

STANDARDS AND ETHICS COMMITTEE: 13 NOVEMBER 2012

**REPORT OF THE CHIEF OFFICER, LEGAL & DEMOCRATIC
SERVICES AND MONITORING OFFICER**

AGENDA ITEM: 5

REGISTRATION OF HOSPITALITY, GIFTS AND OTHER BENEFITS

Reason for the Report

1. To provide the Committee with an update on the development of revised forms and guidance for use by Members and Officers to register the receipt of hospitality, gifts and other benefits.

Background

2. In accordance with the respective Codes of Conduct, Members and Officers are required to register any hospitality, gifts or other benefits where the value of the item or benefits exceeds an amount determined by the Council from time to time.
3. The Standards and Ethics Committee has previously considered the Council's thresholds for the registration of hospitality, gifts and other benefits and, on 18 September 2007, resolved to recommend to Council the reduction of the threshold to £25 (in line with the threshold value set for all local authorities in England by the Standards Board for England).
4. The Council approved the Committee's recommendation on 18 October 2007, reducing the threshold for registration of hospitality, gifts and other benefits to £25, and the Council's forms and guidance were amended accordingly.
5. The Committee has also considered previous update reports from time to time containing information relating to the hospitality, gifts and other benefits received by Members, which have been registered by the Council in accordance with the Code of Conduct.
6. This Committee seeks to put in place ethical standards to promote a more open and transparent approach to registering receipt of hospitality, gifts and other benefits in accordance with the Code of Conduct. This is one area of work that interlinks with the remit of the new Audit Committee, which has a role in ensuring that these procedures are followed correctly by Members and Officers.

Issues

7. The Council's documentation for the registration of hospitality, gifts and other benefits received by Councillors and Officers from external organisations, businesses or individuals has been revised in order to provide separate guidance notes and registration forms for Members and Officers and aim to provide greater clarity about what is required by the different Codes of Conduct.
8. A copy of the revised guidance note and registration form for use by Officers is set out in **Appendix A** to the report.
9. A copy of the revised guidance note and registration form for use by Members is set out in **Appendix B** to the report. In response to previous suggestions made by the Standards and Ethics Committee, the Member Registration Form also includes provision for Members to confirm the capacity in which they received the hospitality, gift or other benefit – i.e. as Lord Mayor/Chairman; Deputy Lord Mayor/Vice Chairman; Leader of the Council; Deputy Leader of the Council; Cabinet Member; Ward Member or as an appointed Council representative on an outside body.
10. The Committee is invited to consider the revised documentation and determine how often they would like to receive reports summarising what hospitality, gifts and other benefits have been registered by Members and/or Officers.

Legal Implications

11. In accordance with the Local Government Act 2000 the Welsh Government has issued the Model Code of Conduct in respect of the standard of conduct expected from Members. The Council has adopted this code and all Members have undertaken to comply with the obligations set out in it. The Public Services Ombudsman for Wales is empowered to issue guidance to accompany the Code. In his most recent guidance the Ombudsman has confirmed that Members must register any gifts or hospitality (with a single instance or a series of closely connected gifts or hospitality) worth more than the amount specified by the Council. The Ombudsman has not suggested a figure for this amount in his guidance.

Financial Implications

12. There are no direct financial implications arising from this report

RECOMMENDATION

The Committee is recommended to note the contents of this report and to make any comments it considers appropriate in this regard.

MELANIE CLAY

Chief Officer, Legal & Democratic Services and Monitoring Officer

7 November 2012

APPENDIX A: Hospitality, Gifts and Other Benefits Received by Officers from External Organisations, Businesses or Individuals – Guidance Note and Registration Form

APPENDIX B: Hospitality, Gifts and Other Benefits Received by Members from External Organisations, Businesses or Individuals – Guidance Note and Registration Form

APPENDIX A

GUIDANCE ON HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED BY OFFICERS FROM EXTERNAL ORGANISATIONS, BUSINESSES OR INDIVIDUALS

Introduction

1. This guidance is issued in accordance with the statutory Code of Conduct for Employees and is therefore relevant to Council officers to whom the Code of Conduct relates, including school based non-teaching staff. It sets out the threshold or minimum value level determined by the Council, which is **£25**.
2. **All hospitality, gifts and other benefits received by officers, which are estimated to exceed this value, must be notified to, and registered by, the Council's Monitoring Officer via Democratic Services.**

Definitions

3.

