

Committee: Standards and General Purpose

Date: 7th November 2019

Wards: All

Subject: Gifts and Hospitality – Members

Lead officer: Fiona Thomsen Interim Assistant Director Corporate Governance and Monitoring Officer

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Recommendations:

- A. That the Committee notes the report.
 - B. That members are reminded of their responsibility to complete declarations of gifts and hospitality including reasons for acceptance.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Council's Code of Conduct for Councillors incorporates the "Protocol on the offer, acceptance and declaration of the receipt of gifts and hospitality by elected and co-opted members". Members are required to ensure that gifts and hospitality that may be offered are recorded in a register that the Council publishes on line.
- 1.2. This report provides information on gifts and hospitality recorded in the hospitality registers for the review in the year since the last consideration of the register on 8 November 2018.

2 DETAILS

- 2.1. The Council's requirements are set out in the "Protocol on the offer, acceptance and declaration of the receipt of gifts and hospitality by elected and co-opted members" which is attached at appendix 1 for ease of reference.
- 2.2. The protocol provides that members must:-
 - a) "You must register *every* individual gift or item of hospitality received that is over £25 in value.
 - b) Your registration must be made *within 28 days of the date you received it*, by completing and sending the attached form to the Council's Monitoring Officer (Fiona Thomsen , Interim Assistant Director of Corporate Governance and Joint Head of Legal Services).
 - c) You must declare the *value* and details of the gift or hospitality received on the form, as well as whether the donor of the gift has or has had in the past or likely to have in the future, dealings with the Council and also if the gift or hospitality has been accepted the reason for that acceptance. You must sign the form *personally*; they should not be signed by support staff for you. Forms will be checked and returned if not completed properly.

- d) Even if all members, or a large number of them, received the same gift or are invited to the same event, they must each make *individual* notifications.
- e) Failure to comply with these rules is a breach of the Members' Code of Conduct.
- f) Breaches of the Code render members liable to a complaint being reported to the Monitoring Officer, who can decide whether there should be an investigation into the allegation."
- g) The Protocol gives the following guidance.

2.4 Registering gifts or hospitality received under the Code does not automatically mean it is appropriate or sensible to accept them in the first place.

- a) Particular care should be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement then the matter should be reported in accordance with established procedures.
- b) The Bribery Act 2010, which came into force on 1 July 2011, creates offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery). The offences consist of "promising, offering or giving" or "requesting, agreeing to receive or accepting an advantage (financial or otherwise)" in circumstances involving the improper performance of a relevant function or activity. In the context of the council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years imprisonment or an unlimited fine for these offences.
- c) In considering whether to accept gifts or hospitality Members should have regard to the following general principles:
- d) Never accept a gift or hospitality as an inducement or reward for anything which you do as a Member;
- e) Only accept a gift if there is a commensurate benefit to the Council;
- f) Never accept a gift or hospitality which might be open to misinterpretation;
- g) Never accept a gift or hospitality which puts you under an improper obligation; and
- h) Never solicit a gift or hospitality.

- 2.5 Decisions on declarations must be made by individual members. The Standards and General Purposes Committee has however agreed that in appropriate circumstances members may choose to accept gifts and hospitality in the following circumstances:
- a) City hospitality provided by another authority;
 - b) Modest refreshments received in the ordinary course of duties as a member e.g. at formal meetings or when in contact with constituents;
 - c) Tickets for sporting, cultural events which are sponsored or supported by the Council;
 - d) Small gifts of low intrinsic value i.e. below £25 which are branded with the name of the company or organisation making the gift (e.g. diaries, calendars etc);
 - e) Modest souvenir gifts with a value below £25 from another public body given on the occasion of a visit by or to that body;
 - f) Hospitality received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by officers rather than the members who will be benefiting and hospitality should be commensurate with the nature of the visit; and
 - g) Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases, you may wish to pass the gift to the Mayor's charitable fund.

2.6 Receipt of gifts and hospitality of this type is still subject to the requirements of the protocol regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £25 in value. The appropriateness of acceptance should always be considered beforehand. It should also be noted that the mere fact that a gift or hospitality does not have to be notified under the protocol does not necessarily mean that it is appropriate to accept it.

3 REVIEW OF THE REGISTERS

3.1. Entries made in the register since the last review are attached at appendix 2.

3.2. The registers show that declarations were made on 54 occasions by 23 Councillors

3.3. The declarations can be summarised in the following categories

- Events such as dinners to meet organisations and network – 12
- Wimbledon tennis tickets by invitation or ballot – 16
- Sporting events – 4

- Mayors charity events – 9
- Borough events – 5
- Invitations to attend theatres and events of cultural organisations connected to the borough - 8

- 3.4. The review of the registers indicates that members are aware of their responsibilities. The declarations were received from across the Council's member groups. In the previous years review, declarations were received from 42 members on 25 occasions. There is a consistent level of declaration across a variety of councillors and indicates that group offices and councillors understand their obligations.
- 3.5. The nature of the gifts and hospitality referred to is consistent with what may be expected for a Council and there do not appear to be any entries which are outside of what could be considered in the normal course of Council business and the various roles councillors have.
- 3.6. It is proposed that following this review a reminder of the obligations is cascaded to members and group officers to ensure the system continues to operate in a satisfactory way.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None

5 TIMETABLE

- 5.1. The review of gifts and hospitality takes place on an annual basis.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Members are required by the Code of Conduct to report offers of gifts, and hospitality. Failure to report may be a breach of the Code of Conduct.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. There are no specific human rights or equalities issues arising from this report. The requirement to ensure that the Council is conducting its activities has proper regard to issues relating to human rights and equalities and fair treatment of all people is a significant component of ethical governance.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1- Protocol on the declaration of gifts and hospitality
- Appendix 2 – extract from the register of declarations of gifts and hospitality.

12 BACKGROUND PAPERS

12.1. None

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