

## **Report to Appointments and Conditions of Service Committee**

**Subject:** Review of Gifts and Hospitality Code of Practice for Members and Officers

**Date:** 3 April 2019

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### **1. Purpose of the Report**

To seek authority to implement minor amendments to the Gifts and Hospitality Code of Practice for Members and Officers.

### **Recommendation**

THAT the minor amendments to the Gifts and Hospitality Code of Practice for Members and Officers set out at Appendix 1 to this report be agreed and implemented through formal policy change.

### **2. Background**

- 2.1 The Council has a Gifts and Hospitality Code of Practice for Members and Officers to enable Members and Officers to decide on the circumstances and the manner in which gifts and hospitality may be accepted.
- 2.2 The Gifts and Hospitality Code of Practice for Members and Officers has been in existence for several years and is in need of review and update. At its meeting on 30 August 2018, the Standards Committee considered the current document and agreed that a light touch update should be carried out as the document has stood the test of time.
- 2.3 A light touch review was carried out and an updated version of the Code of Practice was considered and approved by the Standards Committee on 21 February 2019; this is attached at Appendix 1. For ease of reference the amendments are shown in strike out and in red.

2.4 The Code of Practice also forms part of the Council's employees' terms and conditions of employment and as such amendments require formal amendment through policy change authorised by this committee following consultation with recognised trade unions and consideration by the Joint Consultative and Safety Committee.

2.5 Following the decision of the Standards Committee to agree the minor amendments, the Code of Practice was referred to the JCSC of 26 February. The JCSC supported the proposals for change without further comment.

### **3. Proposal**

It is proposed that the minor amendments to the Gifts and Hospitality Code of Practice for Members and Officers set out at Appendix 1 now be agreed and implemented through formal approval of the Appointments and Conditions of Service Committee.

### **4. Resources Implications**

None.

### **5. Appendices**

Appendix 1 – Updated Gifts and Hospitality Code of Practice for Members and Officers.

### **6. Background papers**

None identified.

## **GIFTS AND HOSPITALITY CODE OF PRACTICE FOR MEMBERS AND OFFICERS**

### **1. General**

- i. The principles set out in this code apply equally to gifts and hospitality given to relatives of Members and Officer.
- ii. This code ~~is being~~ **has been** issued in order to enable Members and Officers to decide on the circumstances and the manner in which gifts and hospitality may be accepted. This code will be taken into consideration should a question arise as to whether any gift or hospitality was properly accepted. If Members and Officers are in any doubt as to whether they might accept a gift or hospitality they should decline it. ~~This code is intended to supplement the advice given in the National Code of Local Government Conduct and to replace and advice of guidance previously issued by the Council.~~
- iii. Failure by Officers to comply with this code may be subject to the Authority's disciplinary procedures.

### **2. Legal Position**

- i. With regard to Members, ~~paragraphs 27-29 of the National Code of Local Government Conduct issued by the Secretary of State pursuant to S.31 of the Local Government and Housing Act 1989 contain advice~~ **the Council's Code of Conduct contains a number of obligations which Members and co-opted Members must comply with to ensure that their integrity cannot be brought into question by** the acceptance of gifts and hospitality. The Code is reproduced in full in the ~~Standing Orders booklet issued to all members~~ **Constitution**. Failure to comply with the Code may be taken as evidence of maladministration by the Ombudsman on complaint being made **or form the basis of a code of conduct complaint**.
- ii. With regard to Officers, Section 117(2) of the Local Government Act 1972 provides that an Officer of a Local Authority shall not, under the colour of his or her office of employment, accept any fee or reward whatsoever other than his or her proper remuneration. The expression 'any fee or reward' includes such things as unauthorised commissions, gifts or presents. Any person who contravenes this commits a criminal offence and is liable to disciplinary proceedings.
- iii. ~~The Prevention of Corruption Acts (and more specifically the Public Bodies Corrupt Practices Act 1889) make it an offence for any person "corruptly" to solicit or receive any gift, loan, fee, reward or advantage as an inducement or reward for any member, officer or servant of a Public body doing, or forbearing to do, anything with which the Public body is concerned. There is a presumption that if any money or gift is paid or given by a person holding or seeking to obtain a contract with the Council, then that payment or gift is corrupt unless the contrary is proved. It should also be noted that a person acts "corruptly" if the fee or reward is given or solicited deliberately and as part~~

