

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

10 October 2024

Report of the Director of Legal and Democratic Services and Monitoring Officer

Register of Gifts and Hospitality 1 April 2023 – 31 March 2024

1. Purpose

- 1.1 To inform Governance, Ethics and Standards Committee of gifts and hospitality offered and recorded during 2023-2024 (1 April 2023 - 31 March 2024).

2. Information and Analysis

- 2.1 It is important that the Council has a robust policy and procedures in place to ensure compliance with the following statutory obligations which employees are subject to:
- a) Section 117(2) of the Local Government Act 1972 provides that an officer of a local authority shall not, under the colour of his or her office of employment, accept any fee or reward whatsoever other than his or her proper remuneration. The expression 'any fee or reward' includes such things as unauthorised commissions, gifts or presents. Any person who contravenes this commits a criminal offence.
 - b) The Bribery Act 2010 makes it an offence to seek, accept or agree to accept a financial or other advantage as an inducement or reward to perform a function improperly. In simple terms, it is a criminal offence for employees to seek or accept a financial or other advantage in return for asking a decision, granting an award or performing any other public function, regardless of what decision is made. The maximum sentence for a bribery offence is

10 years imprisonment. The Bribery Act 2010 also makes it an offence for the Council to offer or pay bribes and both the individual and the organisation may be prosecuted.

Employees

- 2.2 The Financial Regulations and Code of Conduct for Employees require all offers of Gifts and Hospitality, whether accepted or refused, to be reported to a Line Manager and/or Executive Director. During 2023 the Code of Conduct was reviewed and a new Code of Conduct for Employees, which incorporated the Code of Conduct for Adult Social Care Employees (which includes specific provisions relating to legacies in wills) was approved by Council on 13 September 2023. Relevant extracts are included in Appendix 2.
- 2.3 Each Department has an officer responsible for maintaining the departmental gifts and hospitality register. Historically the registers were held in paper form within departments which did not support consistency and corporate oversight. An online reporting solution in the form of a Microsoft Teams form was therefore introduced in October 2021 in order to ensure consistency and accurate recording of all relevant information. Initially this was launched across Corporate Services and Transformation and rolled out to other departments. Regular reminders are now sent to employees to ensure that they register offers of gifts and hospitality, whether accepted or not. Reports can now easily be generated from the new online system and quarterly reports are provided to enable reporting and monitoring by Departmental Management Teams.
- 2.4 During 2023-2024, across the Council, 332 offers of gifts and hospitality reported totalling an estimated value of £8,233.58. There were 257 offers of gifts (256 accepted and 1 refused) and 75 offers of hospitality (58 accepted and 17 refused). By way of comparison during 2022-2023, 254 offers of gifts and hospitality were reported totalling an estimated value of £4,378. There were 196 offers of gifts (191 accepted and 5 refused) and 58 offers of hospitality (47 accepted and 11 refused).
- a) Across Adult Social Care and Health, 117 offers of gifts or hospitality were reported totalling an estimated value of £1750.30. There were 108 offers of gifts (all accepted) and 9 offers of hospitality (all accepted). By way of comparison in 2022-2023 across ASCH, 111 offers of gifts or hospitality were reported totalling an estimated value of £1647. There were 96 offers of gifts (95 accepted and 1 refused) and 15 offers of hospitality (15 accepted and 0 refused). The majority of the gifts are boxes of

chocolates, biscuit and alcohol and the majority of the offers were from members of the public.

- b) Across Children's Services, 45 offers of gifts or hospitality were reported totalling an estimated value of £815.48. There were 40 offers of gifts (39 accepted and 1 refused) and 5 offers of hospitality (3 accepted and 2 refused). By way of comparison in 2022-2023 across Children's Services, 14 offers of gifts or hospitality were reported totalling an estimated value of £198. All 14 were gifts and all were accepted. The majority of the gifts were chocolates, flowers and candles and the majority of the offers were from members of the public.
- c) Across CST, 32 offers of gifts or hospitality were reported totalling an estimated value of £2113.45. There were 6 offers of gifts (all accepted) and 26 offers of hospitality (18 accepted and 8 refused). By way of comparison in 2022-23 across CST, 32 offers of gifts or hospitality were reported totalling an estimated value of £717. There were 9 offers of gifts (7 accepted and 2 refused) and 23 offers of hospitality (17 accepted and 6 refused). The gifts consisted mostly of branded stationery and chocolates offered by both members of the public and organisations. The hospitality was offered by organisations at networking events, working lunches and conferences.
- d) Across Place, 136 offers of gifts or hospitality were made totalling an estimated value of £2944.35. There were 102 offers of gifts (all were accepted) and 34 offers of hospitality (27 accepted and 7 refused). By way of comparison in 2022-2023 across Place, 94 offers of gifts or hospitality were made totalling an estimated value of £1737. There were 77 offers of gifts (75 accepted and 2 refused) and 17 offers of hospitality (13 accepted and 4 refused). The majority of gifts were boxes of chocolates, biscuits and bottles of alcohol offered by both members of the public and organisations. The hospitality was offered by organisations during meetings, training, conferences and awards events.
- e) The Managing Director reported 2 offers, 1 gift and 1 of hospitality. These were both from the Toyota City Partnership totalling an estimated value of £610.

