
**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

OFFICERS' GIFTS AND HOSPITALITY – REVISED DRAFT GUIDANCE

Reason for this Report

1. To enable the Committee to consider proposed changes to the Council's rules and guidance for officers in relation to gifts and hospitality.

Background

2. The Standards and Ethics Committee's terms of reference include the following:
 - a. To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services.
 - b. To report to the Council on any matters of concern. To advise the Council on the content of its Ethical Code and to update the Code as appropriate.
 - c. To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application.
3. The Employees' Code of Conduct, paragraph 8(2) 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. Qualifying¹ employees must not accept benefits from a third party unless authorised to do so by their relevant authority."
4. The Council has issued 'Guidance on Hospitality, Gifts and Other Benefits Received by Officers' ('the Guidance'), which requires officers to register the receipt of any gifts and hospitality which has an estimated value of £25 or more (reflecting the same threshold which applies to elected Members).

¹ 'Qualifying employees' is defined to mean all Council employees, except for teachers and firefighters, who are not statutorily bound by the provisions of the Employees' Code of Conduct, although the Code may be applied through their contracts of employment.

5. The Standards and Ethics Committee reviewed the Guidance in March 2019. The Committee recommended that the register of gifts and hospitality received by Senior Officers (Chief Officers, Assistant Directors and above) should be published on the Council's website with effect from 1st April 2019; and that the estimated value of any gifts and hospitality received by officers should be included within the public register. These changes were implemented from April 2019.

Issues

6. The Council's Internal Audit team has carried out a review of the Council's rules, which concluded they were 'Effective with opportunity for improvement' and recommended certain changes and issues for consideration, which are set out in paragraphs 9 to 17 (inclusive) of this report.
7. The Internal Audit recommendations have been considered and, in consultation with the Audit Manager, revised draft Guidance (and accompanying forms) has been prepared. The revised draft Guidance (and forms) has been considered by the Senior Management Team, who have confirmed they are content with the proposed changes. The Trade Unions have also been consulted about the proposed changes. The UNISON representative has confirmed they have no objections and that 'We agree this should be in place for all Council service areas as part of good governance and codes of ethics/conduct.' No other representations or concerns have been raised.
8. The changes proposed are incorporated within the revised draft Guidance attached as **Appendix A**. The proposed changes relate to the following matters:

Provision of Gifts and Hospitality

9. The Guidance currently covers any gifts and hospitality which may be offered to Council officers, in line with the requirements of the Code of Conduct paragraph 8(2), set out in paragraph 3 above. The Guidance does not currently cover any gifts or hospitality which may be offered by Council officers to individuals or organisations outside of the Council. Internal Audit has recommended that rules should be included on the provision of hospitality, as a matter of best practice, to ensure the appropriate use of public funds. The Committee considered this issue in 2016, but it was not progressed further, pending a review of the Guidance.
10. New rules have now been incorporated into the revised draft Guidance (**Appendix A** paragraphs 23 to 32 inclusive) which:
 - a) Confirms that gifts and hospitality should only be provided in order to support the proper exercise of Council functions, with identified links and benefits to the Council, and must demonstrate value for money.
 - b) Requires officers to obtain authorisation from a line manager at Assistant Director / Chief Officer level or above (or the Section 151 Officer or the Monitoring Officer for the Chief Executive) before providing any gifts or hospitality which exceeds a threshold value of either £25 per person or £500 per event (anything in excess of either value will trigger the registration requirement).

- c) Allows Directors to grant a 'general authorisation' to specified officers for the provision of gifts or hospitality up to a financial limit of £750 per event, provided that the cumulative value of approvals under the general authorisation in that Directorate does not exceed £1,500 per financial quarter; and the Director must retain overall responsibility and accountability.
 - d) Requires officers to register with Democratic Services within 28 days any gifts and hospitality provided which exceeds the threshold value set out in paragraph (b), including anything authorised under a Director's general authorisation; and for Democratic Services to make registers available for public inspection, and to publish the register for Senior Officers.
 - e) Requires all other records (receipts etc) to be kept within the relevant service area, with copies provided promptly for audit inspection upon request.
11. A draft form for officers to register the provision of gifts or hospitality is attached as **Appendix B**.

