

GIFTS AND HOSPITALITY

- To:** Constitution and Ethics Committee
- Meeting Date:** 27 June 2019
- From:** Director of Governance and Legal Services and
Monitoring Officer
- Electoral division(s):** All
- Purpose:** To consider whether the financial level for declaring gifts and hospitality should be increased, and if more detailed guidance on making declarations should be included in the Constitution.
- Recommendation:** The Constitution and Ethics Committee is asked to:
- (i) review and comment on the guidance set out in Appendix C for inclusion in the Council's Constitution and to recommend it to full Council for approval;
 - (ii) review and recommend the financial level for declaring gifts and hospitality to full Council for approval; and
 - (iii) approve the introduction of a new Gifts and Hospitality Declaration Form set out in Appendix D.

<i>Officer contact:</i>		<i>Member contact:</i>	
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1. BACKGROUND

- 1.1 The Constitution and Ethics Committee at its meeting on 4 April 2019 noted that there was a lack of clarity over rules regarding gifts and hospitality. An example was given of whether Members were required to include the value of an accompanying partner when declaring an invitation to an event, as this often affected whether the value was over or above the £25 level adopted by the Council. It was suggested that £25 was a low requirement for declarations of gifts and hospitality, considering that some neighbouring local councils set the requirement as high as £100.
- 1.2 It was agreed for the Monitoring Officer to present a report at the next meeting concerning the requirement for making a declaration, which would include a proposal to raise the financial level, as well as providing more detailed guidance than was currently provided.
- 1.3 An extract from the Constitution relating to Gifts and Hospitality is attached at **Appendix A** and the Council's current declaration form is attached as **Appendix B**.

2. MAIN ISSUES

Members' Code of Conduct

- 2.1 The Council like a number of authorities has limited information on declaring "Gifts and Hospitality". Norfolk and Oxfordshire County Councils have very detailed information on the subject. The Committee may wish to consider whether something similar should be included as an annex in Cambridgeshire's Constitution - see **Appendix C**.

Financial Limit

- 2.2 Following research, the financial limits for gifts and hospitality have been identified for other County Councils as set out below:

Cumbria	£100
Surrey	£100
Derbyshire	£50
Dorset	£50
Durham	£50
East Sussex	£50
Northamptonshire	£50
Oxfordshire	£50
Buckinghamshire	£25
Essex	£25
Herefordshire	£25
Lancashire	£25
Lincolnshire	£25
Norfolk	£25
Shropshire	£25
Suffolk	£25

Peterborough City Council sets a financial limit of £100 for Gifts and Hospitality. The Committee may therefore wish to consider whether the Council should increase its limit.

Declaration Form

- 2.3 The Council's declaration form has not been updated. It is proposed that it should be replaced with the form set out in Appendix D, which provides more information.

Source Documents	Location
Constitution and Ethics Committee –4 April 2019	https://cambridgeshire.cmis.uk.com/cc_live/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/856/Committee/10/Default.aspx
Constitution	https://www.cambridgeshire.gov.uk/council/council-structure/council-constitution/

EXTRACT FROM MEMBERS' CODE OF CONDUCT

12. Gifts and Hospitality

- 12.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the authority.
- 12.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

Gifts and Hospitality

Have you received a gift or hospitality with an estimated value of £25 or more, from any person who has a current matter pending before, or any interest in, any function of CCC?

If so please give details – from whom, what it is and estimated value.

Notification of gifts and hospitality of an estimated value of £25 and above must be given within 28 days of receipt.

A record of gifts and hospitality will be retained for a period of 5 years.

Signed Date

Gifts and Hospitality - Guidance for Members

Background

1. Members may well be offered gifts or hospitality during the course of conducting Council business. This raises an initial question of deciding whether or not to accept. The acceptance of a gift or hospitality potentially creates a risk to the integrity and reputation of the Member as well as the Council itself. Members are strongly advised to be cautious and should consult the Monitoring Officer if they are in any doubt in a particular case.

Legal Position

2. While there is now no specific statutory requirement for members/co-opted members to register the offer of gifts and hospitality, the Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.

