

Bath & North East Somerset Council		
MEETING	Standards' Committee	
MEETING	21st March 2019	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Report on member's gifts and hospitality	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1 – Gifts and hospitality guidance		

1 THE ISSUE

The Committee is asked to consider the proposed guidance for Councillors on registering gifts and hospitality and recommend the guidance to Council.

2 RECOMMENDATION

2.1 That the Committee recommend the proposed guidance on registering gifts and hospitality to Council.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 None.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

The Council is required to have in place adequate arrangements to address the issue of the declaration of gifts and hospitality.

5 THE REPORT

5.1 A recent complaint has highlighted the fact that the Council does not appear to have guidance on gifts and hospitality for councillors. The complainant

has requested that the Standards Committee consider adopting a gifts and hospitality policy.

5.2 On October 2018 the Standards Committee decided that the advice for councillors should be strengthened and amended to reflect that provided to officers. The Monitoring Officer has drafted the proposed guidance for consideration by the Standards Committee.(Appendix 1)

5.3

6 RATIONALE

6.1 To ensure the Council's Constitution reflects best practice..

7 OTHER OPTIONS CONSIDERED

7.1 None.

8 CONSULTATION

8.1 Not applicable.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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Background papers	<i>None.</i>
Please contact the report author if you need to access this report in an alternative format	

Appendix 1

COUNCILLORS' GIFTS AND HOSPITALITY GUIDANCE

1. Meaning of gifts and hospitality

- (a) The expressions 'gifts' and 'hospitality' have wide and evolving meanings and no conclusive definition is either possible or desirable.
- (b) The Council shall interpret gifts and hospitality to include:
- Gifts of any goods or services.
 - The opportunity to acquire any goods or services freely or at a discount or other terms not available to the general public;
 - The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
- (c) Where the gift or hospitality has an estimated value in excess of £25 (in accordance with Paragraph 5 of this Guidance), it must be registered. Where the gift or hospitality has an estimated value below £25, you should consider whether a declaration would be appropriate in the circumstances.
- (d) When considering whether to declare, you should:
- i. define gifts and hospitality widely; and
 - ii. ask yourself "would I have been given this if I was not a member of the Council"? and "what was in the mind of the giver"?; and
 - iii. always register a gift or hospitality if it could be seen as something given because of your position.
- (e) If you are in doubt as to the motive behind a gift or hospitality, it is recommended that you register it or speak to Bath & North East Somerset Council's Monitoring Officer.
- (f) You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family.

2. General Caution

- (a) The fundamental principle must always be that any offer of a gift or hospitality should be treated with great care and carefully considered.
- (b) Your prime duty as a Councillor is to ensure that there is no conflict of interest in the performance of your duties.
- (c) Treat with caution any gift or hospitality that is made to you personally. Your personal reputation and that of the Council can be seriously jeopardised by the in appropriate acceptance by you of a gift or hospitality.

- (d) You should consider carefully all the circumstances surrounding the offer of a gift or hospitality, including:
- the scale
 - amount of the offer
 - potential frequency
 - the source
- (e) Also be sensitive to the timing of the offer in relation for example to decisions which the Council may be taking, affecting those making the offer.
- (f) You should usually avoid hospitality in situations where you would be the sole guest or at the least treat such situations with particular care.

3. Councillor's decision

- (a) The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public.
- (b) The rules within this guidance do not cover every circumstance as to what is appropriate or inappropriate.
- (c) To refuse may cause misunderstanding or offence. However to accept may give rise to questions of impropriety or conflict of interest, which are likely to be of more significance to you when making your decision.
- (d) When you need to decide whether to accept hospitality, you must ask yourself some basic questions, for example:
- is a benefit to the Council in accepting the invitation?;
 - is the entertainment is lavish?;
 - are you accepting too much hospitality from the same source?;
 - whether just your attendance at an event might be open to interpretation as a signal of support?
- (e) In any case of doubt, advice should be sought from the Monitoring Officer.