Term	Definition
Hospitality received	Any entertainment beyond the offer of non-alcoholic drinks and light refreshments, which would reasonably be regarded as normal social congress, offered to employees representing the Council in an official capacity or in the course of their duties as an officer of the Council. Hospitality received can include (but not exclusively) meals, travel opportunities, hotel accommodation, invitations to events, sport and theatre tickets.
Gift	Any tangible item given to an officer arising out of their official duties and position within the Council.
Other benefits	Any other benefit offered to an officer in the course of, or arising from, their official duties and position within the Council, not covered by the definitions listed above.

Statutory and Council Framework

4. Paragraph 8(2) – Personal Interests – of the statutory Code of Conduct for Employees (which is contained within Part 5 of the Council's Constitution) states that:

"[Employees must comply with] any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority."

Acceptance and Refusal

5. Whatever the value of the hospitality, gift or other benefit offered to an employee/officer, if its acceptance may place you under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused.
6. It is not possible to describe all the situations where an improper obligation may arise. However, these are some examples of circumstances in which offers to officers are likely to be seen as suspect:
 - The offer of hospitality, gifts or other benefits which do not appear to have any proper purpose connected with the Council (e.g. the offer of private holidays or the use of holiday accommodation; personal gifts of substantial value or other benefits offered to officers at substantially below the price they would normally be offered to the public);
 - Hospitality, gifts or other benefits offered to officers who are closely involved in discussions, or who will make recommendations or participate in decision making, relating to an external organisation, business or individual seeking to do business with the Council and, for example, is involved in negotiating a contract or the sale or acquisition of a property, or who has submitted a tender for a Council project;
 - Regular and repeated hospitality, gifts or other benefits which are offered or received from the same external organisation, business or individual;
 - Hospitality, gifts or other benefits offered where the officer would be the sole guest on an essentially private occasion;
 - Hospitality, gifts or other benefits offered for purely sporting or social occasions away from the Council's administrative area, where there would be no general expectation that the Council should be represented, nor any clear connection with Council business or functions.

It should be stressed that the above are examples only, and are not exhaustive. Each offer and its appropriateness should be considered

on its merits and it will be necessary for officers to take a personal view as to whether it is appropriate to accept it, subject to authorisation, as well as the need to avoid the appearance of any improper obligations to the external organisation, business or individual.

7. In circumstances where it is necessary for the Council to be represented at events where hospitality is offered by an external organisation, business or individual, it is appropriate to accept unless there are circumstances which clearly suggest that an improper obligation may be seen to arise.
8. If, for example, the external organisation, business or individual offering hospitality is at a sensitive stage in contractual negotiations with the Council, it will not be appropriate for those who are directly or indirectly involved with those negotiations to accept hospitality. If the matter is a major project which affects many parts of the Council, all invitations during negotiations should be refused.
9. If, however, the issue is relatively minor and confined to one service area or a small group of individual officers, it may be appropriate for those officers not involved directly or unconnected with the matter to accept invitations, if it is believed that the event concerned is particularly relevant to Council business or functions.
10. The offer of hospitality from other public bodies or organisations (e.g. UK Government, National Assembly for Wales, Welsh Government, Local Health Boards and other Councils) will normally be appropriate for acceptance as the implication of improper obligation would rarely arise in those circumstances and such events are generally arranged for proper public purposes. However, those officers who are offered hospitality, gifts or other benefits from such organisations would still need to consider whether acceptance is appropriate and likely to further the Council's interests. In addition, if the organisation is involved in the process of negotiating a contract or other arrangement with the Council, careful consideration should be given before accepting any hospitality, gifts or other benefits.
11. Officers may be offered gifts in the form of bequests by local residents, as a result of their undertaking official duties. This most often happens in the case of home care or residential care staff. Such offers of bequests should be discouraged wherever possible in order to avoid officers being subject to any accusations of impropriety and undue influence or persuasion having been brought to bear on the testator. However, if a bequest is made, then the acceptance of small bequests by officers, which represent only a minor proportion of the estate in each individual case, will generally be considered as acceptable, subject to appropriate authorisation by a senior manager.