Members' Code of Conduct and Constitution

3. The Council's Members' Code of Conduct (Part 5.1 of the Constitution) provides that you must serve the public interest, rather than acting in the interests of any particular individual or section of the community, and it is a breach of the Code to improperly confer any advantage or disadvantage on any person, including yourself.

Registering gifts and hospitality

4. In order to protect the integrity of the Council, and yourself, members'/co-opted members are strongly advised to register any gift or hospitality worth £XX or over that you receive in connection with your official duties as a Member, together with the source of the gift or hospitality. You should also register an accumulation of small gifts you receive from the same source over a period of time that add up to £XX or more.
5. Any registrations can be made and recorded on the attached form. This will then be published on the Council's website. See paragraphs 17-25 below for how to register a gift or hospitality.

General Principles

6. In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if it would normally be appropriate to accept a small gift or hospitality, you should not do so if it would be in breach of one or more of these principles:

(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Member

You must not be influenced in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council that would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority through a working lunch. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the Council and to you as a Member as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must consider whether acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company, organisation or section of the community or as placing you under any improper obligation to any person or organisation. If so, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) competitive procurement processes;
- (ii) determinations of planning applications or planning policy;
- (iii) funding decisions.

(d) Never accept a gift or hospitality that puts you under an improper obligation

Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, they may seek to use this fact to persuade you to determine an issue in their favour. If others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

(e) Never solicit a gift or hospitality

Never solicit or invite an offer of a gift or hospitality in connection with your position as a Member and you should also take care to avoid giving any indication that you might be open to any such improper offer.

Gifts

7. As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council. These rules also apply to discounts offered to an individual Member going beyond those offered to the general public (other than those available to all Members and Officers).
8. As general guidance, the following small gifts worth under £XX may occasionally be accepted (provided that they do not conflict with the General Principles):

- (a) office equipment or stationery given by way of trade advertisements or for use in the office. Nothing more elaborate than calendars, pens or diaries would fall within this exception.

(NB: You should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.)

- (b) gifts of only token value given on the conclusion of an official courtesy visit, for example, a visiting delegation.

Gifts e.g. a box of chocolates or flowers of a value less than £XX provided they are given as a genuine show of appreciation of work undertaken but should never be accepted if it may give rise to an appearance of influence or reward.

Hospitality

9. Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.
10. Hospitality should only be accepted with the utmost caution, and on a scale appropriate, to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it, and might later be thought to have affected a Member's impartiality in dealing with official matters.
11. Some offers of hospitality are always unacceptable for example, offers of holiday accommodation. Others will need to be considered on their facts, for example, invitations to sporting fixtures, evenings at the theatre or similar entertainment should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council not the individual Member. Hospitality on a lower scale than this may also be unacceptable. No absolute dividing-line can be laid down.
12. There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Council.
13. However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. Acceptable hospitality is that not exceeding £XX in value such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. The decision whether to accept or not must depend on the

circumstances in each case but hospitality should never be accepted if it may give rise to an appearance of influence or reward.

Wills and Bequests

14. If there is any connection between your work as a Member and being a beneficiary under a will, then you need to be cautious as the offer of any benefit will need to be considered carefully in accordance with the General Principles and if accepted, may need to be registered. You should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

Sponsorship

15. Offers of sponsorship need to be treated carefully. If the offer is to sponsor the Council it should be referred to the Monitoring Officer who will consider the offer in accordance with the Council's usual processes.
16. If the offer is to sponsor you as an individual, it should be dealt with in the same way as an offer of a gift or hospitality. In some cases such offers may be acceptable for example, where colleagues or others are sponsoring you for a charitable purpose. In other cases they may not be acceptable for example, where they are related in some way to the work of the Council or your role as a Member; involve significant sums; or seek specific outcomes for the person or organisation making the offer. If in doubt you should consult the Monitoring Officer.

