting or rejecting any offer.
- 34.6. In considering the offer of a gift, loan or sponsorship, priority must be given to meeting the needs of the Council rather than those of the donor/lender/sponsor, and should avoid:
 - 34.6.1. potentially sensitive associations with inappropriate donors/lenders/sponsors;
 - 34.6.2. potentially sensitive associations with organisations already in a contractual arrangement to supply goods or services to the Council, which could be construed by competitors as preferential treatment;
 - 34.6.3. projects which could distract effort from tackling agreed priorities;
 - 34.6.4. projects of dubious or limited benefit;

- 34.6.5. offers of gifts, loans, or sponsorship with conditions attached;
- 34.6.6. offers of gifts, loans, or sponsorship which could involve the Council in additional net expenditure;
- 34.6.7. offers of equipment which is incompatible with existing equipment;
- 34.6.8. inadequate contractual arrangements; and
- 34.6.9. the risk of becoming unduly dependent on a facility or item of equipment which is liable to be withdrawn.
- 34.7. Where publicity is sought by the donor/lender/sponsor, a commercial agreement should be signed.
- 34.8. Strategic Directors have discretion to accept individual gifts, loans, or sponsorship related to their directorates in accordance with the above guidelines up to a value of £25,000. Above this value, the approval of Cabinet is required.
- 34.9. These rules also apply to the Mayor.