

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
MUNICIPAL YEAR 2013-2014

STANDARDS COMMITTEE

24 JANUARY 2014

REPORT OF:

MONITORING OFFICER

Agenda Item No.4(a)
REVIEW OF MEMBERS' DECLARATIONS IN RESPECT OF THE ACCEPTANCE AND REFUSAL OF GIFTS AND HOSPITALITY

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1. PURPOSE OF THE REPORT

To review the declarations made by elected Members in respect of the acceptance and refusal of gifts and hospitality.

2. RECOMMENDATIONS

- 2.1 To note the content of the Council's gifts and hospitality policy.
- 2.2 To note the form used for registering acceptance or refusal of a gift or hospitality.
- 2.3 To note the declarations contained in the elected Members' gifts and hospitality register.
- 2.4 To consider whether the Committee wishes to make any recommendations to Council in relation to the operation of the policy and compliance by elected Members as to declarations of gifts and hospitality.

3. BACKGROUND

3.1 At its meeting on 28th June 2013, the Standards Committee agreed its Work Programme for 2013/14 which included a review of the declarations in relation to the acceptance of gifts and hospitality by Members of the Council.

3.2 The Council's Code of Conduct for Members states that:-

Para. 9(b) (Members) must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic

reception or a working lunch duly authorised by the Authority), material benefits or services for themselves or any person which might place them or reasonably appear to, place them under an improper obligation.”

3.3 The Members’ Code of Conduct also states:

Para.17 You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage.

3.4 The Council’s current policy was adopted on 23 May 2007. A copy of the policy is attached at Appendix 1 to the report. The policy provides some examples of situations where acceptance of a gift or hospitality may place a Member under an improper obligation to the donor, or may reasonably appear to do so.

3.5 Members will note that the current policy sets out a threshold of £20 under which Members/Officers can accept gifts and hospitality. This threshold was recommended by the Standards Committee prior to adoption of the policy by Council in 2007 (previously there was a nil threshold).

3.6 The current proforma form used for the registration of acceptance or refusal of gifts and hospitality by Members and by Officers of the Council is attached at Appendix 2 to the report.

3.7 As noted above Members and Officers are required in accordance with the policy to register acceptance or refusal of any gifts, hospitality or other benefits both below and exceeding the threshold, using the applicable form which would should be returned to the Monitoring Officer. The declarations currently held in the register will be available for Members’ inspection at the meeting.

3.8 In addition the Ombudsman’s guidance provides the following advice to Members:-

“You should ask yourself, would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to your Monitoring Officer. You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.”

“The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your authority or over should be registered. The Code also refers to material benefit or advantage. The measure of this would be if an informed independent observer could conclude that you might be perceived to be better off as a consequence.”

- 3.9 The Committee having reviewed the policy and form used for registering the accepting or refusal of gifts and hospitality together with the Members declarations contained in the register is invited to consider whether the it wishes to make any recommendations to Council in relation to the operation of the policy and compliance by elected Members as to declarations of gifts and hospitality.

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APPENDIX 1

A POLICY ON ACCEPTANCE OF GIFTS AND HOSPITALITY OFFERED TO MEMBERS AND OFFICERS adopted by the Council on 23 May 2007

Introduction

1. This guidance is issued under the statutory Codes of Conduct for Members and officers, and is therefore relevant to Councillors and Co-opted Members of Rhondda Cynon Taf County Borough Council, and to Council employees to whom the Employee Code of Conduct relates. The guidance contains the levels set by the Council under the Codes above which the receipt of gifts and hospitality can be accepted but together with refusals must be notified to and registered by the appropriate Group Directors and kept under review by the Monitoring Officer.

Definitions

2. “Gift” – any tangible item given to a Member or employee arising out of his/her official duties and position with the Council. “Hospitality” – any entertainment beyond the offer of non-alcoholic drinks and light refreshments, which would reasonably be regarded as normal social congress, offered to the Member or officer in his/her official capacity or in the course of their duties as a Member or officer of the Council. Hospitality can include (but not exclusively) entertaining individuals to meals, travel opportunities, hotel accommodation, invitations to events, sporting and theatre tickets. “Other benefits” – any other benefit offered to a Member or employee in the course of or arising from their official duties, not constituting covered by the definitions of Gifts or Hospitality above.

NOTE: the above definitions do not include gifts, hospitality or other benefits offered by the Council, which do not need to be authorised or registered.

Statutory and Council Framework

3. The Council’s Code of Conduct for Members states that:- Article 9(b) (Members) must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the Authority), material benefits or services for themselves or any person which might place them or reasonably appear to, place them under an improper obligation.”

