

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	Standards Committee
DATE:	12.09.2018
TITLE OF REPORT:	Briefing Note to Members - Gifts and Hospitality
PURPOSE OF THE REPORT:	To report to the Standards Committee on a proposed draft amended Briefing Note to Members on Gifts and Hospitality
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1. INTRODUCTION & BACKGROUND

- A) The Local Authorities (Model Code of Conduct) (Wales) Order 2008 details that Members “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”.
- B) This [Council’s Constitution](#) includes a clause which mirrors this requirement (paragraph 17).
- C) Section 5.9 of the Constitution includes a [Gifts and Hospitality Protocol](#), which provides information to assist Members in deciding when registration is appropriate and required under the Code of Conduct.
- D) The [register](#) is available for Members to complete on-line using the form at <http://www.anglesey.gov.uk/Journals/2012/01/10/constitution-5-gifts-form.pdf> Members will note that what appears on the website is not in the format originally requested by the Standards Committee (as per the form itself). It was not possible for the Council to adopt that format owing to the constraints of the system itself / the cost of adapting the system so as to incorporate the Standards Committee’s requests.
- E) The purpose of the Register is to ensure that any actions/decisions taken by Members, in their role as Councillors, are not influenced by favouritism, or perceived

favouritism, and not just that arising from personal interests, but also any gift/hospitality received from interested parties.

- F) During a recent review by members of the Standards Committee of the Members' Registers of Interests, it was once again noted that there were very few entries registered on the Gifts and Hospitality Register for each Member. This may be because there is nothing to declare. However, it could also be that Members do not understand the requirement to register as per the Code of Conduct. Standards Committee members who considered other Authorities' Gifts and Hospitality Registers noted that fewer entries were being made by Members in this Authority.
- G) A Briefing Note to Members on Gifts and Hospitality has previously been published to Members, but upon review, this is deemed complex and does not include enough practical examples.
- H) A new Briefing Note has been prepared and a copy of the same is included at **Enclosure 1**. It is hoped that this will assist Members to understand the requirement to register gifts and hospitality received by them in their role as Councillors. The Briefing Note at **Enclosure 1** is intended to replace rather than supplement the existing Briefing Note.

2. RECOMMENDATION

For the Committee

1. To note the contents of the draft amended Briefing Note at **Enclosure 1** and confirm the same should be adopted.
2. To agree that the Chair of the Standards Committee should present the Briefing Note at **Enclosure 1** to a meeting of the Group Leaders; and
3. To confirm the draft amended Briefing Note at **Enclosure 1** can be distributed to all Members in the name of the Standards Committee.

GIFTS AND HOSPITALITY – A BRIEFING NOTE FOR MEMBERS

Background

One of the requirements of the [Code of Conduct](#) is that Members register all gifts and hospitality received, and known or estimated to have a value of **£20.00 or more**, in the [Register of Gifts and Hospitality](#), within 28 days of receipt. The Code only applies to gifts and/or hospitality received by Members in their professional capacity as Members of the Council (not personal).

At section 5.9 of the Constitution, there is a [Protocol on Gifts and Hospitality](#), devised by the Standards Committee to assist Members in deciding when registration of gifts and hospitality is appropriate.

This Briefing Note is prepared as an additional resource to assist Members in ensuring compliance by providing practical advice.

Purpose of the Register and the registration process

Members will appreciate that the purpose of the Register is to ensure that any actions/decisions taken by Members, in their capacity as Members, are not influenced by favouritism, or perceived favouritism, and not just those arising from personal connections, but also any gift/hospitality received from interested parties. If a Member receives a gift or hospitality which exceeds the threshold, the item will be registered on the publicly available Register, and thus **the Member will be required to declare a personal interest on the basis of that registration should a matter arise in the future regarding the party who donated the gift or provided the hospitality.**

So, for example, a Member attends an event with a developer for the purpose of obtaining information and asking questions regarding a proposed development, and in doing so the Member receives hospitality at that event which exceeds the threshold, then it **must** be entered in the Register of Gifts and Hospitality within 28 days of receipt. If the Member is subsequently required to make a decision in relation to the development, then the Member should also declare that hospitality as a personal interest at the meeting where the issue is to be discussed/decided. The declaration of interests form in meetings must also be completed.

