

TITLE OF REPORT: GIFTS AND HOSPITALITY POLICY REVIEW

REPORT OF THE MONITORING OFFICER

1. SUMMARY

- 1.1 To report to Finance Audit and Risk Committee on proposed changes to the Gifts and Hospitality framework following a recent review.

2. FORWARD PLAN

- 2.1 This report does not contain matters referred to in the Forward Plan.

3. BACKGROUND

- 3.1 This Report is primarily focused on Officer Gifts and hospitality. However Internal Audit carried out an audit on both Member and Officer gifts and hospitality and made recommendations which are summarised in section four below, so brief reference will be made to Member Gifts and Hospitality for completeness.
- 3.2 Two recommendations flowing from the Audit were identified as high risk and three as medium risk. Only one of these related to Member gift and hospitality, the remaining four related to Officer gift and hospitality. The full audit report is attached at Appendix A.
- 3.3 Gifts and Hospitality received by officers is governed by the Council's Gifts and Hospitality Policy, which is sponsored by Legal Services. Gifts and hospitality received by Members is governed by paragraphs 8 and 13 of the Code of Conduct for Members and explained further in the Members Protocol for Gifts and Hospitality in the Council's Constitution. The officer Gift and Hospitality Policy and the Protocol for Members are broadly similar in content and approach.
- 3.4 In addition to the points raised in the audit report the Officer Policy has been reviewed generally to determine whether it is still fit for purpose given that it was last updated some time ago.
- 3.5 A review of the approach to Member gifts and hospitality was considered to be an inefficient use of resources at this time, as the Member Code of Conduct is likely to change as a result of the Localism Act and the member protocol can then be included if appropriate as part of the constitution review. Additionally the only Audit recommendation relating to member gift and hospitality was concerned with the form that Members complete on receiving gifts and hospitality.

4. ISSUES

Audit recommendations for Member gifts and hospitality

- 4.1 There was only one recommendation, relating to Members which was rated as high risk (on pages A6-A7 in the audit report). Audit identified that the current form for members to complete did not identify what happened to the gift and recommended that the form should be amended to include a section confirming how the gift was disposed of/ reason for acceptance.
- 4.2 This Audit recommendation goes beyond what is required to be declared by the Member Code of Conduct and research has shown that a number of local authorities do include such a question on their Gifts and Hospitality declaration form. To provide transparency over the outcome of gifts received by members it is proposed to add a question 4 to the existing form and the proposed amended form is attached at Appendix B. This form was considered and agreed with slight amendments by Standards Committee on 23 November 2011.
- 4.3 A note will be put into MIS in the lead up to the Christmas period.

Audit recommendations for Officer gifts and hospitality

- 4.4 The other recommendation identified as high risk (page A6 of the Audit report) was that officers be reminded of the need to pass unsolicited gifts to the Chairman for inclusion in the Chairman's Raffle and to complete the Special Consent Form where appropriate.
- 4.5 It has been usual practice to insert an item in the Team Talk prior to the Christmas period reminding officers as to the existence of the Gifts and Hospitality Policy. This practice has been repeated and includes a specific reminder of the need to pass on unsolicited gifts.
- 4.6 Audit identified that the Gifts and Hospitality Policy was overdue for review (page A5 of the Audit report) and categorised this as a medium risk. That review has now been carried out (see paragraph 4.8 below) and the revised policy is being reported to FAR and then to Cabinet for approval on 13 December 2011.
- 4.7 A further audit finding was that the officer gift and hospitality registers held by each directorate should be reviewed every six months by the Strategic Director in accordance with guidance on the intranet. This review requirement was not contained within the policy and there was a lack of consistency in relation to directorates complying with the guidance. In response to the recommendations a short section has been added to the proposed amended Policy attached at Appendix D (section 5) and the Monitoring Officer will send out reminders in January and July of each year to the Strategic Directors to ask that they undertake a review of the registers.