“Registration of Gifts and Hospitality – Article 17, a Member must within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority’s Monitoring Officer of the existence and nature of that gift, hospitality material benefit or advantage.

4. The statutory Code of Conduct for Local Government Employees (which currently excludes fire-fighters and teachers) states that:-
- “Personal Interest – Article 8 (Employees must comply with) any rules of their relevant Authority on the declaration by employees on 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. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority.”

Acceptance and Refusal

5. Currently the Council has agreed a threshold figure of **£20** in relation to the acceptance of gifts, hospitality and other benefits by Members and Officers. Whatever the value of the gift, hospitality or other benefit offered to a Member or employee, if its acceptance may place him/her under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused. Members and officers must not contravene the provisions of the Bribery Act 2010 as they may be liable to a fine and/or imprisonment.
6. It is not possible to describe all the situations where an improper obligation may arise. However, these are some examples of circumstances in which offers are likely to be seen as suspect:-
- The offer of hospitality, gifts or benefits, which do not appear to have any proper purpose connected with the Council (examples could include the offer of private holidays or the use of holiday accommodation, personal gifts of substantial value or other benefits offered to the Members or employees at substantially below the price they would normally be offered to the public);
 - Benefits offered to individuals who are closely involved with the matter or relevant service area by someone seeking to do business with the Council by (for example) negotiating a contract or the sale or acquisition of a property, or who has submitted a tender for a Council project;
 - Regular and repeated hospitality from the same person or organisation;
 - Hospitality offered where the Council or employee would be the sole guest on an essentially private occasion;
 - Hospitality offered for purely sporting or social occasions away from the Council's area, where there would be no general expectation that the Council should be represented, nor any clear connection with Council functions.

It should be stressed that the above are examples only, and are not exhaustive. Each offer should be considered on its merits and it will be necessary for the Member to take a personal view as to whether it is appropriate to accept it.

7. Members and employees must strike a balance between, on the

one hand, taking an active part in the life of the community and ensuring that the Council is properly represented when it needs to be in a position to receive or impart information, and, on the other hand, the need to avoid the appearance of improper obligations.

8. In circumstances where it is necessary for the Council to be represented at events where hospitality is offered, it is appropriate to accept unless there are circumstances which clearly suggest that an improper obligation may be seen to arise. If, for example, the host offering hospitality is at a sensitive stage in contractual negotiations with the Council, it will not be appropriate for those who are directly or indirectly involved with those negotiations to accept hospitality. If the matter is a major project which affects many parts of the Council, all invitations during negotiations should be refused. If, however, the issue is relatively minor and confined to one service area or a small group of individual Councillors or employees, it may be appropriate for those unconnected with the matter to accept invitations, if it is believed that the event concerned is particularly relevant to Council functions.
9. The offer of hospitality from major public bodies (including the UK Parliament, the National Assembly for Wales, National Health Service Trusts, Health Authorities, Audit Commission and other Councils) will normally be appropriate for acceptance as the implication of improper obligation would rarely arise in those circumstances and such events are generally arranged for proper public purposes. However, those offered the hospitality would still need to consider whether acceptance is likely to further the Council's interests. Also, if the organisation is involved in the process of negotiating a contract or other arrangement with the Council, careful consideration should be given before accepting the invitation.
10. The acceptance of Gifts and Hospitality in relation to civic or ceremonial events or occasions will not be the subject of any threshold and an inventory of any such gifts received must be recorded in accordance with paragraph 17.
11. Members and employees may be offered gifts in the form of bequests, as a result of their undertaking official duties. This most often happens in the case of home care or residential care staff. Offers of bequests should be discouraged where possible, but if a bequest is made, employees are required by their Code of Conduct to seek the consent of the Council before accepting it. Acceptance of a bequest by Members or employees should be considered within the following framework:-
 - Consent will generally be refused where undue influence or persuasion has been shown to be brought to bear on the testator;
 - The acceptance of small bequests representing a minor proportion of the estate in each individual case will generally be seen as acceptable.