4. Requirements

- (a) The Councillors' Code of Conduct incorporates this document and you are required to comply with its terms.
- (b) You must register, the receipt any gifts or hospitality with an estimated value of £25 or more, which are received and accepted by you:
- in the conduct of the business of the Council, or
 - the business of the office to which you have been elected; or
 - appointed or when you are acting as representative of the Council.

(c) You must also register the source of the gift or hospitality.

(d) You must register the gift or hospitality within 28 days of its receipt/acceptance.

(e) You must ensure that your register of interests sets out all relevant declarations covering both the current and immediate previous terms of the Council. Entries older than this may be removed at the Councillors' discretion, but should be retained if considered relevant.

(f) If you are dealing with Council business at a meeting (or otherwise) where the donor of the gift or hospitality is affected, you need to consider whether to make a declaration of the gift or hospitality to the meeting for the purpose of complete transparency. Declaration will not mean that you cannot participate in the Council business; however you may consider it appropriate not to participate depending on the circumstances.

(g) Where any gift (no matter the value) is accepted, it may be advisable (depending on the circumstances) to inform the donor is advised that acceptance will not confer any advantage for that donor in his/her dealings with the Council.

5. Series of gifts or hospitality adding up to £25 or more in value

(a) If you receive:

- a gift or hospitality; or
- a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on the Register of Interests as an accumulation in a municipal year

(b) You may have to estimate the value of the gifts or hospitality.

6. Cumulative impact of Gifts and Hospitality from numerous third parties

Councillors can accept gifts and hospitality when it is appropriate and in furtherance of their role in the Council. While it is accepted therefore that the numbers of gifts and numbers of occasions when hospitality could be accepted will vary according to role, there will be a point where Councillors will, in accepting either gifts or hospitality even from different third parties, be in breach of the Code of Conduct. The excessive receipt of gifts and hospitality could undermine the selflessness of the role of councillor and could be considered to have brought the Council into disrepute.

7. Gifts and hospitality below the £25 threshold

You can still register any gift or hospitality you receive which you estimate to be below the £25 threshold should you consider that in all the circumstances this would be appropriate and in your best interests.

8. What to avoid

- (a) In deciding whether it is appropriate to accept any gift or hospitality, you may want to apply the following principles:
 - (i) do not accept a gift or hospitality as an inducement or reward for anything you do as a Councillor. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee;
 - (ii) do not accept a gift or hospitality of significant value or whose value is excessive in all the circumstances;
 - (iii) do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence;
 - (iv) do not solicit any gift or hospitality and avoid giving any perception of doing so;
 - (v) be very cautious in accepting a gift or hospitality, if acceptance might be open to misinterpretation e.g. from persons in litigation with the Council, bidding for work from the Council or applying for any sort of license or consent.
- (b) **It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council.** It is therefore particularly important that great caution is exercised in receiving any hospitality or gifts from contractors of the Council.
- (c) Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.
- (d) It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place him/her under an obligation.

9. Chair

- (a) There are no special rules for those who serve as Chair.
- (b) However, gifts that are clearly made to the authority, for example a commemorative goblet which is kept on display in the authority's offices, do not need to be registered in the member's register of gifts and hospitality. However, such gifts ought to be recorded by the authority for audit purposes. Although the Chair may attend many social functions the office holder is not exempt from the requirement to register hospitality.
- (c) Where the Chair is invited to social functions or gifted with presents in the capacity of the "Chair", he/she will not be required to register the gifts or hospitality received/accepted in this role. Where the Councillor acting as Chair, receives any gifts or hospitality in his/her capacity of a Councillor, there is a requirement to register such gifts and hospitality. The question a Councillor

needs to ask themselves is “Would I have received this hospitality even if I were not the mayor/chair?” If the answer is yes, then it must be registered.

10. Gifts and hospitality declined

There is no requirement to register gifts and hospitality offered but declined. However, as a matter of good practice, it would be advisable to inform the Monitoring Officer particularly if they are of value. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the Council, which prevent the gift or hospitality from being accepted.

11. Reporting of inappropriate gifts and hospitality offered

- (a) It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council.
- (b) You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.