Gifts and Hospitality Refused by Officers

12. The current Guidance explains that gifts or hospitality offered to Council officers should always be refused *if* it may appear to place them under an improper obligation to the donor, and gives examples (Guidance paragraphs 8 to 14 inclusive). However, there is no current requirement to register any refused offers.
13. The Internal Audit review recommended that consideration should be given to requiring officers to register any gifts and hospitality offered to them but refused. It was noted that some other Core Cities include this requirement in their rules.
14. A requirement to register refused gifts and hospitality may highlight potential risks of improper influence and reduce this risk. It should also be noted that the offer of a gift or hospitality for improper motives is likely to constitute a criminal offence under the Bribery Act 2010, even if the offer is refused. Disclosure of all gifts and hospitality offered to officers, including those which may have been refused, would demonstrate full transparency and openness and may be considered to be best practice in this regard. However, extending the registration requirements may create additional administrative work, which needs to be proportionate, having regard to the level of risk involved.
15. This issue was considered by the Senior Management Team, who were content to extend the registration requirements to cover offers of gifts and hospitality worth over £25 which had been refused. The Guidance has been amended to incorporate this. Corresponding amendments have been made to the current registration form for offers of gifts and hospitality received by officers, as shown in **Appendix C**.

Registration within 28 days

16. The Internal Audit review recommended that the Guidance should be amended to make clear that registration (when required under the rules) must be completed within 28 days after receipt, to support the effectiveness of the rules and compliance

with them. It may be noted that the officers' registration form (**Appendix C**) already refers to a 28 day deadline (which reflects the same timescale applicable to Members under the statutory rules for Members). This has been reflected in the revised draft Guidance (paragraph 21).

Other minor amendments

17. The Internal Audit review recommended that the Guidance should include reference to the fact that the rules are an important part of the Council's framework for managing risks of bribery and corruption. This has been added to the revised draft Guidance at paragraph 7.
18. A number of other minor amendments are also included in the revised draft Guidance, to improve clarity and update administrative processes.

Registrations made under the current Guidance

19. No registrations have been made for the current year, 2020/21. This may be unsurprising, given the Covid-19 related restrictions in place since March this year. The register for Senior Officers Gifts and Hospitality 2019/20 is published on the Council's website, accessible using this link: <https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/registers/Pages/default.aspx>

Implementation of Changes

20. Subject to approval by the Committee, the revised draft Guidance will be published on the staff intranet and brought to the attention of all staff through the Core Brief, or similar, with support from the Council's Communications team.

Legal Implications

21. Under the Bribery Act 2010 there are a number of offences in relation to offering and accepting bribes intended to induce improper conduct. The Council's guidance aims to protect officers against any such allegations and provide public assurance of probity and propriety in the conduct of Council business.
22. Other relevant legal implications are set out in the body of the report and the appended revised draft Guidance.

Financial Implications

23. The policy is designed to support openness and propriety in the receiving or offering of gifts and hospitality. Provisions are included within the policy for effective stewardship of public funds, and to avoid perceived or actual conflicts of interest.

RECOMMENDATION

The Committee is recommended to:

1. Consider and approve the revised draft Officers' Guidance on Hospitality, Gifts and Other Benefits attached as **Appendix A**, and the accompanying registration forms, **Appendices B and C**, subject to any amendments the Committee may wish to make; and
2. Authorise the Monitoring Officer, in consultation with the Chair, to finalise and issue the revised Guidance and registration forms (**Appendices A, B and C**), to reflect any comments made by the Committee.

Davina Fiore

Director of Governance & Legal Services and Monitoring Officer

27 November 2020

APPENDICES

Appendix A	Revised draft Officers' Guidance on Hospitality, Gifts and Other Benefits
Appendix B	Draft Registration Form for the Provision of Hospitality, Gifts or Other Benefits to External Organisations, Businesses or Individuals
Appendix C	Amended draft Registration Form for Offers of Hospitality, Gifts and Other Benefits

Background papers

Current Guidance on Hospitality, Gifts and Other Benefits Received by Officers (with Officers' Registration Form)

http://vmweb22.cardiff.gov.uk/cis/documentsearch.php?search_text=&service_id=0&document_type=ALL&searchmode=EXECUTE&search_ref=1.cm.070

Internal Audit Review 'Ethics and Values – Gifts and Hospitality', November 2019

Standards and Ethics Committee report 'Officers Gifts and Hospitality Guidance', March 2019