In these circumstances it would be a personal interest only; it would not be a prejudicial interest, so the Councillor would be allowed to fully participate. The reasoning behind this is that the decision making is fully transparent; the acceptance of appropriate and proportionate hospitality in the context of Council business should not preclude a Member from taking decisions and fully participating in the process. Of course, a different set of facts may have a different outcome; each situation needs be considered on its own facts.

Be careful... You should always remember that the acceptance of a bribe is an offence. If it is proved that any gift, reward or advantage received by you is provided as an inducement for doing something or not doing something in respect of a particular matter or transaction, then it may constitute a criminal offence, and the onus will be on you to prove that you have not acted dishonestly. If you have concern that a gift or hospitality is

conditional or comes with “strings attached” then you should refuse the offer and report the matter to the Monitoring Officer straightaway.

→ GIFTS

A “gift” can be an actual item (goods) or an experience (services) e.g. theatre tickets, concert tickets, invitation to a sporting event etc, received free of charge or provided at a discounted rate, or free admission provided without a ticket. It could also be an opportunity which is not available to the public.

You should not accept personal gifts:

(a) in your capacity as a Member of the County Council (Community Councils are not required to keep an equivalent register for their Members); and

(b) where you know, or reasonably estimate, that the gift is worth £20 or more.

The acceptance of a pen, diary etc. may be appropriate owing to the low value of the product being gifted. However, you should be careful where you receive a series of small gifts / gifts of insignificant value from the same source, during a short period, that their total value should not exceed £20 per annum. Any such accumulative gifts should be registered.

→ HOSPITALITY

Other words for hospitality include ‘welcome’ and ‘generosity’. Hospitality will usually involve food or drink provided to you free of charge, or at a discounted rate. It could also include the provision of free or discounted entertainment, travel or accommodation and so include tickets or vouchers.

Events which include hospitality can often be appropriate and successful in promoting the interests of the Island but Members need to be mindful of the perception of others when accepting hospitality. **Members should satisfy themselves that the level of hospitality provided is proportionate to the nature and importance of any issues to be discussed at such an event, or that it should be commensurate with the purpose of the event e.g. promotion of the Island.**

Any hospitality received:

(a) in your capacity as a Member of the County Council (Community Councils are not required to keep an equivalent register for their Members); and

(b) where you know, or reasonably estimate, that the hospitality is worth £20 or more, must be registered in the Gifts and Hospitality Register.

Hospitality provided or sponsored by the Isle of Anglesey County Council to a Member need not be declared. An example would include the travel to events hosted by others or attendance at events hosted by the Council. However, where an officer is merely a ‘middle person’ in the administrative process of handing over a ticket from the organiser to the Member, an obligation to register remains if it exceeds the threshold.

Hospitality provided by other public bodies (excluding this Council) is considered hospitality by a third party and therefore any hospitality you receive in excess of the

threshold should be declared in the Register. This includes hospitality provided to you by outside bodies to which you have been appointed by the Isle of Anglesey County Council.

Hospitality should only be accepted when there is a legitimate reason to promote the economic, social or environmental wellbeing of the County Council and/or the Island.

Examples:

I have been invited to an event which is being hosted by a potential developer/investor. Can I go? Is this the type of 'hospitality' which needs to be registered under the Code?

You have an obligation to be as well informed as possible about potential developments/investments, particularly in circumstances where your ward is affected or where you are participating in decisions.

However, this needs to be balanced against the fact that as a Member you must always act in the public interest, and not be influenced, or seem to be influenced, in the discharge of your duties by an offer, prospect of an offer, inducement, reward etc by a developer/investor.

You would therefore need to take particular care with this offer of hospitality from the third party, especially if you have a particular role that could influence the outcome for that third party e.g. you will be a Member of a committee making a decision that affects the developer/investor's interests, and in particular the Planning and Orders Committee.