Authorisation

12. It is necessary under the Employee Code of Conduct for employees to receive formal authorisation from the Council before accepting gifts, hospitality or other benefits. Even if authorisation is given by this guidance or otherwise, employees remain under a duty to consider whether acceptance of the gift, hospitality or other benefit would place him/her under an improper obligation or be reasonably regarded as such, and whether they need to register its receipt. The responsibility to do so remains with the employee.
13. Subject to paragraph 12 above, this guidance gives general authorisation for employees to accept the following without further authorisation:-
 - Promotional or advertising items including pens, calendars, note pads, diaries, etc;
 - Token gifts given to all or most participants at the end of an official visit by or to the Council or a properly authorised conference;
 - Modest gifts given by individuals to express gratitude for help given in the proper performance of official duties, where refusal would needlessly offend, including (for example) bunches of flowers, boxes of chocolate, single bottle of inexpensive wine etc, but repeated or costly gifts of this nature should be politely refused;
 - Hospitality offered as part of a conference or training event at which attendance has been authorised through the normal procedures;
 - Hospitality by way of meals offered at business meetings where it is necessary because of diary commitments or other pressing circumstances, for the meeting to cover a normal mealtime. In such cases, the hospitality should be of an appropriately modest scale.

Authorisations

14. The Chief Executive must seek approval of the Monitoring Officer and the Chief Financial Officer.
Group Directors must seek the approval of the Chief Executive.
Service and other Directors must seek the approval of their Group Directors.
Officers below Service Directors must seek their approval of their Service or other Directors.
15. Councillors or Co-Opted Members are not required to obtain authorisation before accepting hospitality, gifts or other benefits offered but they should consult with the Chief Executive or the Monitoring Officer. They will be responsible for any decision they take to accept.

Registration

16. Members and employees are required to register all gifts, hospitality or other benefits accepted or refused other than those authorised under paragraph 13, using the applicable forms, which will be returned for registration to the appropriate Group Director.
17. Civic gifts or donations intended to be given to the Council and not to the Member or employee personally, should be accepted on behalf of the Council and need not be registered by the individual formally receiving them. However, the receipt of such gifts must be recorded by the Council for inventory purposes.

Offering Hospitality, Gifts and Other Benefits

18. There will be many occasions when it is necessary and appropriate for the Council to offer hospitality, gifts or other benefits to organisations or individuals in order to further the proper exercise of the Council's functions. These may include the following (which is for guidance and not intended to be an exhaustive list):-
 - Promoting the economic, environmental and social benefit of the inhabitants of the area;
 - Securing economic development;
 - Encouraging visitors and providing entertainment;
 - In connection with official and courtesy visits by distinguished people, representatives of foreign, national, regional and local government and other public services;
 - Raising money for charitable purposes or for the funds of public bodies which provide services otherwise than for gain.
19. When considering whether to make such offers, Members and employees must ensure that they have proper regard to the fiduciary responsibilities of the Council towards Council Taxpayers and the inhabitants of the area.
20. The Member Code of Conduct says that:-

"7. Members:

 - (a) must not, in their official capacity or otherwise, use their position improperly to confer on or secure for any person, and in particular their family, friends or those with whom they have a close personal association, an advantage or disadvantage or to secure an advantage for themselves;
 - (b) must, when using or authorising the use by another Member of the resources of the Authority, do so prudently and in accordance with the law and the Authority's requirements; and
 - (c) must ensure that the resources of the Authority are not used improperly for their own private purposes, their family, friends and persons with whom they have a close personal association."

21. The Employee Code of Conduct says that:-
“7 Qualifying employees of relevant Authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Authority for personal use unless authorised to do so.”

Appendix 2

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

RECORD OF OFFER OF GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE – COUNCIL MEMBERS

Members must consider the Council's policy and the current threshold of £20.00 before accepting or refusing any offer of gifts, hospitality, material benefit or advantage, from external organisations. In addition, before acceptance of any offer, a Member may consult the Chief Executive or the Monitoring Officer.

Members must not accept gifts or hospitality above the threshold nor below the threshold which might place them or reasonably appear to place you under an improper obligation.

Members must, within 28 days of receiving, or refusing, any gift, hospitality, material benefit or advantage, provide written notification to your Authority's Monitoring Officer of the existence and nature of that gift, hospitality, material benefit or advantage.

The under-mentioned details must be submitted to the Director of Legal & Democratic Services on all occasions where the offer is accepted or refused

MEMBER:
DATE:
NAME AND ADDRESS OF ORGANISATION/INDIVIDUAL OFFERING GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE:
NATURE OF GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE OFFERED:
<i>Please tick as appropriate</i>
ACCEPTED: REFUSED:
SIGNED:

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
STANDARDS COMMITTEE
24 JANUARY 2014

REPORT OF THE MONITORING OFFICER

Background Papers

Rhondda Cynon Taff County Borough Council Gifts and Hospitality Policy