Authorisation

12. Under the Code of Conduct for Employees, officers should seek authorisation before accepting any hospitality, gift(s) or other benefit(s).
13. It is the responsibility of the employee to register any hospitality, gifts or other benefits and to ensure that their line manager and/or senior manager are aware of this. Even if authorisation is given, employees remain under a duty to consider whether acceptance of the hospitality, gift(s) or other benefit(s) would place him/her under an improper obligation or be reasonably regarded as such, and whether they need to register its receipt.
14. Subject to paragraph 12 above, this guidance gives general authorisation for employees to accept the following hospitality, gifts or other benefits from third party external organisations, businesses or individuals without authorisation:
 - Promotional or advertising items including pens, calendars, note pads, diaries, etc;
 - Small token gifts given to all or most participants at the end of an official visit by or to the Council or a properly authorised conference;
 - Modest gifts given by individuals to express gratitude for help given in the proper performance of official duties, where refusal would needlessly offend (e.g. bunch of flowers, box of chocolates, single bottle of inexpensive wine etc.), but repeated or costly gifts of this nature should be politely refused;
 - Hospitality offered as part of a conference or training event at which attendance has been authorised through the normal procedures;
 - Hospitality by way of meals offered at business meetings where it is necessary due to diary commitments or other pressing circumstances for the meeting to cover a normal mealtime. In such cases, the hospitality accepted should be of an appropriately modest scale below an estimated value of £25.
15. For all other occasions, the authorisation should be provided by an appropriate senior manager before employees accept the hospitality, gift(s) or other benefit(s) as set out below:

Employee	Authorised by:
Chief Executive	Section 151 Officer or Monitoring Officer
Chief Operating Officer <u>or</u> Corporate Chief Officer	Chief Executive
Chief Officer	Chief Operating Officer <u>or</u>

Employee	Authorised by:
	Corporate Chief Officer
Head of Service	Corporate Chief Officer
Below Chief Officer	Chief Officer

Registration

16. Officers are required to register the acceptance and receipt of any hospitality, gifts or other benefits exceeding an estimated value of £25 for each occasion, item or payment.
17. If there is any doubt about whether the item exceeds the threshold value, you are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold values do not need to be registered by officers. The threshold value will be reviewed by the Council as necessary and appropriate, in consultation with the Standards and Ethics Committee.
18. Employees should use the applicable Officer Registration Form (4.C.034), which must be completed and returned to the Democratic Services Manager for registration purposes. The register will be made available for public inspection.

RECEIPT OF HOSPITALITY, GIFTS & OTHER BENEFITS

OFFICER REGISTRATION FORM

All Officers must complete this form in order to register the receipt of any hospitality, gifts or other benefits **which have an estimated value of £25 or greater** for each item, relevant occasion or payment.

If there is any doubt about whether any hospitality, gift(s) and other benefit(s) received exceeds the £25 threshold value, Officers are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold value do not need to be registered. Officers should also refer to the Council's guidance on Hospitality, Gifts & Other Benefits, which is issued in accordance with the Code of Conduct for Employees.