Additional changes made to Officer gifts and hospitality policy following review

- 4.8 It is proposed to only make limited changes to the policy, which maintains the consistency with the member protocol (but see para 4.10 below). Changes made (in addition to that referred to above) are:

- References to the previously proposed Code of Conduct for Officers in England have been removed;
- The Bribery Act 2010 and the Council's Anti Bribery policy have been cross referenced;
- General principle 1(d) has been clarified so that it will be for an 'appropriate officer' under the policy to determine whether that general principle will apply. This allows some manager discretion;
- General consent 2(a)(i) has been broadened in scope to include conferences and courses and is now consistent with the member protocol. This covers situations such as at conferences, where companies exhibiting at the conference invite groups of conference attendees to dinner in the evening. These are dinners for large groups of conference attendees and are part of the networking opportunities of the conference;
- General consent 2(a)(vi) has increased from £10 to £25, to bring it in line with the member protocol. The description of 'modest working lunch' will still apply ie £25 is a limit for a modest lunch not an allowance for something more extravagant;
- General consent 2(a)(ix) has additional guidance dealing with perishable gifts;
- Special consent provision under section 2(b) may now be given retrospectively in exceptional circumstances;
- The appropriate officer descriptions in the special consent provisions have changed from Head of HR to Chief Financial Officer at (i) and (iv) as this is consistent with approach on other matters;
- Minor typographical changes;
- The Special Consent Form has been amended to reflect changes to the Policy.

4.9 Once approved by Cabinet the amended policy will be re-launched to officers. As Cabinet is due to receive the report at its December meeting (ie after the next Team Talk will have been distributed), a further Team Talk article will be circulated once the amended policy is approved.

Potential future changes

4.10 Changes to the Standards framework arising from the Localism Act 2011, may lead to a need to review some Member policies. There may then be a consequential need to consider similar Officer Policies in light of any changes to those Member policies. In this instance, it may be appropriate to review the Member Protocol for Gifts and Hospitality, and it may then be further appropriate to reflect those changes in the Officer Gifts and Hospitality Policy if the current approach of a broadly similar line between related Officer and Member policies is to be maintained. This further policy review and amendment will also include addressing a couple of issues with the wording of the existing Officer policy which were identified on review but have remained for the time being to ensure consistency with the existing Member Code.

5. LEGAL IMPLICATIONS

5.1 FAR has within its terms of reference to monitor the effective development and operation of risk management and corporate governance in the council and to consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

- 5.2 The policy will then be reported to Cabinet for approval on 13 December 2011 as it has remit for preparing and agreeing to implement policies and strategies other than those reserved to Council.

6. FINANCIAL AND RISK IMPLICATIONS

- 6.1 There are no financial implications associated with implementing an update of an existing policy. Having a robust policy in place is part of ensuring the Council has an appropriate corporate governance framework in place and is therefore an important element of mitigating risk.

7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

- 7.1 There could be staff resources required to advise on the application of the policy. However as this is an update of an existing policy additional resources should not be required.
- 7.2 The Council incorporates the statutory equalities duties which apply to all its activities into policies and services as appropriate, as set out in the Council's Corporate Equality Strategy. We also recognise that in our society, groups and individuals continue to be unfairly discriminated against and we acknowledge our responsibilities to actively promote good community relations, equality of opportunity and combat discrimination in all its forms.
- 7.3 The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 8.1 None.

9. RECOMMENDATIONS

- 9.1 That FAR note the Member Gift and Hospitality declaration form agreed by Standards Committee on 23 November 2011, specifically the amendment to include a question requiring confirmation of what was done with the gift.
- 9.2 That the proposed amended Officer Gifts and Hospitality Policy be recommended to Cabinet for approval, subject to any comments on its content.

10. REASONS FOR RECOMMENDATIONS

- 10.1 To respond to Audit's findings on the Council's approach to gifts and hospitality and ensure the Council has up-to-date policies in place.

11. ALTERNATIVE OPTIONS CONSIDERED

- 11.1 Various options as to how the policy could be reworked were considered and discounted, in part to ensure that the officer Gift and Hospitality Policy and the Protocol for Members remain broadly similar in content and approach.

12. APPENDICES

- 12.1 Appendix A: Internal Audit Report
- 12.2 Appendix B: Amended Member Gift and Hospitality Form
- 12.3 Appendix C: Proposed amended Officer Gifts and Hospitality Policy
- 12.4 Appendix D: Proposed amended officer Special Consent Form

13. CONTACT OFFICERS

- 13.1 Katie White ext 4315;
Katie.white@north-herts.gov.uk
Corporate Legal Manager and Monitoring Officer
- 13.2 Anthony Roche ext 4588
anthony.roche@north-herts.gov.uk
Senior Lawyer and Deputy Monitoring Officer