
10 January 2019

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Director of Finance and Corporate Services

Ward(s) affected:

None

Title: Review of Guidance on Gifts and Hospitality for Members

Is this a key decision?

No

Executive Summary

At its meeting in July 2018, the Committee decided that it would like to review the current guidance and rules on the acceptance of gifts or hospitality by elected members.

The current guidance for members was approved by the Committee at its meeting on 29 August 2014. Prior to this, the only advice for members on gifts and hospitality was the reference to the need to declare gifts and hospitality in the Members' Code of Conduct. The form for declaration of gifts and hospitality was also reviewed and updated. At that time the Monitoring Officer publicised the new guidance to all members along with how to register gifts and hospitality. Advice on gifts and hospitality is included in the training for members on Code of Conduct matters delivered by the Monitoring Officer.

This report sets out the current guidance for members and asks the Committee to consider:

- Whether it wishes to alter the rules for acceptance and declaration of gifts and hospitality
- Whether it would like to provide new or revised guidance to members; and
- Whether it wishes to consider new ways of ensuring that members understand the rules.

Recommendations:

The Ethics Committee is recommended to consider the current guidance on Members Gifts and Hospitality and to make any recommendations for changes that it considers appropriate. In particular to consider:

- (1) whether it wishes to alter the rules for acceptance and declaration of gifts and hospitality including:
- the financial threshold for the declaration of gifts and hospitality
 - declaration of offers made but not accepted
 - seeking the approval before acceptance of the gift or hospitality
 - making the register of declarations available online
- (2) whether it would like to provide new or revised guidance to members; and
- (3) whether it wishes to consider new ways of ensuring that members understand the rules.

List of Appendices included:

Appendix 1: Current Guidance on Gifts and Hospitality

Appendix 2: Draft Quick Guide on Gifts and Hospitality

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Review of Guidance on Gifts and Hospitality for Members

1. Context (or background)

- 1.1 At its last meeting, the Committee decided that it would like to review and, if necessary, revise, the guidance issued to members on the receipt of gifts and hospitality. This report sets out the current guidance given to members and requests the Committee to consider what changes, if any, it would like to make to that guidance.
- 1.2 The requirement to declare gifts and hospitality valued at over £25 has been in the Code of Conduct for Elected and Co-opted Members since the Code was adopted in 2012. Before that the national code of conduct also required declaration of gifts and hospitality. The Code requires members to declare these to the Monitoring Officer within 28 days of receipt. The register is public but is not online. Declarations are reported to this Committee every six months and are therefore available on the Council's website.
- 1.3 Although there has been a requirement to declare gifts and hospitality for many years, until 2014, the Council did not have any formal guidance for members. At its meeting on 29 August 2014, the Committee considered a report from the Monitoring Officer recommending approval of new guidance for members on the acceptance of gifts and hospitality. This guidance is attached at Appendix 1. In addition the Committee approved a revised form for members to use when declaring gifts or hospitality. In particular the Committee decided that:
- it did not want to alter the financial threshold for declaring gifts and hospitality
 - the register should not be made available on line but available for the public to view in person if they wished
 - members should not be required to declare gifts or hospitality offered but not accepted.

At the time the new guidance was approved, the Monitoring Officer publicised the guidance to members and since then a section on gifts and hospitality has been included in the compulsory Code of Conduct training for all members.

2. Options considered and recommended proposal

- 2.1 **Option 1:** do nothing. This is not recommended as the guidance has been in place for 4 years and would benefit from a review.
- 2.2 **Option 2:** review the guidance and consider whether there are any other ways that the Committee would want to make members aware of the rules around acceptance of gifts and hospitality.
- 2.3 In particular, the Committee is asked to consider whether:
- It wishes to alter the financial threshold for the declaration of gifts and hospitality
 - the register of declarations should be made available online
 - members should be required to declare offers made but not accepted
 - members should be required to seek the approval of the Monitoring Officer or Deputy Monitoring Officer before acceptance of the gift or hospitality.
- 2.4 If the Committee is minded to look at amending the financial threshold for declaration of gifts and hospitality, officers have checked the thresholds being used by other councils in the West Midlands, where these are publicly available:

Council	Threshold
Birmingham City Council	£25
Dudley MBC	£25
North Warwickshire	£100
Sandwell MBC	£100
Solihull MBC	£25
Walsall Council	£50
Warwick District Council	£25
Wolverhampton City Council	£50

In addition, if members wish to look at putting declarations online, officers can investigate the feasibility of members updating declarations directly onto Modern Gov in the same way that they do with their Register of Interests.

- 2.5 In terms of publicising the guidance on the Code to members, attached at Appendix 2 is a draft quick guide for members in the form of questions and answers. It sets out the main points of the guidance on gifts and hospitality and it is hoped that its layout may make it easier for members to find a quick answer to a question about gifts and hospitality. The Committee is asked to consider the draft quick guide and decide whether they would wish to issue something similar to members in addition to the current guidance. The Committee is also asked to consider how it feels that the current and any future guidance can be best brought to the attention of members.