Firstly, ask yourself whether there is a genuine need to attend.

Secondly, consider the value of the hospitality being offered.

If the hospitality does not exceed the threshold of £20 - you do not have to register – but if you are concerned how the acceptance might be misinterpreted (particularly as its coming from a developer/investor) you could make a voluntary declaration so as to ensure transparency.

If the hospitality exceeds the limit, question if the hospitality is of benefit to the Council/Island and is that commensurate with the value of what is being offered. If the hospitality being offered is ancillary and proportionate to the conduct of business, and is in the Council's/public's best interests, it is probably reasonable to accept hospitality; but you must ensure it is declared in the register. **What is "commensurate" means striking the balance between ensuring that you are as well informed as possible about the issues you will decide/influence, while maintaining public confidence in the integrity of the process.**

The purpose of the Code is not to prevent the legitimate conduct of business, but to ensure that it is done transparently. So, if the developer wishes to provide a reception for Members, setting out their development proposals and answering questions, and

hospitality is provided as part of that process, then such hospitality is acceptable, even if it exceeds the threshold, provided it is declared in the Register. However, lavish hospitality, or hospitality which is disproportionate to the business to be transacted, would not be appropriate, even if registered.

The Council is currently going through a competitive procurement process. I have been invited to an event which is being hosted by a supplier, who will be bidding for the contract. Can I go? Is this the type of 'hospitality' which needs to be registered under the Code?

Members are required to act in the overall public interest, rather than acting in the interests of a particular organisation or individual. It would be a breach of the Code of Conduct to improperly confer an advantage or disadvantage on any contractor/supplier.

In the circumstances, it would be advisable for you to obtain the advice of the officers leading on the procurement process before committing to meet with a contractor / supplier. It is paramount that the same opportunities are provided to all prospective suppliers and that you should be mindful of any role you may have as a consultee, but probably not a decision maker, in the procurement process.

I'm not sure how to calculate the £20?

You should estimate how much a person would be expected to pay for the equivalent gift/hospitality on a commercial basis.

If you are in any doubt about the value then the better course of action would be to register the hospitality.

I've received a ticket to a rugby match from one of my constituents, who is a professional rugby player, for helping with ensuring sports facilities locally. I'm more of a football fan so I'm passing the ticket to another Member in my ward. She'll be registering the receipt of the ticket on her Register so I won't need to, will I?

If you do not accept the gift or hospitality / you return the gift to the donor, then you do not have to register it.

But, as in these circumstances, you have accepted the invitation albeit you have received it and passed it on to another person to use. You will therefore need to register it as technically it has been accepted by you.

The other Member, who makes use of the ticket, will also need to declare the ticket as the gift has not originated from you personally.

Other Members in my Group have been provided with free tickets for an event. I'd really like to attend that event. Can I ask for a free ticket for myself?

Seeking to secure a free ticket for yourself may constitute a breach of paragraph 6(1)(a) of the Code of Conduct which states that you must not use, or attempt to use, your position as a Member to secure for yourself or any other person an advantage or disadvantage.

You should therefore never solicit or invite an offer of a gift or hospitality in your position as a Member.

You should also take care to avoid giving an indication to anyone that you might be open to such offers.

I have been offered a reduced fee gym membership at a local holiday park over the winter months (it is their quiet time). Can I accept this offer?

First of all, consider whether other local people have been offered the same incentive, or have you been targeted / the only one (or one of a few) offered it because of your position as a local member.

If you have been approached as a direct result of your role as a local member in the ward, you should refuse the offer on the basis the gift is being made to you in your capacity as a member of the County Council and (one assumes, on the basis of a typical gym membership fee) the gift is worth more than £20.

If others in the local area have been approached with the same offer, you could accept the offer. You would not need to register the gift as it is not being made to you in your capacity as member. However, you would need to ensure that if a matter came before the Council at a later date in relation to the holiday park / the company that owns or manages it etc., you would need to declare a personal interest. Your interest is unlikely to be prejudicial; however, you would need to consider the relevant facts and the specific circumstances at that time.

If you have any queries, please contact the Monitoring Officer.