

AUDIT COMMITTEE

29 SEPTEMBER 2016

GIFTS AND HOSPITALITY

REPORT OF HEAD OF LEGAL AND DEMOCRATIC SERVICES

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RECENT REFERENCES:

OS139 - SILVER HILL: INDEPENDENT REVIEW, 10 FEBRUARY 2016

EXECUTIVE SUMMARY:

This report relates to one of the governance recommendations contained in the Independent Review of Silver Hill, in respect of gifts and hospitality.

RECOMMENDATIONS:

- 1 That the proposed actions set out in Section 4 of the Report be endorsed as the action to be taken in respect of the recommendation in the Independent Review of Silver Hill in respect of gifts and hospitality.

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DETAIL:

1 Introduction

1.1 Members will recall that the Independent Review of Silver Hill Report by Claer Lloyd-Jones set out a number of recommendations, one of which was that a governance review should be carried out.

1.2 It further recommended that the governance review should look at a number of issues, including the gifts and hospitality register. In this respect, the Review Report recommended that the governance review should look at:-

Improving the gifts and hospitality register so that it applies equally to Members and senior officers and ensuring regular reports in relation to it are submitted to Audit Committee.

1.3 This report considers this aspect of the governance review recommendations.

2 Gifts and Hospitality – Members

2.1 Under the City Council's Code of Conduct (in common with other Councils), Members are required to notify the Monitoring Officer, within 28 days of receipt, of any gifts and hospitality where the estimated value is at least £50.

2.2 Where such notifications are made, they are retained on a file in the Democratic Services Team. Together with the forms referred to in 2.3 below, these constitute the Members' Register of Gifts and Hospitality.

2.3 In addition to ad-hoc notifications during the year, Members are also asked to complete and sign a form, as part of the annual Register of Interests process, setting out details of any gifts and hospitality received within the previous three years over £50. These forms are published on the Council's website under each Councillor's details.

2.4 Under the Code of Conduct, a Member has a personal interest in any business of the Council when it relates to or is likely to affect the interests of any person from whom the Member has received a gift or hospitality with an estimated value of at least £50 in the last three years. Where this is the case, a declaration would be made at the meeting, and if the interest was also prejudicial, the Member would have to leave the room during the item (subject

to the rights under the Code to make representations and answer questions where the public has the same rights).

- 2.5 Given the fact that Members confirm (in writing, by their signature) annually what (if any) gifts and hospitality they have received in the previous three years, it is reasonable to assume that these forms are an accurate statement of what Members have received over that period. From the low number of instances declared by Members, it would appear that most Members are able to ensure that they either do not receive gifts and hospitality at all, or that any that is received is below the £50 limit.
- 2.6 The provisions in the Code are supplemented by a Protocol on Gifts and Hospitality (Part 5 Section 6 of the Constitution). This protocol gives guidance to Members on dealing with these matters. In general, Members are encouraged to politely refuse any gift worth more than £50. Although there is no requirement to declare gifts below this figure, Members are able to notify the Monitoring Officer in such situations if they wish.
- 2.7 In terms of hospitality, where this is received during attendance in an official capacity at a function organised by a public authority or local non-profit-making organisation, it will generally be acceptable. Care is urged where the hospitality is provided by other organisations.
- 2.8 Where an offer of hospitality has been made with a view to exerting influence or to improve the standing of a private individual or firm in relation to current or future dealings with the Council, Members are advised that the offer should be declined. If it becomes apparent during or after an event that this was the reason behind the provision of hospitality, Members are recommended to contact the Monitoring Officer and disclose the circumstances.
- 2.9 In all situations where hospitality is received and the value is considered to exceed £50, the Protocol states that Members should declare this to the Monitoring Officer.

3 Gifts and Hospitality – Officers

- 3.1 Under the Employees Code of Conduct (Part 5 Section 9 of the Constitution), guidelines are set out for officers in respect of hospitality and gifts, as follows:-

15.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. Acceptances of hospitality should be authorised by management and recorded with the Head of Legal and Democratic Services.