2.6 Recommendations:

The Ethics Committee is recommended to consider the current guidance on Members Gifts and Hospitality and to make any recommendations for changes that it considers appropriate. In particular to consider:

- (1) whether it wishes to alter the rules for acceptance and declaration of gifts and hospitality including:
 - the financial threshold for the declaration of gifts and hospitality
 - declaration of offers made but not accepted
 - seeking the approval before acceptance of the gift or hospitality
 - making the register of declarations available online
- (2) whether it would like to provide new or revised guidance to members; and
- (3) whether it wishes to consider new ways of ensuring that members understand the rules.

3 Results of consultation undertaken

- 3.1 None.

4. Timetable for implementing this decision

Any recommendations of the Committee will be implemented within an appropriate time frame. In particular, if members are minded to introduce an online register, then it is recommended that this take effect from the start of the 2019/20 municipal year.

5. Comments from the Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

Members are required to declare Gifts and Hospitality under section 4 of the Code of Conduct for Elected Members at Part 4 of the Council's Constitution. Whilst there is no statutory requirement for members to declare in this way, maintaining a process and register aids transparency and assists the Council in promoting and maintaining high standards of ethical behaviour as is required under section 27 of the Localism Act 2011

6 Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report, but a failure to implement and maintain a system of Declarations of Gifts and Hospitality can impact on the organisation's ethical behaviour and transparency. It is prudent to review the guidance issued to members from time to time to ensure that it is up to date and relevant.

6.3 What is the impact on the organisation?

The routine declaration of gifts and hospitality received should assist in protecting Elected Members from unfounded allegations of bias and facilitate good and clear transparent decision making.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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This report is published on the council's website:

www.coventry.gov.uk/councilmeetings

Appendix 1: Current Guidance on Gifts and Hospitality

GUIDANCE ON THE DECLARATION OF GIFTS AND HOSPITALITY UNDER MEMBERS' CODE OF CONDUCT

1 Purpose of this Guidance

The Council's Code of Conduct applies to gifts and hospitality received as an Elected Member or co-opted Member of the Council. The Code only requires you to register gifts or hospitality received above the value of £25. The terms "gift" and "hospitality" should be considered to include any food, drink, accommodation, entertainment or other benefit freely provided or heavily discounted.

This guidance sets out some general principles members should consider when thinking about accepting gifts and hospitality.

2 General Principles

(a) Improper influence

Some organisations and private individuals regard the provision of gifts and hospitality as a means of buying influence. If a member of the public becomes aware that you have been prepared to accept a gift or hospitality improperly, they may believe they will not be able to secure impartial consideration from the Council.

Gifts or hospitality should therefore never be accepted as an inducement or reward for anything done as a member or co-opted member of the Council, or as a means of gaining influence. Members must act in the public interest. Breach of this principle is both a breach of the Code and could also constitute a serious criminal offence.

(b) Benefit to Council

Gifts or hospitality should only be accepted where there is a proportionate benefit to the Council, in light of the estimated value of the gift or hospitality. Unless the benefit to the Council is clear and that benefit would not have been available but for the acceptance of the gift or hospitality, then the presumption could be that the gift or hospitality is for personal benefit.

(c) Misinterpretation of intent

The appearance of impropriety can be just as damaging to the Council and to an elected or co-opted Member as actual impropriety. Gifts or hospitality offered should therefore never be accepted where the circumstances are likely to be misinterpreted by a member of the public. Examples of situations where the Council could be challenged or discredited include where a member's role is related to:-

- competitive procurement and tendering exercises
- regulatory decisions, such as individual licensing and planning decisions
- determination of grants or other requests for funding

(d) Soliciting Gifts or Hospitality.

Members should never solicit or invite an offer of a gift or hospitality in connection with their role as a member of the Council and should also avoid giving the impression that they might be open to such an offer.

3 Examples Where Acceptance of Gifts and Hospitality May Be Permitted

Subject to the general principles set out in Section 2 of this Guidance, it is generally considered appropriate to accept a gift or hospitality in the following circumstances:-

- civic hospitality offered by another public authority
- Council-supported events—tickets for sporting, cultural and entertainment events that are supported by the Council
- modest working lunches, provided to enable the parties to discuss business
- reasonable hospitality, provided at external visits, meetings or conferences provided that this is also available to other attendees

4 Valuing Gifts and Hospitality Offered

In order to decide whether you need to declare the acceptance of a gift or hospitality you will need to estimate whether the value of the gift or hospitality is above £25. In most cases it should be possible to estimate whether a gift is likely to exceed £25 in value. A series of small gifts from the same source over a short period of time with a cumulative value of over £25 should be registered.

The value of hospitality may be more difficult to estimate, but this should still be possible, given a degree of common sense. An assessment of the value of the hospitality on offer and consideration of how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis should be identifiable in many cases. The prudent course is to contact the Monitoring Officer for advice and/ or register the gift and/or hospitality.

5 Legal Position on Gifts and Hospitality

There are both criminal sanctions and 'internal' rules for breaching the law which relates to gifts and hospitality.

