

Committee(s):	Date:	<b>Public</b>
Standards Committee	29 November 2013	<b>For Decision</b>
Subject: Amendments to the Members' Code of Conduct – mandatory registration of gifts and hospitality		
Report of: Town Clerk and Comptroller & City Solicitor		
<p><b>Summary</b></p> <p>This report seeks approval to introduce a mandatory regime for all Members of the Court of Common Council and Co-opted Members in respect of the registration of gifts and hospitality.</p> <p>In anticipation, and following the introduction of the new Standards regime in 2012, the Standards Committee has given careful and regular consideration to the issue of gifts and hospitality. Under the provisions of the Localism Act 2011, there is no statutory requirement for Members to register and disclose items of gifts and hospitality that are received in the course of their duties as elected representatives of the City of London Corporation. As directed by the Department of Communities and Local Government (DCLG), Members and Co-opted Members are now only required to register disclosable pecuniary interests.</p> <p>The Committee acknowledged this new approach but subsequently, in February 2013, agreed that a voluntary registration arrangement should be introduced as of 1<sup>st</sup> April 2013 and that Members be encouraged to register gifts and hospitality received to the value of £250 and above, and cumulative gifts and hospitality to the value of £500 and above, from a single source over a 12 month period (year ending 31<sup>st</sup> March).</p> <p>Having reviewed the local voluntary arrangement at the meeting on 13<sup>th</sup> September 2013, the Committee felt that the voluntary arrangement to register gifts and hospitality had not worked and as such, some Members might be vulnerable to accusations of a breach of the code in the future as a result of not registering or otherwise disclosing gifts and hospitality that exceed the agreed threshold. Consequently, it was felt that a new mandatory requirement in respect of declaring gifts and hospitality should be introduced.</p> <p>In order to replicate all of the provisions of the existing voluntary scheme for registration of gifts and hospitality in a mandatory scheme, including the registration of gifts and hospitality within 28 days of receipt, it is necessary to amend the Code of Conduct, as set out in Appendix 1. As per its terms of reference, the Committee should review and approve that revised wording before it is presented to the Court of Common Council for approval.</p>		

**Recommendation- That:-**

- (i) the Standards Committee consider whether the amended Code of Conduct, in the form set out at Appendix 1 or some other form, should be recommended to the Court of Common Council for adoption as the City's Code of Conduct; and
- (ii) the Standards Committee note the amended DCLG "guide for councillors" set out at Appendix 2 regarding openness and transparency on personal interests.

**Main Report****Background**

1. In June 2012, the Police, Standards and Policy & Resources Committees and the Court of Common Council approved the new standards regime under the Localism Act 2011. A Code of Conduct, including appropriate provision in respect of the registration and disclosure of pecuniary interests, and interests other than pecuniary interests, had to be adopted by 1 July 2012, in order to comply with the requirements of the Act. As the regulations defining a disclosable pecuniary interest had not been produced by the Department for Communities and Local Government in time for such matters to be addressed in the June 2012 report, it was not possible for Members to consider what other interests, if any, should additionally be registered and disclosed. The City Corporation's existing Code of Conduct, with the existing provisions regarding personal and prejudicial interests, was therefore re-adopted as a temporary measure in June 2012.
2. By September 2012, the necessary regulations had been made and your Committee was asked to finalise a new Code of Conduct and interest provisions. Taking into account the City of London Corporation's duty to promote and maintain high standards of conduct by Members, and the requirement to adopt and publicise a Code of Conduct dealing with the conduct that is expected of Members when they are acting in that capacity, your Committee agreed that a Code of Conduct in the form suggested by DCLG be adopted as the City's Code of Conduct with effect from 26<sup>th</sup> October 2012.
3. As gifts and hospitality were not classed as disclosable pecuniary interests within the new Regulations, the Committee felt that a common sense approach should be adopted, taking into account individual circumstances, and that guidance in relation to what level of gifts and hospitality might give rise to concerns should be developed for Members (Appendix 4).
4. The matter was revisited at the meeting on 8<sup>th</sup> February 2013 when the Committee was advised of the views of some Members of the Court that, due to the regularity that gifts and hospitality could be offered, whilst they were not disclosable pecuniary interests, gifts and hospitality should continue to be registered. Consequently, Members agreed that a voluntary arrangement for the registration of gifts and hospitality should be introduced and guidance circulated

to Members about what was likely to constitute a breach of the Nolan principles in respect of receiving and not declaring gifts and hospitality. Consequently, since 1<sup>st</sup> April 2013, all Members and Co-opted Members have been encouraged to register one-off gifts and hospitality received to the value of £250 and above, and cumulative gifts and hospitality to the value of £500 and above, from a single source over a 12 month period (year ending 31<sup>st</sup> March).