2.5 The following areas have been identified and, where required, steps will need to be taken to address the issues arising. Whilst there are positives, it is a concern that a number of these issues were highlighted last year and still need to be addressed:

- i. There are a number of officers who have reported more than one offer which is positive and in general does not create cause for concern. This demonstrates an understanding that any offer should be reported, whether accepted or not.
- ii. There are multiple offers of hospitality however these do not give cause for concern.
- iii. A number of entries relate to a number of different gifts from different individuals. To ensure there is openness and transparency, these should have been reported separately.
- iv. It is pleasing to see that there continues to be a number of entries from care home employees, demonstrating that there is an understanding of the requirements of the code of conduct and Financial Regulations.
- v. The number of entries for Children's Services has increased from 14 to 45 demonstrating an increasing awareness of the need to report offers of gifts and hospitality, which is positive.
- vi. There are a number of reports of Gift Cards and £40 cash which were all accepted. The Code of Conduct makes it clear that "In no circumstances should you accept a monetary gift (including gift vouchers)." This is in contravention of the Code and it is of concern that the acceptance of gift cards and cash was raised as an issue last year.
- vii. There are a number of entries where boxes of chocolates, biscuits, wax melts, 'Rituals Trial Pack', advent calendars and whiskey were incorrectly recorded as hospitality and invitations to an event incorrectly recorded as gifts. It is important the offer is reported under the right category as the considerations for acceptance are different.
- viii. There are examples of offers which have been appropriately rejected, such as offer of tickets to a football match at Chesterfield FC and a pandora bracelet.
- ix. A number of entries related to gifts or hospitality in excess of £50. Of these 7 were accepted and 8 refused. All should have been reported to the Executive Director in addition to the line manager, however 6 offers were only reported to the line manager.

- x. An Officer accepted lunch whilst carrying out an inspection at a company. Whilst the officer was attending on official council business, consideration should be given as to whether it is appropriate to accept hospitality when conducting a formal inspection.
- xi. There were a number of instances where the form had not been completed correctly. For example, there were occasions where the officer who submitted the form has inserted 'Unsure' or 'N/A.' One answered a number of questions in the form 'as above' and another inserted 'as in 4', 'as in 6' and 'as in 7' but there is no additional data to indicate what they are referring to. If the form is not completed correctly there is insufficient information to ascertain whether the offer presents a concern.

Elected Members

2.6 The Council's Code of Conduct for Elected Members includes the following obligation:

"As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept."

2.7 The Monitoring Officer sends an email to all Elected Members on a quarterly basis reminding them of the need to declare any changes to their interests and offers of gifts and hospitality. All gifts and hospitality reported is included in the Register of Members' Interests published on the Council's website through mod.gov.

2.8 During 2023-2024, a total of 16 offers of gifts and hospitality were reported to the Monitoring Officer totalling an estimated value of £2,200 (although 8 offers of hospitality did not include estimated value), which were all accepted. By way of comparison during 2022-23 a total of 4 offers of hospitality were reported totalling an estimated value of £320, which were all accepted. The offers reported included accommodation and gifts whilst on official visit to Japan, tickets and gifts from

Chatsworth Fair, tickets to Derby County Football Club, attending awards events and the Royal Garden Party and hotel accommodation and meals at a Finance Conference.

3. Consultation

3.1 No consultation is required.

4. Alternative Options Considered

4.1 Not to report information relating to offers of gifts and hospitality to the Governance, Ethics and Standards Committee; however the role and function of the Committee includes the receipt of reports from the Monitoring Officer on the operation of the system of declarations from time to time.

5. Implications

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Relevant extracts from the Financial Regulations and Employee Code of Conduct

8. Recommendation

That Committee notes the Annual Gifts & Hospitality Register for 2023-2024.

9. Reasons for Recommendation

9.1 To ensure that the Committee is aware of the operation and effectiveness of the system of declaration of offers of gifts and hospitality.

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Implications

Financial

1.1 None directly arising.

Legal

2.1 The role and function of the Governance, Ethics and Standards Committee includes “To be responsible for written advice and guidance on the operation of gifts and hospitality for both Elected Members and Officers and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time”.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 None directly arising.

Corporate objectives and priorities for change

6.1 None directly arising.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising.

Extracts from the Code of Conduct for Employees and Financial Regulations that apply before 13 September 2023

Appendix 8(a) - Financial Regulations

GIFTS

d.6 You may accept 'token' gifts from customers, contractors or service users up to the value of £50. Acceptable examples are calendars, diaries, pens or chocolates. All gifts should be reported to your manager.

You must not accept gifts worth more than £50 and you must report such offers to your Executive Director.

You must refuse any offer of a gift where you suspect that an improper motive may exist – i.e. the giver is seeking to influence your decisions or actions and you must report such offers to your Executive Director. This is the case regardless of the monetary value of the offer.

