

Council Report

Ward(s) affected: n/a

Report of Director of Strategic Services

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Date: 19 May 2021

## **Councillors' Code of Conduct: Acceptance of Gifts and Hospitality**

### **Executive Summary**

The Committee will recall that the Council, at its meeting on 6 October 2020, considered a report on the outcome of a review by the Corporate Governance Task Group of the Councillors' Code of Conduct, including the policy on acceptance of gifts and hospitality by councillors.

As well as including a new requirement for the registration and declaration of certain non-pecuniary interests, the revised code made some significant changes to provisions on the acceptance of gifts and hospitality. However, following the Council meeting on 6 October, officers identified an anomaly in the interpretation of this part of the Code, which requires clarification.

The Task Group considered the matter again and have recommended some further remedial alterations to the Code, details of which are set out in this report.

### **Recommendation to Council (19 May 2021)**

That the proposed revisions to the Acceptance of Gifts and Hospitality section of the Councillors' Code of Conduct, as set out in paragraph 4.10 of this report, be adopted and implemented with immediate effect.

### Reason for Recommendation:

To address and correct the anomaly in respect of acceptance of gifts and hospitality in the revised code of conduct agreed by the Council on 6 October 2020.

**Is the report (or part of it) exempt from publication? No**

### **1. Purpose of Report**

- 1.1 To report to Council on the outcome of the further consideration by the Corporate Governance Task Group of the Councillors' Code of Conduct in respect of acceptance of gifts and hospitality.

## **2. Strategic Priorities**

- 2.1 The work undertaken by the Task Group will assist the Council in achieving its value of being open and accountable to our residents.

## **3. Background**

- 3.1 Councillors will recall that, following a review by the Task Group, the Council adopted a revised Code of Conduct for Councillors at its meeting on 6 October 2020.
- 3.2 As well as including a new requirement for the registration and declaration of certain non-pecuniary interests, the revised code made some significant changes to provisions on acceptance of gifts and hospitality. The relevant paragraphs of the revised code are set out below:

### **“Acceptance of Gifts and Hospitality**

24. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your integrity, honesty or objectivity. You should never accept any gift or hospitality as an inducement or reward for anything, if acceptance might be open to misinterpretation or which puts you under an improper obligation. In particular, whenever acting in your capacity as a councillor or co-opted member, you

- (1) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
- (2) should exercise caution in accepting any gifts or hospitality regardless of value which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member;
- (3) should never solicit a gift or hospitality; and
- (4) should never accept significant gifts or hospitality (i.e. anything with a value of £50 or more) from any third party.

Any declined offer of a gift or hospitality need not be registered.

25. For the avoidance of doubt, the following gifts and types of hospitality do not need to be disclosed/registered:
- (a) civic hospitality provided by the Council or another public authority;
  - (b) modest refreshment in connection with any meeting or on the occasion of any social meeting;
  - (c) tickets for sporting, cultural and entertainment events which are sponsored by, or organised by or on behalf of the Council;
  - (d) individual gifts with a value of up to £50, or more than one gift from one donor with a combined value of up to £50
26. Where it is impracticable to return any unsolicited gift of a value of £50 or more, or the return would cause offence, you must as soon as practicable

within 28 days after the receipt of the gift, notify the Monitoring Officer in writing, and pass the gift to the Mayor's Office for donation to a charity or raffle as appropriate.

27. You must immediately report to the Monitoring Officer any circumstances where a gift or hospitality has been offered to you or to another councillor in order to gain inappropriate favour.
28. Your participation in any item of business that affects a donor from whom you have received any gift or hospitality that is registered, or ought to be registered as set out above, will need to be considered by you on a case by case basis. You will only be expected to exclude yourself from speaking or voting in exceptional circumstances, for example where there is a real danger of bias, or where you consider, having taken advice from the Monitoring Officer, that acceptance of a gift or hospitality would affect your objectivity in relation to the consideration of that business."

#### **4. Further consideration by the Corporate Governance Task Group**

- 4.1 Following the Council meeting on 6 October, officers identified an anomaly in the interpretation of this part of the Code, which requires clarification.
- 4.2 The Code states in paragraph 24 that councillors should:
  - "exercise caution in accepting any gifts or hospitality regardless of value which are (or which they might reasonably believe to be) offered to them because they are a councillor", and
  - never "solicit a gift or hospitality" or "accept significant gifts or hospitality (i.e. anything with a value of £50 or more) from any third party" (which implies a breach of the code if such gifts or hospitality are solicited or accepted).
- 4.3 Paragraph 25 sets out the range of gifts and hospitality that need not be disclosed/registered, which includes gifts (but not hospitality) up to a value of £50. Paragraph 28 implies that in certain circumstances gifts or hospitality have been registered, or ought to be registered, but if gifts up to £50 do not need to be registered and councillors must not accept any gift or hospitality over £50, it is unclear as to what actually needs to be registered.
- 4.4 The Task Group was asked to consider clarifying this part of the Code. After due consideration, the Task Group felt that councillors:
  - (a) need not register gifts or hospitality of an estimated value of less than £25;
  - (b) should register gifts or hospitality of an estimated value between £25 and £50;
  - (c) should not accept significant gifts or hospitality (i.e. anything with a value of more than £50) from any third party.
- 4.5 The Task Group was also asked to consider particular councillor roles where there is a greater likelihood of gifts and/or hospitality being offered in the course of performing those roles, for example:
  - the Mayor,
  - Deputy Mayor (when deputising for the Mayor at a function or event),