*Where a gift is offered it may be accepted if:
(i) it is offered during official authorised hospitality*

(ii) it is of nominal value (a guide to nominal value being a box of chocolates or item of under £5. The guidance given in Part 5 of the Council's Constitution can also be considered relevant for employees) and, in either case,

(iii) no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or company tendering for work) and

(iv) they have not become a frequent occurrence

15.2 Employees must refuse an offer of a gift from any person engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and the employee is directly responsible for formulating recommendations to the Council or for monitoring the service received from the person concerned.

15.3 Gifts of money cannot be accepted under any circumstances.

3.2 The Monitoring Officer maintains a register of any notifications received from employees under the Code.

4 Internal Audit Report on Ethical Governance

4.1 One of the audits being carried out by the Southern Internal Audit Partnership is on Ethical Governance. As part of this, the audit team has specifically considered the existing measures governing gifts and hospitality, and certain issues have been highlighted.

4.2 The report has not yet been finalised, but the key findings and action proposed which are relevant to this report are set out below.

4.3 The Audit found that declarations from Members are received annually, and countersigned by the Head of Legal and Democratic Services. It also found that declarations from officers were being stored in a file by the Democratic Services Manager.

4.4 The Audit found that staff inductions included the Employee Code of Conduct, but that the Anti-Fraud and Corruption Policy was not included in this process.

4.5 The Audit recommends that a central register is compiled of officer declarations, to ensure that all the information is complete, and held securely in one place. This would provide a chronological record of all declarations made and ensure that the information is readily available.

4.6 Finally, the Audit noted that staff are not periodically reminded of the key aspects of the Employee Code of Conduct that they are expected to follow. An annual reminder is suggested.

4.7 Officers have considered these findings, and propose the following in response:-

- a) Carry out a full review of the Employee Code of Conduct (December 2016);
- b) Revise staff induction checklist to ensure all policies are included (December 2016);
- c) Prepare an index of all declarations relating to gifts and hospitality, to cover both Members and officers, recording the date of the declaration, the nature of the gift/hospitality in question, the identity of the donor and the recipient. This would be held electronically with edit access limited to the Monitoring Officer and Democratic Services Manager;
- d) The issue of gifts and hospitality will be included in a Senior Management Team meeting, and an annual reminder of obligations under the Employee Code of Conduct issued by the Monitoring Officer to all staff at an appropriate time (early December);
- e) In addition, it is proposed that an annual report is made to Audit Committee on the declarations of gifts and hospitality made, both by Members and officers. This would be done in June/July each year, after the annual elections, to allow time for Members to make their statutory returns.

5 Consideration of Recommendation of Independent Review

- 5.1 The Independent Review suggested that the gifts and hospitality register should be improved so that it applies equally to Members and Senior Officers. It should be noted that the two Codes are not identical, and therefore a gift received by a Member would not be declarable (and need not appear on the register therefore) whereas it would normally be declarable and registrable if received by an officer. By way of example, a bottle of wine worth £20 presented to a Member would not be declarable, and need not be registered. Under the Employee Code of Conduct, however, an employee would not be able to accept this – it would only appear on the register if e.g. to refuse it would cause offence or embarrassment (and the officer would be expected to donate the gift to the Mayor of Winchester's Charity and not retain it).
- 5.2 It is considered that the respective limits and rules are appropriate for the different positions that Members and Officers are in. Accordingly, it is not recommended that the financial limits and other rules in the respective codes are altered to bring them into line with each other.
- 5.3 Where receipt of a gift or hospitality *is* registrable, it is agreed that this should be recorded by the Monitoring Officer within a single central electronic register.
- 5.4 It is agreed that regular reports should be made to Audit Committee on the matter, and an annual report as set out above would seem to be an appropriate frequency.

OTHER CONSIDERATIONS:**6 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):**

- 6.1 The Council's response to the Independent Review is important in maintaining the Council's reputation and ensuring continued efficiency, effectiveness and probity.

7 RESOURCE IMPLICATIONS:

- 7.1 Implementing the proposed actions set out in this report will only require minimal officer time.

8 RISK MANAGEMENT ISSUES

- 8.1 The proposed actions will reduce the risk of inappropriate or unlawful gifts and hospitality being received, and thereby the risk of a legal challenge or other legal action as a consequence.

BACKGROUND DOCUMENTS:

Draft Internal Audit report – Ethical Governance.

APPENDICES:

None.