~~of a bargain for a favour (including past favours).~~ The Bribery Act 2010 makes it an offence to seek, accept or agree to accept a financial or other advantage as an inducement or reward to perform a function improperly. In simple terms, it is a criminal offence for employees to seek or accept a financial or other advantage in return for making a decision, granting an award or performing any other public function, regardless of what decision is made. The maximum sentence for a bribery offence is 10 years imprisonment. The Bribery Act 2010 also makes it an offence for the Council to offer or pay bribes and both the individual and the organisation may be prosecuted. Members and officers should bear this in mind in applying the Code of Practice on Gifts and Hospitality and recording their reasons for acceptance of any hospitality.

### **3. Gifts**

- i. The acceptance of gifts is a dangerous practice. As a general rule any offers of gifts, especially from organisations or persons who do work for, or might provide goods or services to the Council, or who need some decision from the Council (eg on planning application) should be tactfully refused.
- ii. Exceptions to this general rule would include modest gifts of a promotional character, including such things as calendars, diaries, articles for use in the office, etc, or a small gift of low value on the conclusion of a courtesy visit to a factory or firm.
- iii. Gifts outside of this description must be politely and firmly refused. If you find refusal difficult you should draw attention to the Council's policy by way of explanation for your refusal. Where such gifts are sent or simply left, they should, if the sender can be identified, be returned. Otherwise the gifts should be recorded and made secure. Arrangements will then be made for them to be officially appropriated to the benefit of the Council or charity. Officers should always advise the appropriate Head of Service **Manager** or Director if a 'larger' gift is offered at any time. Each Department should make arrangements to record such offers **in the central Register of Gifts and Hospitality maintained by the Monitoring Officer.**
- iv. It is important that the Council is entitled to be the beneficiary of 'preferential' trading terms NOT individuals. Where possible any such inducement should be translated into cash discounts available at the Authority.

### **4. Hospitality**

- i. When to accept hospitality is very much a matter of judgement given the particular circumstances.
- ii. These guidelines are directed at any hospitality offered by firms or contractors and not hospitality offered when a Member or Officer is attending a function organised by a local authority or professional body.
- iii. You must exercise the utmost discretion in accepting 'outside' hospitality of any kind.

- iv. In general terms it will usually be more acceptable to join in hospitality offered to a group than to accept something unique to yourself. Contact established at a social level can often be helpful in pursuing the Council's interest. What is important is to avoid any suggestion of improper influence and to avoid giving others the opportunity reasonably to impute improper influence.
- v. Meals provided to allow parties to discuss business, or following, or prior to, such a discussion are usually acceptable. A useful test will often be whether you would provide refreshments if the venue were reversed. Examples of hospitality which is likely to be unacceptable would be paid holidays, complimentary tickets to sporting events, use of company flats or hotel suites, or special concessionary rates which are not openly, and as a matter of practice, available equally to other organisations.
- vi. Any hospitality offered should be notified to the Chief Executive in the case of Members and Directors, to the appropriate Director in the case of ~~Heads of Service~~ **Manager** and staff reporting direct to Directors, and to the appropriate ~~Head of Service~~ **Manager** in the case of other staff and recorded in the registers kept by them for that purpose. In the case of Officers, the acceptance of any hospitality should (wherever possible) first be authorised by the appropriate Director or ~~Head of Service~~ **Manager** or (in the case of a Director) by the Chief Executive. If an offer of hospitality is accepted, the reason why it is appropriate to accept should be recorded in the register.
- vii. The hospitality registers will be made available to the public for scrutiny on request. The registers will be inspected annually on behalf of the Monitoring Officer and ~~may~~ **will** be reported to the Standards Committee.