



City of Westminster Standards Committee

Date: 6 December 2018
Classification: General Release
Title: Gifts and Hospitality
Report of: Tasnim Shawkat, Monitoring Officer

1. Executive Summary

1.1 This report seeks to restate the Council's position with regards to gifts and hospitality for Members and officers in the light of a complaint against a member of the Council, which attracted significant attention, particularly in the context of the Council's planning function.

2. Recommendations

- 2.1. To note that the Westminster City Council – Members' Code of Conduct requires Members to register any gifts and / or hospitality. The registered gifts and hospitality are then published along with the Members' register of interests on the Council's website.
- 2.2. To note that additional guidance is provided on the Council's website about registering interests and gifts and hospitality.
- 2.3. To note that training is provided to Members on the Code of Conduct, which covers gifts and hospitality and emphasis is placed on perceptions of members of the public rather than just complying with the law and the letter of the Code.
- 2.4. To note that Members necessarily need to pay particular attention to gifts and hospitality if there is a perception of conflict, for example, in the context of planning decisions.
- 2.5. To note that the Chief Executive and the Monitoring Officer have been directed by the Cabinet to restate the guidance to Members involved in planning decisions and that a further updating report will be brought to this Committee.

3. Background

- 3.1. The number of gifts and hospitality recorded by a Westminster City Councillor attracted media attention from February 2018 onwards. Following a self referral an investigation was undertaken under the *Arrangements for dealing with for dealing with complaints alleging a breach of the Members Code of Conduct*.
- 3.2. Although the ensuing investigation report did not reach the Standards Committee the report has been published on the Council's website, due the high profile nature of the complaints through the media. The contents of the report will not be repeated here in this report other to mention that the Monitoring Officer was due to refer it to the Committee for prima facie breach of the Code, as recommended by the investigating officer.
- 3.3. In the light of the investigation and the findings the Monitoring Officer has reviewed the guidance to officers and Members on gifts and hospitality and has found them to be robust.
- 3.4. The investigation brought into focus gifts and hospitality in the context of the planning process. No actual wrong doing was found yet there was intense scrutiny and sustained questioning has continued. This highlights the extreme caution Members have to exercise to deal with perceptions in areas of decision making where the Council is dealing with competing interests.
- 3.5. Following the election of a new Leader of the Council and Cabinet in January 2017, a number of changes have been implemented regarding the management of the planning system in Westminster. In February 2017, new guidance was introduced governing how the Cabinet Member for Place-Shaping and Planning and the Chairman of Planning should engage with planning applicants before and after submission of applications.
- 3.6. In May 2018, the Planning Advisory Services (PAS) were instructed to review the operation of Westminster's Development Management service. PAS was asked to consider the effectiveness of the service, the role hospitality plays, the delivery of corporate objectives and outcomes, and the Planning Committee System and Decision Making. The PAS report was completed in September 2018 and reported to the Cabinet in October.

4. Key findings

- 4.1. The Monitoring Officer has considered the investigation report into the complaint, the PAS report and the existing guidance to Members and officers and findings are set out below.
- 4.2. The Westminster City Council – Members' Code of Conduct requires Members to register any gifts and / or hospitality over £25. The registered gifts and hospitality are then published along with the Members register of interests on the Council's website.
- 4.3. The Council's website provides additional guidance for Members about registering interests and gifts and hospitality. This guidance was given under the previous legislation, which was more stringent and has been retained on the website. This guidance is reproduced in **Appendix 1** to this report.

- 4.4. Training is provided to all Members on the Code of Conduct, which covers gifts and hospitality. In relation to the requirements of the Code emphasis is placed on perceptions of members of the public rather than just complying with the law and the letter of the Code. This is the case in relation to declaring any interests. So, for example even if strictly in law there is no interest under the Code of Conduct Member often declare particular relationships in the interest of transparency.
- 4.5. It is the responsibility of each individual Member to use their judgement as to whether to accept or reject any gift or hospitality and what the public perception will be of a particular gift or hospitality or the volume, type and timing of accepting any gifts and hospitality.
- 4.6. In the light of a complaint which attracted considerable attention from the press and those involved in the Council's planning process the Monitoring Officer has undertaken a review and finds that:
- (i) There is clear and adequate guidance for Members (and officers) on the need to register gifts and hospitality
 - (ii) There are processes in place for registering gifts and hospitality and these are well publicised
 - (iii) The only action that needs to be taken is to re-state or emphasise the need to exercise sound judgement at all times
- 4.7. It goes without saying that Members need to exercise particular caution in relation to Planning process. As the LGA and the PAS say in their publication *Probity in Planning* "Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent."
- 4.8. Finally, it should be noted that the role of Monitoring Officer is to provide the framework and guidance, not to advise on whether a particular gift or hospitality should be accepted. Each Member has to exercise their own judgement in relation to this or seek advice of their Group Leader or Whip.
- 4.9. The PAS review found no impropriety or failure to follow guidelines and protocols regarding hospitality. However, the practice of accepting hospitality from planning applicants was found to be excessive and unnecessary. It has become 'normalised' in contrast to the practice of most planning services across the country.
- 4.10 Good practice would be for staff and councillors to retain a distance from land owners, applicants, agents and community stakeholders other than through formally arranged visits and recorded meetings linked directly and specifically to the consideration of planning applications, pre-applications or the development of the local plan. This provides independence and serves to maintain trust in what is a public and regulatory service.
- 4.11 Accordingly, on 25 October 2018, the Cabinet requested that the Chief Executive and Director of Law re-state the guidance to elected Members

involved in the planning decision making process. This will include guidance to officers and elected members involved in the planning process to retain a distance from land owners, applicants, agents and community stakeholders, other than at formally arranged visits and meetings. An updating report will be brought to this committee for information once the work is completed.

5 Financial Implications

5.1 There are no financial implications for this report.

6 Legal Implications

6.1 The Council and individual Members are required to promote and maintain high standards of ethical behaviour as is required under section 27 of the Localism Act 2011.

If you have any queries about this report please contact:

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Appendix 1 - Gifts and Hospitality guidance on Westminster City Council website

Gifts and Hospitality guidance on Westminster City Council website

You must register, within 28 days of receiving it, any gifts or hospitality worth £25 or over that you receive in connection with your official duties as a Member, and the source of the gift or hospitality. Like other interests in your register of interests, you automatically have a personal interest in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a prejudicial interest.

Is the gift or hospitality connected to my official duties as a Member?

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, the Standards Board 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.

What if I do not know the value of a gift or hospitality?

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 £25 or over should be registered.