In no circumstances should you accept a monetary gift (including gift vouchers) and again, you must report such offers to your Strategic Director.

Hospitality

d.7 You should only accept hospitality (meals/refreshments) if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

You should report the offer of hospitality, whether accepted or not, to your line manager, and should ensure that all such offers are recorded in the appropriate hospitality register.

Responsibilities of Executive Directors

d.8 To maintain an appropriate register detailing secondary employment for staff within the Department and ensure that this register is subject to periodic review.

d.9 To maintain an appropriate register of gifts and hospitality including details of any offers which have been declined and ensure that this register is subject to periodic review.

Code of Conduct for Employees

“Corruption

It is a serious criminal offence for you to offer, provide or receive something of value – such as cash, gifts, loans, as an inducement or reward for doing or not doing something, or for showing favour or disfavour as part of your job.”

“Gifts, Hospitality & Legacies

You should not accept gifts or hospitality from customers, contractors, or service users, if this could place you under an obligation.

Token items up to a value of £50 may be accepted but should be reported to your manager. Typically, this might include chocolates / calendars / pens. Items over £50 should be refused. You must not accept cash, or gift vouchers in any circumstances.

You should only accept hospitality (meals / refreshments) if you are representing the Council. See Appendix C for more detail.

People wishing to make a monetary gift should be advised to donate to charity or an establishment’s amenity fund which is the recognised alternative to a monetary gift.”

“Appendix C

Gifts

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You should only accept hospitality (meals / refreshments) if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

You should report the offer of hospitality, whether accepted or not, to your line manager, and should ensure that all such offers are recorded in the appropriate hospitality register.”

Derbyshire County Council Adult Care Code of Conduct for Adult Care Employees who have a Direct Working Relationship with Clients

6. Corruption

You must be aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or neglecting to do something, or showing favour, or disfavour, to any person in your official capacity. Please see the Authority’s Anti-Fraud /Anti-Corruption, and Money Laundering, Policy Statements

7. Gifts

We would prefer that you do not accept gifts; however token gifts (such as chocolate, fruit or flowers) under £50 can be accepted in exceptional circumstances. You must not accept cash, or gift vouchers in any circumstances.

All other gifts should be refused or returned. All gifts whether accepted or not should be reported and logged. Your line manager must ensure that a proper record is made of the disclosure by the employee and the record is retained.

Clients wishing to make a gift should be advised that a donation to charity/establishments amenity funds, is the Department’s recognised alternative to a

gift to an employee. Should the employee subsequently encounter any difficulty with the client, your line manager must be informed immediately. Your manager is responsible for ensuring that a full written record is kept.

9. Legacies

Monies or gifts left in a will should never be accepted by an employee. If an employee has reason to believe that they may become a beneficiary of a client’s will, that must be reported to their line manager.

An employee must never seek to influence or advise a client on the contents of a will or in connection with any other personal financial matters. If an employee was not aware of being named in a will and the client has died, the County Council expects that the employee will not accept the bequest. The fact, if known, of being a named beneficiary must be reported to the employee's line manager immediately.

Extracts from the Code of Conduct for Employees and Financial Regulations that apply after 13 September 2023

Appendix 8(a) - Financial Regulations

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Code of Conduct for Employees (approved by Council on 13 September)

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For further information please see the Council Website for:

- Anti-Fraud and Anti-Corruption Strategy
- Anti-Money Laundering Policy
- Officers Interests Policy

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Legacies

Monies or gifts left by a client or service user in a will should never be accepted. If you believe you may become a beneficiary of a service user’s will or the will of an individual you have had a professional relationship with as a result of your employment, (this included family members of a service user), you must be report it to your line manager, who will be advised by Legal Services on how to proceed.

You must not in any circumstances become involved in any matters relating to a will. You are prohibited from the following:

1. Soliciting any form of bequest or legacy from a service user
2. Offering advice or an opinion
3. Advising an individual on the contents of a will or in connection with any other personal financial matters. (Appendix D)

4. Acting as a certificate provider for a Lasting Power of Attorney
5. Acting as a witness or executor or trustee
6. Any involvement with any other legal document
7. Provide any personal recommendations of legal or professional advisors.

If you were not aware of being named in a will and the person has died, you must refuse the bequest. The fact, if known, of being a named beneficiary must be reported to your line manager immediately. The refusal should be made by a disclaimer and legal services will provide further advice.

If you do not refuse an offer of gifts of over £50 or you do not refuse a bequest in a will, this will be considered a breach of your terms and conditions of employment, and code of conduct, and will be considered a reputational risk to the business. Consequently, you could be subject to investigation under the disciplinary procedure, one result of which may be dismissal.

Legacies made for the benefit of Adult Social Care clients, in either residential or community settings, can be accepted. Where the value of the legacy is under £2,000 the money can be held within the Amenity Fund of the relevant establishment.

For legacies over £2,000 the money should be held in a Trust Fund where it will attract interest. To create a trust fund for a new legacy contact Finance Management (ASCH) team in Corporate Services and Transformation.”

“Appendix C

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