Registering Gifts, Hospitality and Sponsorship

17. If you are offered gifts, hospitality or sponsorship worth £XX or over, you need to decide, taking into consideration the general principles, whether to accept or decline any such offer.
18. If you are in any doubt as to whether to accept or decline any gift, hospitality or sponsorship then you are advised to seek the Monitoring Officer's advice before doing so. In order to do this you will need to advise the Monitoring Officer of the following:
 - (i) The nature and your estimate of the market value of the gift or hospitality;
 - (ii) The name of the person or company offering the gift or hospitality;
 - (iii) The connection which you have with the person or organisation making the offer or invitation such as any work which you have undertaken for the Council in which they have been involved;
 - (iv) Any work, permission, concession or facility that you are aware that the person or organisation making the offer or invitation may seek from the Council;
 - (v) Any special circumstances that lead you to believe that acceptance would not be improper.
19. The Monitoring Officer will give you advice wherever possible but it will be a matter for you to make the decision as to whether to accept or decline. Your decision and the reasons for it should then be entered into the Register of Members' Interests.
20. Where you do accept any gift or hospitality of £XX or over you should register this within 28 days of receiving the gift or hospitality.

Voluntary Declarations

21. You can always make a voluntary declaration to be entered on the Register of Gifts and Hospitality, even if you have declined the gift or hospitality or the value of the gift or hospitality is less than £XX. If you are concerned that an offer or its acceptance might be misinterpreted you may make such a voluntary declaration to ensure that there is nothing secret or underhand about the gift or hospitality or your actions.

Gifts to the Council

22. You may at some time be offered a gift for the Council as opposed to a gift to you in your individual capacity as a Member. Such gifts could take several forms, for example: land, buildings, goods, services, either for the Council to retain or test with a view to future acquisition; offers to carry out works, or provide services; or sponsorship of a Council-supported or organised function or activity. In such cases you should report the offer on receipt to the Monitoring Officer who will consider and determine in accordance with normal Council processes whether the Council should or should not accept the gift.
23. The Monitoring Officer will notify the person or the organisation offering the gift, whether it is accepted or not and will:
- Record the acceptance or non-acceptance;
 - Record the outcome for audit purposes;
 - Ensure the gift, if accepted, is properly applied for the benefit of the Council.

Gifts to the Chairman/woman

24. Gifts received by the Chairman/woman in his or her official capacity are deemed to be gifts of the Council. The Chairman/woman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they may be used for the benefit of the Council.

What do I need to declare at a meeting?

25. If a matter under consideration at a meeting is likely to affect a person who gave you a gift or hospitality then you must declare the existence and nature of the gift or hospitality, the source who gave it to you and how the business under consideration relates to that source.

Appendix D

**Declarations of Gifts and Hospitality
for inclusion within the Gifts and Hospitality Register and Members' Interests Form**

To: The Monitoring Officer (Fiona McMillan)

Gift Declaration(s):

I wish to declare that I have received the following gifts with an estimated value in excess of £XX each or frequent received gifts valued in excess of £XX from the same donor:

Date of Receipt of Gift	Nature of Gift (Description)	Estimated Value (No need to declare unless over £xx in value)	Donor (Name and Address)	Nature of Relationship (Between You and Donor) Is the Donor dealing with you or the Council in relation to any legal, statutory or enforcement offers, such as planning applications? If so please give details:	If the gift has already been donated, please provide date and details of recipient:

Hospitality Declaration(s):

I have received the following hospitality with an estimated value in excess of £XX per event:

Date of Receipt of Gift	Nature of Gift (Description)	Estimated Value (No need to declare unless over £xx in value)	Donor (Name and Address)	Nature of Relationship (Between You and Donor) Is the Donor dealing with you or the Council in relation to any legal, statutory or enforcement offers, such as planning applications? If so please give details:	If the gift has already been donated, please provide date and details of recipient:

Name of Councillor:

Signature: **Date of Declaration:**

Please return this form to:

Democratic Services, Cambridgeshire County Council, Shire Hall, Castle Hill, Cambridge, CB3 0AP
Democratic Services: democraticservices@cambridgeshire.gov.uk, 01223 699180