(a) The Bribery Act 2010

The Bribery Act 2010 applies the offence of bribery to the person who offers, promises or gives a financial or other advantage to another or the person who requests, agrees, receives or accepts an advantage. It does not define what advantage is, and therefore potentially opens the offence to the acceptance of gifts and hospitality by all public officials, including Elected and Co-opted Members of the Council.

(b) Mifeseance in Public Office

This offence is less frequently seen in public since it carries a high burden of proof and the Attorney General's office usually regards it as suitable only for the most serious cases.

A summary definition of the offence is where a public officer wilfully neglects to perform his duty and/or wilfully misconducts himself to such a degree as to amount to abuse of the public's trust in the office holder without reasonable excuse or justification.

(c) Breach of Code

Irrespective of what the general law may say with regard to gifts and hospitality, the Council has its own set of rules regarding the acceptance of gifts and hospitality by Elected and Co-opted Members within its Code of Conduct, which every Member signs up to when taking office.

The relevant sections of the Code are set out below:

“5.1.2. As a holder of public office and as required by law I will behave in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in the Council:

b. INTEGRITY: I will not place myself under any financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

d. ACCOUNTABILITY: I am accountable for my decisions and actions to the public and must submit myself to whatever scrutiny is appropriate to my office.

f. HONESTY: I will declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interests.”

Improper acceptance of gifts or hospitality may amount to a breach of the Code of Conduct which could result in action being taken against the councillor concerned. A breach of the Code may also result in adverse publicity to the Council and potential damage to its reputation and standing amongst the citizens of Coventry.

6 Procedure for Declaring Gifts and Hospitality over £25 in Value

If you accept any gift or hospitality with a value of over £25 then the Code of Conduct requires you to notify the Council’s Monitoring Officer in writing as soon as possible and in any event within 28 days of receipt of the gift or hospitality.

Please use the declaration form available on the web or from Member Services.

REMEMBER- Details of gifts and hospitality will be made available in a public register, subject to the usual data protection principles.

Appendix 2: Draft Quick Guide to Gifts and Hospitality

Members' Gifts and Hospitality: A Quick Guide

From time to time elected members may be offered gifts or hospitality by others. This quick guide is designed to help members decide when it is permissible to accept a gift or hospitality. Further guidance is available online at the link in Section 8.

1. What gifts and hospitality are covered by the rules?

Only gifts or hospitality valued at over £25 received by you in your capacity as a councillor have to be declared. This includes food, drink, accommodation, entertainment or other items or benefits which are given to you at no cost or heavily discounted.

You don't need to declare presents or hospitality that you receive in a private capacity, for example, from family or friends.

2. When do I have to declare receipt?

You must declare any gifts or hospitality within 28 days of receipt. Please do not "save up" declarations and submit them together as some may not then be declared within the 28 days.

3. Do I have to declare gifts and hospitality received under £25 in value?

No, but you may declare receipt of any gifts or hospitality, regardless of its value. If you receive a series of small gifts or low value hospitality over a period of time from the same source then you should declare them if the total value exceeds £25.

4. Do I have to declare gifts and hospitality that I have declined?

No, but you may declare an offer that you have not accepted, especially if you have any doubts or concerns about the reason for the offer.

5. What if I don't know the value of the gift or hospitality?

It is important to remember that you are only expected to **estimate** the value of gifts and hospitality received. The value of some gifts will be easy to establish. For example, a quick search online will often give you a good idea of the gift's value.

Hospitality can be harder to gauge but this should still be possible, given a degree of common sense. Tickets to advertised events should be easy to value, for example. For other forms of hospitality, try to make an estimate of what you think someone might expect to pay for a similar commercially run function or event. For example, a three course meal with wine and coffee is unlikely to cost less than £25.

If you are still unsure about the value, contact the Monitoring Officer.

6. What things are ok to accept?

It is generally appropriate to accept a gift or hospitality in the following circumstances:-

- civic hospitality offered by another public authority
- Council-supported events—tickets for sporting, cultural and entertainment events that are supported by the Council
- modest working lunches, provided to enable the parties to discuss business

- reasonable hospitality, provided at external visits, meetings or conferences provided that this is also available to other attendees

In all other cases, gifts and hospitality should only be accepted where there is a proportionate benefit to the Council.

7. And when should I not accept an offer of a gift or hospitality?

If you accept a gift or hospitality, you need to consider how that might look to members of the public. You should never accept gifts of cash or items with a monetary value (e.g. gift cards). You also need to think about what the motivation of the person making the offer might be. So if you are involved in making decisions on, for example:

- Competitive procurement and tendering exercises
- Individual planning or licensing decisions
- Awarding grants or other funding

then you need to consider whether the gift or hospitality is intended to try to influence you in your decision making or that it might appear that way to the public. If you have any doubts, refuse.

8. How do I declare a gift or hospitality?

There is a form that you need to complete when you are offered and accept gifts or hospitality. The form and **further guidance** is available in the members' information section of the Intranet. The link is here:

<https://coventrycc.sharepoint.com/Info/Pages/Gifts-and-hospitality-members.aspx>

You can also get a copy of the form from Member Services.

You need to complete the form and send it to the Monitoring Officer. The form will be placed on the Register which is open to public inspection.