

TITLE OF REPORT: MEMBERS' REGISTER OF INTERESTS / GIFTS AND HOSPITALITY / EXPENSES

REPORT OF THE ACTING MONITORING OFFICER

1. SUMMARY

- 1.1 To report to members on the feasibility of the Members' Register of Interests, Register of Gifts and Hospitality and Members' expenses being made available on the Council's website.

2. FORWARD PLAN

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

3. BACKGROUND

- 3.1 The Standards Committee requested at their meeting on 10 November 2009, that the Acting Monitoring Officer investigate and report back to the Committee on the feasibility of the Members' Register of Interests, Members' Gifts and Hospitality Register and Members' expenses being made available on the Council's website

4. ISSUES

4.1 Register of Interests

- 4.1.1 The Council keeps a Register of interests relating to Members, which is available for public inspection.
- 4.1.2 Section 81 of the Local Government Act 2000 requires the Monitoring Officer to establish and maintain a register of interests of Members and co-opted Members of the Council.
- 4.1.3 The provisions of the Members Code of Conduct require the registration of interests within 28 days of the adoption of the code of conduct or election to office. Registration is by written notification to the Monitoring Officer of any matter that falls within the scope of paragraph 8(1) of the Code. This is so that there is transparency about any interests that may give rise to a conflict.
- 4.1.4 A Member must similarly disclose any new interest or change of any previously registered interest within 28 days of becoming aware of it.
- 4.1.5 There is provision, where a Member considers information relating to their personal interests to be sensitive, for the Monitoring Officer to agree that it should not be included in the register. This again is subject to disclosure within 28 days if there is a

change in circumstances. For the purposes of this provision `sensitive information` is `information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with them may be subject to violence or intimidation`.

- 4.1.6 The Act requires that copies of the Register are available at an office of the Council for inspection by members of the public at reasonable times.
- 4.1.7 The public are made aware of the existence of the Register as the Council is required to advertise the fact of its existence in one or more newspapers circulating in its area informing people of its existence and the arrangements for its inspection.
- 4.1.8 The nature of the wording of the legislation leads to the conclusion that it is a `hard copy` Register that is available for inspection. The issue then arises whether the Council can or should make the register available by electronic means such as by publication on its website.

4.2 Gifts and Hospitality

- 4.2.1 Paragraphs 4.1.3 and 4.1.4 above refer to registration of interests. Under the Members Code of Conduct, a member must register any gifts or hospitality worth £25 or more that they receive in connection with their official duties as a member within 28 days of receiving it. This must include the source of the gift or hospitality.
- 4.2.2 Like other interests in the Register of Interests a member automatically has a personal interest in any matter under consideration if it affects a person who gave the gift or hospitality which has been registered. They must then consider whether that interest is also a prejudicial interest.
- 4.2.3 Once three years has passed since receiving the gift or hospitality, the requirement to declare it as a personal interest ceases.
- 4.2.4 The Council has adopted a Members Protocol for Gifts and Hospitality which sets out procedures adopted by the Council to provide clear rules for the protection of members and the Council. This is set out at Appendix 1 and covers the rules set out in the Code of Conduct and additional provisions that it has adopted. The Protocol includes General Principles that Members should be mindful of and reporting requirements for gifts and hospitality of any value including values below £25.

4.3 Members Expenses

- 4.3.1 The Members Allowances Scheme set out in Appendix 2, which forms part of the Councils Constitution sets out Member's allowances and the way in which travelling, subsistence (and other) allowances should be claimed.

4.4 Advice from the Association of Council Secretaries and Solicitors

- 4.4.1 Enquiry has been made of the Association of Council Secretaries and Solicitors (ACSeS) and they have commented as follows:-

`The issue of electronic publication arose recently as there was a paragraph in the Audit Commission guidance to auditors on CAA assessments urging that it was 'best practice' to include the register on the Council's website. However after intervention

from ACSeS this was changed. There is no law requiring it, nor is it accepted best practice'. It may be thought to be a good idea, but there are risks, having regard to the detail required to be registered. There is a big difference in information available for public inspection and publishing information on websites. Some interests are personal information which would otherwise be protected under the Data Protection Act. It is acknowledged that some Councils do include the register on the website and have done so for a while. It is suggested that Members have presumably agreed to the practice or have not objected.

As publication on the website is somewhat beyond the mere right of the public to inspect the register, It is suggested that obtaining the agreement of the Council should be a requisite. It might be sensible for the Standards Committee to consult all Members on the proposal and then make a recommendation to full Council if there appears to be a majority in support. If a Member subsequently challenges, having voted against, it may be the case that a Court would be not minded to set aside a democratic decision. Several public organisations including the Standards Board for England do show their members interests on their websites. There is likely to be considerably more detail shown in a local authority register than are registered by other such bodies. Account should be taken of the content of the register (and quality and clarity of the information recorded) before considering the issue of publishing it.'

5. LEGAL IMPLICATIONS

- 5.1 Publishing this information on line would require the agreement of full Council because it would require changes to the Council's Constitution.
- 5.2 The Legal implications are otherwise dealt with throughout the body of the Report.

6. FINANCIAL AND RISK IMPLICATIONS

- 6.1 None.

7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

- 7.1 None.

8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 8.1 None, although clerks of the parish councils will receive copies of this report.

9. RECOMMENDATIONS

- 9.1 The Acting Monitoring Officer has concerns about progressing to publish this information on line. It is not a statutory duty to do so and it is not recommended that the Standards Committee pursue this option at this stage.

10. REASONS FOR RECOMMENDATIONS

- 10.1 Any consideration of the disclosure on the Council's website of the receipt of gifts and hospitality, register of interests and Members Expenses should be proportionate when considering the potential benefit, cost and time involved and the risk of prejudice to individuals.

11. ALTERNATIVE OPTIONS CONSIDERED

11.1 None

12. APPENDICES

12.1 Appendix 1: Members' Protocol for Gifts and Hospitality

12.2 Appendix 2: Members Allowances Scheme 2009/10

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