- Leader of the Council, and
- Deputy Leader of the Council

- 4.6 It is very likely that any gifts or hospitality offered to councillors performing the role of Mayor (or Deputy Mayor deputising for the Mayor) will be made not as any kind of inducement to curry favour but as recognition that the Mayor is the First Citizen of the Borough and as such is likely to be invited to a variety of engagements, including lunch/dinner functions to promote the borough and the endeavours of its local residents and businesses.
- 4.7 There has to be some acceptance that, in the course of a mayoral year, the Mayor will be expected to attend such engagements and accept some hospitality as a result. Occasionally, the Mayor may also be presented with modestly valued gifts – for example from visiting dignitaries.
- 4.8 To some extent, this will also apply to the Leader/Deputy Leader role, although it is recognised that there is greater public scrutiny of acceptance of gifts and hospitality by the Leader/Deputy Leader.
- 4.9 The LGA's recently published Model Code of Conduct acknowledges this but does not offer any meaningful advice:

*“It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.”*

- 4.10 Translating the above suggestion into the recently revised Code of Conduct and addressing the issue of acceptance of gifts and hospitality by councillors performing certain roles, the Task Group propose that the following amendments be made to the Code of Conduct:

#### **“Acceptance of Gifts and Hospitality**

24. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which compromises, or could give the impression of compromising your integrity, honesty or objectivity. You should never accept any gift or hospitality as an inducement or reward for anything, or if acceptance might be open to misinterpretation or which puts you under an improper obligation. In particular, whenever acting in your capacity as a councillor or co-opted member, you

- (1) should avoid any behaviour which might reasonably be seen as motivated by personal gain;
- (2) should never solicit a gift or hospitality;
- (3) may accept, but must register with the Monitoring Officer within 28 days of acceptance, any gift or hospitality of an estimated value between £25 and £50, subject always to the proviso that you should exercise caution in accepting any gifts or hospitality regardless of value which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member; and
- (4) should never accept significant gifts or hospitality (i.e. anything with an estimated value of more than £50 or more) from any third party.

~~Any declined offer of a gift or hospitality need not be registered.~~

25. For the avoidance of doubt, the following gifts and types of hospitality do not need to be disclosed/registered:
- (a) civic hospitality provided by the Council or another public authority;
  - (b) modest refreshment in connection with any meeting or on the occasion of any social meeting;
  - (c) tickets for sporting, cultural and entertainment events which are sponsored by, or organised by or on behalf of the Council;
  - (d) individual gifts or hospitality with an estimated value of up to ~~£50~~£25, or more than one gift from one donor with a combined value of no more than ~~up to~~ £50£25;
  - (e) gifts or hospitality offered to the Mayor (Deputy Mayor when deputising for the Mayor) at an official mayoral engagement, subject to the proviso that any gifts with an estimated value exceeding £25, accepted belong to the office of the Mayor and not to the recipient personally; or
  - (f) any declined offer of a gift or hospitality unless it falls within paragraph 27
26. Where it is impracticable to return any unsolicited gift of a value of £50 or more, or the return would cause offence, you must as soon as practicable within 28 days after the receipt of the gift, notify the Monitoring Officer in writing, and pass the gift to the Mayor's Office for donation to a charity or raffle as appropriate.
27. You must immediately report to the Monitoring Officer any circumstances where a gift or hospitality has been offered to you or to another councillor in order to gain inappropriate favour.
28. Your participation in any item of business that affects a donor from whom you have received any gift or hospitality that is registered, or ought to be registered as set out above, will need to be considered by you on a case by case basis. You will only be expected to exclude yourself from speaking or voting in exceptional circumstances, for example where there is a real danger of bias, or where you consider, having taken advice from the Monitoring Officer, that acceptance of a gift or hospitality would affect your objectivity in relation to the consideration of that business."

## **5. Financial Implications**

- 5.1 There are no financial implications arising from the proposals contained in this report.

## **6. Legal Implications**

- 6.1 Local authorities have a duty, under s.27 Localism Act 2011, to promote and maintain high standards of conduct by their members and co-opted members. In discharging this duty, a council must adopt a code dealing with the conduct that is expected of its members and co-opted members when they are acting in that capacity.
- 6.2 Under s.28(1) of the 2011 Act, the code is required, when viewed as a whole, to be consistent with the following (Nolan) principles:

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

6.3 Furthermore, the 2011 Act requires a council to secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration and disclosure of:

- (a) pecuniary interests, and
- (b) interests other than pecuniary interests.

6.4 The proposals in this report seek to clarify the arrangements in the code of conduct for councillors in respect of the acceptance of gifts and hospitality.

## **7. Human Resource Implications**

7.1 There are no HR implications arising from the proposals in this report.

## **8. Equality and Diversity Implications**

8.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies. The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.2 This duty has been considered in the context of the recommendations in this report and it has been concluded that There are no other equality and diversity implications arising directly from the recommendations in this report.

## **9. Climate Change/Sustainability Implications**

9.1 There are no climate change/sustainability implications arising from the recommendations in this report.

## **10. Background Papers**

[Review of the Councillors' Code of Conduct - Report to Council: 6 October 2020](#)

## **11. Appendices**

None