DETAILS OF HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED	
Name:	
Job Title:	
Service Area: <i>(if applicable)</i>	
Name & Address of Organisation, Business or Individual who provided the Hospitality / Gift / Other Benefit	
Nature & Purpose of Hospitality / Gift / Other Benefit	
Date:	
Location / Venue: <i>(if applicable)</i>	

SIGNATURE:		DATE:	
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AUTHORISATION:

NAME:		POSITION:	
SIGNATURE:		DATE:	

When completed, the Officer Registration Form must be sent to the Democratic Services Manager (Room 286A, County Hall) for registration purposes. Please note that the register will be made available for public inspection.

APPENDIX B

GUIDANCE ON HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED BY MEMBERS FROM EXTERNAL ORGANISATIONS, BUSINESSES OR INDIVIDUALS

Introduction

1. This guidance is issued in accordance with the statutory Code of Conduct for Members and applies to Elected Members and Co-opted Members of Cardiff Council. It sets out the threshold or minimum value level determined by the Council under the Code, which is **£25**.
2. **All hospitality, gifts and other benefits received by Elected Members and Co-opted Members, which are estimated to exceed this value, must be notified to, and registered by, the Council's Monitoring Officer via Democratic Services.**

Definitions

3.

Term	Definition
Hospitality received	Any entertainment beyond the offer of non-alcoholic drinks and light refreshments, which would reasonably be regarded as normal social congress, offered to Members in an official capacity or in the course of, or arising from, their official duties as Members. Hospitality received can include (but not exclusively) meals, travel opportunities, hotel accommodation, invitations to events, sport and theatre tickets.
Gift	Any tangible item given to Members in the course of, or arising from, their official duties and position held within the Council.
Other benefits	Any other benefit offered to Members in the course of, or arising from, their official duties and position held within the Council, not covered by the definitions listed above.

Statutory and Council Framework

4. Paragraph 7 of the Council's Code of Conduct for Members states that:

"You must not:

- (a) *in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage.*

- (b) use, or authorise others to use, the resources of your authority-
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes."

5. Paragraph 9(b) of the Council's Code of Conduct for Members also states that:

"You must...avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation."

6. Paragraph 17 (Registration of Gifts and Hospitality) of the Council's Code of Conduct for Members further states that:

"You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage."

Acceptance and Refusal

7. Whatever the value of the hospitality, gift or other benefit offered to a Member by an external organisation, business or individual, if its acceptance may place you under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused.
8. It is not possible to describe all the situations where an improper obligation may arise. However, these are some examples of circumstances in which offers to Members are likely to be seen as suspect:
- The offer of hospitality, gifts or other benefits which do not appear to have any proper purpose connected with the Council (e.g. the offer of private holidays or the use of holiday accommodation; personal gifts of substantial value or other benefits offered to Members at substantially below the price they would normally be offered to the public);
 - Hospitality, gifts or other benefits offered to Members who are closely involved, or who will participate, in decision making relating to an external organisation, business or individual seeking

to do business with the Council and, for example, is involved in negotiating a contract; the sale or acquisition of a property; or has submitted a tender for a Council project;

- Regular and repeated hospitality, gifts or other benefits which are either offered or received from the same external organisation, business or individual;
- Hospitality, gifts or other benefits offered where a Member would be the sole guest on an essentially private occasion;
- Hospitality, gifts or other benefits offered for purely sporting or social occasions away from the Council's administrative area, where there would be no general expectation that the Council should be represented, nor any clear connection with Council business or functions.

It should be stressed that the above are examples only, and are not exhaustive. Each offer and its appropriateness should be considered on its merits and it will be necessary for Members to make a personal judgement as to whether it is appropriate to accept it.

