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| <b>MEETING</b> | <b>STANDARDS COMMITTEE</b>                       |
| <b>DATE</b>    | <b>28, JANUARY, 2013</b>                         |
| <b>TITLE</b>   | <b>MEMBERS PROTOCOL ON GIFTS AND HOSPITALITY</b> |
| <b>PURPOSE</b> | <b>REVIEW THE PROTOCOL</b>                       |
| <b>AUTHOR</b>  | <b>DILYS PHILLIPS, MONITORING OFFICER.</b>       |

I attach the following documents:-

1. The report that was before the Committee on the 27<sup>th</sup> November, 2012.
2. The current Protocol on Gifts and Hospitality.
3. Registration Form for Gifts and Hospitality
4. A draft of the revised Protocol.

At its meeting on the 27<sup>th</sup> November the Committee decided to postpone consideration of the Gifts and Hospitality Protocol and asked for research into the protocols available in other councils and suggestions for a revised protocol.

From the research carried out it appears that few councils have a formal protocol or guidance on gifts and hospitality. Of those with a protocol they tend to follow the same pattern with principles outlined followed by examples of the types of gifts or hospitality which cannot be accepted and examples of the gifts and hospitality which can be accepted.

I have made some revisions to the Protocol (Appendix 4) in the light of this research. I have included the requirements of the Code of Conduct in paragraph 2 and have set out general principles in paragraph 3.

I was asked to look at invitations received in the course of a member's duties, e.g. civic invitations.

The other Protocols list the following as gifts and hospitality which can be accepted.

- (a) Civic Hospitality from another public authority.
- (b) Light refreshment in connection with a meeting, e.g. tea, coffee, biscuits.
- (c) Hospitality received in the context of a visit or outside meeting which is authorised by the Council.

The Committee is asked if it satisfied that this kind of hospitality is acceptable.

The definition of gift has been changed in order to address the situations where work or goods are supplied but no invoice is presented.

The Committee's view is also sought on refusing gifts. The current protocol suggests that gifts should be refused. This could be very difficult where, say, an elector has presented a gift as an acknowledgement to a councillor. The alternative would be to include in the protocol a clause stating that if it is impracticable to return the gift it should be presented to a charity, e.g. for raffle.

I was asked how to publicise the protocol and the register, but without going as far as placing the register on the website. It should be noted that the register is public and would be disclosed if someone made an application for it.

It is difficult to know the extent of gifts or offers of hospitality made to councillors. At the same time it is difficult to be certain that every councillor is fully aware of when a gift or hospitality should be registered. The Code of Conduct notes that it is only gifts or hospitality worth in excess of £25 which need to be registered, and this could be responsible for the low number of registrations.

If the committee suggests changes to the protocol, it would need to be adopted by the full Council and there would then be an opportunity to draw it to the attention of all members. Occasional inspections could also be considered, or sending a registration form to every member, say once every year. Some councils operate a procedure of submitting the register to the Standards Committee occasionally in order to keep it under review.

### **RECOMMENDATION.**

- (a) The Committee's views are sought on the revised protocol.
- (b) The Committee's views are sought on bringing the protocol to the attention of councillors.
- (c) The Committee's view is sought on the form.

**PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY**

**1. Introduction**

- 1.1 You should treat with extreme caution any offer or a gift or hospitality made to you personally. You are responsible for any decision to accept an offer of a gift or hospitality, and your personal reputation and that of the Council could be seriously jeopardised by the inappropriate acceptance of such an offer.
- 1.2 No hard and fast rules can be laid down to cover every circumstance but this protocol offers guidelines to assist you in making a decision.

**2. The Law**

- 2.1 Accepting a bribe is an offence. If it is proved that you have received any gift, loan, fee, reward or advantage by somebody seeking to obtain a contract from the Council then the onus will be on you (and the person making the offer) to prove that you have not acted dishonestly.
- 2.2 The Members Code of Conduct 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."

"You must not 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."

"You must within 28 days of being offered any gift, hospitality, material benefit or advantage above the value of £25 provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage. You Must register any such offer whether you accept it or not."

**3. Principles**

- 3.1 Improper obligation – A gift or hospitality should never be accepted as a reward or inducement to act in a particular way as a councillor or as a means of obtaining influence.
- 3.2 Benefit to the Council – Gifts or hospitality should only be accepted if there is a benefit to the Council of so doing. The benefit should be proportionate with the gift.

- 3.3 Misinterpretation – Gifts or hospitality should not be accepted if to do so would leave the council or member open to accusations of misconduct. Members must not only conduct themselves properly, they also be seen to be conducting themselves properly.
- 3.4 Soliciting a gift or hospitality – Gifts or hospitality should never be sought or invited in connection with a role as a councillor.

#### **4. Gifts**

- 4.1 A “gift” includes free goods and services, the opportunity to buy goods/services subject to a discount or terms which are not available to the public, or the opportunity to buy goods/services that are not available to the public. Care should be taken in situations where work or goods are ordered but no invoice is presented.
- 4.2 You may accept civic gifts on behalf of the Council. This protocol is not applicable to such gifts and neither do they need to be registered.
- 4.3 You should not accept personal gifts that are relevant to your position as a member or arising from that position, from anyone. However, it would be appropriate for you to keep small and insignificant gifts such as diaries etc. You may also accept raffle prizes.
- 4.4 You should refuse any gift offered to you, or to a member of your immediate family, from any person or organisation doing business or seeking to do business with the Council or applying to the Council for some sort of decision.
- 4.5 When a gift has to be declined the offerer should be courteously but firmly informed of the procedures and standards operating within the Council. If such a gift is delivered :
- it must be returned immediately to the sender giving reason.
  - the acceptance and return of gifts over £25.00 should be registered
  - where an offerer insists that you accept the gift, you should contact the Monitoring Officer for advice on further appropriate action.

#### **5. Hospitality**

- 5.1 You should not accept hospitality from a person or organisation that is seeking a decision from the Council or is doing business or seeking to do business with the Council.

- 5.2 You should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community.
- 5.3 You should avoid hospitality in a situation where you would be the sole guest.
- 5.4 Offers to attend social or sporting functions should only be accepted where these are part of the life of the community or where the Council should be seen to be represented.
- 5.5 Where visits are required as part of the process of making decisions you should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent decisions.
- 5.6 You may accept hospitality through attendance at relevant conferences and courses where it is clear that the hospitality is corporate rather than personal, where the Council has given permission beforehand and where the Council is satisfied that any of its decisions will not be compromised.
- 5.7 You may accept normal refreshment in connection with your work as a member (tea, coffee, biscuits etc.)

## **6. Registration**

- 6.1 Under the Council's Code of Conduct you must register any gift or hospitality that you receive that is worth more than £25.00. You should also register any such offer that you have refused.
- 6.2 The gift and hospitality register is kept by the Monitoring Officer who should be informed in writing of any gift or hospitality that you receive or refuse that is worth more than £25.00. The register will be available for public inspection.
- 6.3 The figure of £25.00 is of course relevant in considering what should be registered, it does not mean that you can accept all gifts or hospitality that are worth less than that. You must consider carefully every offer whatever its value.

## **7. Monitoring Officer**

- 7.1 If you have any doubt concerning an offer of a gift or of hospitality, you should seek the advice of the Monitoring Officer.