8. Members must strike a balance between, on the one hand, taking an active part in the life of the community and ensuring that the Council is properly represented when it needs to be in a position to receive or impart information, and, on the other hand, the need to avoid the appearance of improper obligations.
9. In circumstances where it is necessary for the Council to be represented at events where hospitality is offered by an external organisation, business or individual, it is appropriate to accept unless there are circumstances which clearly suggest that an improper obligation may be seen to arise.
10. If, for example, the external organisation, business or individual offering hospitality is at a sensitive stage in contractual negotiations with the Council, it will not be appropriate for those who are directly or indirectly involved with those negotiations to accept hospitality. If the matter is a major project which affects many Council services, all invitations received during such negotiations should be refused.
11. If, however, the matter is relatively minor and confined to one service area or a small group of individual Members or employees, it may be appropriate for those Members not involved directly or unconnected with the matter to accept invitations, if it is believed that the event concerned is particularly relevant to Council business or functions.
12. The offer of hospitality from other public bodies or organisations (e.g. UK Government, National Assembly for Wales, Welsh Government, Local Health Boards and other Councils) will normally be appropriate for acceptance as the implication of improper obligation would rarely arise in those circumstances and such events are generally arranged for proper public purposes. However, those Members who are offered

hospitality, gifts or other benefits by such organisations would still need to consider whether acceptance is appropriate and likely to further the Council's interests. In addition, if the organisation is involved in the process of negotiating a contract or other arrangement with the Council, careful consideration should be given before accepting any hospitality, gifts or other benefits.

13. There may be rare occasions when Members may be offered gifts in the form of bequests by local residents, as a result of their undertaking official duties. Such offers of bequests should be discouraged wherever possible in order to avoid Members being subject to any accusations of impropriety and undue influence or persuasion having been brought to bear on the testator. However, if a bequest is made then the acceptance of small bequests by Members, which represent only a minor proportion of the estate in each individual case, will generally be considered as acceptable.
14. Elected Members and Co-opted Members are not required to obtain authorisation before accepting hospitality, gifts or other benefits offered in connection with their official role. However, Elected Members and Co-opted Members will be responsible for any decision they take to accept any hospitality, gift or other benefit.

Registration

15. **Elected Members and Co-opted Members are required to register any hospitality, gifts or other benefits exceeding an estimated value of £25 for each occasion, item or payment.**
16. If there is any doubt about whether the item exceeds the threshold value, you are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold values do not need to be registered by Members. The threshold value will be reviewed by the Council as necessary and appropriate, in consultation with the Standards and Ethics Committee.
17. Under the Members' Code of Conduct, Elected Members and Co-opted Members are required to make such registrations **within 28 days of receipt**. Members should use the applicable Member Registration Form (4.C.039), which must be completed and returned to the Democratic Services Manager for registration purposes. The register will be made available for public inspection.

RECEIPT OF HOSPITALITY, GIFTS & OTHER BENEFITS

MEMBER REGISTRATION FORM

All Elected Members and Co-opted Members must complete this form in order to register the receipt of any hospitality, gifts and other benefits **which have an estimated value of £25 or greater** for each relevant occasion, item or payment.

If there is any doubt about whether any hospitality, gift(s) and other benefit(s) received exceeds the £25 threshold value, Members are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold value do not need to be registered. Members should also refer to the Council's guidance on Hospitality, Gifts & Other Benefits, which is issued in accordance with the Code of Conduct for Members.

DETAILS OF HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED	
Name of Member:	
Name & Address of Organisation, Business or Individual who provided the Hospitality / Gift / Other Benefit	
Nature & Purpose of Hospitality / Gift / Other Benefit	
Date:	
Location / Venue: (if applicable)	
In what role or capacity did you receive the Hospitality / Gift / Other Benefit? (e.g. Lord Mayor/Chairman, Deputy Lord Mayor/Vice Chairman, Leader, Deputy Leader, Cabinet Member, Ward Member, representative on outside body)	
SIGNATURE:	DATE:

Please note that you must register any hospitality, gifts or other benefits with an estimated value of £25 or greater **within 28 days of receipt**.

When completed, this form must be sent to the Democratic Services Manager (Room 286A, County Hall) for registration purposes. Please note that the register will be made available for public inspection.