5. At its meeting on 14<sup>th</sup> June 2013, the Committee agreed that there should be greater scrutiny of those items of gifts and hospitality that were registered to prevent either non-compliance or inappropriate acceptance of gifts and/or hospitality. As the regime was still in its infancy, the Committee agreed that the situation should be reviewed after 6 months.

### **Current position**

6. In September 2013, the Committee reviewed those items of gifts and hospitality that had been registered since April 2013, following the introduction of new local registration arrangements. Some concern was expressed by Members that only two items of gifts and hospitality had been registered during that period and the Committee considered alternative options to ensure that all relevant gifts and hospitality were registered in a consistent manner. Whilst impropriety was not suspected, it was felt that the voluntary arrangement was insufficient and consequently revised local arrangements, to the effect of a mandatory registration regime, should be introduced with the Court of Common Council's consent.
7. In addition to the introduction of a new mandatory registration regime, the Committee requested that an annual statement be completed by all Members and Co-opted Members confirming the receipt or non-receipt of relevant gifts and hospitality during a defined 12 month period. Furthermore, the Committee undertook to review of the register of gifts and hospitality twice per year to ensure that such declarations were routinely scrutinised. Following approval of the revised Code of Conduct, detailed information regarding the new arrangements will be drafted and circulated to all Members.

### **Further action**

8. One of the reasons that this report has been brought back to your Committee is that, under the current Code of Conduct, relevant interests only have to be registered within 28 days of election or appointment, or re-election or re-appointment, or within 28 days of disclosure at a meeting. In order to replicate all of the provisions of the existing voluntary scheme for registration of gifts and hospitality in a mandatory scheme, including the registration of gifts and hospitality within 28 days of receipt, it is necessary to amend the Code of Conduct as set out in Appendix 1. As per its terms of reference, your Committee ought to review and approve that revised wording before it is presented to the Court.
9. DCLG has also now made some changes to its illustrative Code of Conduct (Appendix 3) -on which the City's Code of Conduct is based- regarding the

registration of non-pecuniary interests that ought to be registered in conformity with the Seven Principles of Public Life, in particular the membership of any Trade Union. Members are asked to consider whether these changes should also be recommended to the Court of Common Council for inclusion in a revised Code of Conduct. It was considered sensible for these two matters affecting the Code of Conduct to be considered together in a combined report to your Committee and, subsequently, to the Court of Common Council. The DCLG changes have been incorporated in the draft Code of Conduct, as set out in Appendix 1.

10. DCLG's changes to its illustrative Code are also reflected in its revised guide for councillors regarding openness and transparency on personal interests (Appendix 2). The revised guide also confirms DCLG's view that a dispensation is not required to take part in the business of setting council tax or a precept, simply by virtue of being a homeowner or tenant within the Authority's area. The Committee is asked to note the revised document.

### **Legal Implications**

11. Under section 28(2) of the Localism Act 2011, a relevant authority must secure that its Code of Conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of pecuniary interests and interests other than pecuniary interests. Accordingly, Members and Co-opted Members must notify the monitoring officer of any disclosable pecuniary or non-pecuniary interest which the City has decided should be included in the register. They are also required to observe the restrictions the City places on their involvement in matters where they have a pecuniary or non-pecuniary interest as defined by the City. As currently, participation in such a matter will need to be considered on a case by case basis, but would only be precluded in exceptional circumstances e.g. where there is a real danger of bias. Members are encouraged to seek advice from the Comptroller & City Solicitor on such matters.

### **Financial Implications**

12. The only costs associated with the new proposal are those in relation to the officer time required to update Members' Declarations of Interests and to facilitate a twice per year review of declarations for submission to the Standards Committee.

### **Conclusion**

13. In light of the inconsistencies in respect of registering gifts and hospitality that meet the previously agreed threshold, the Committee previously resolved that approval be given to the introduction of a local mandatory arrangement whereby all Members and Co-opted Members are required to register any items of gifts and hospitality (one-off gifts and hospitality received to the value of £250 and above, and cumulative gifts and hospitality to the value of £500 and above, from a single source over a 12 month period (year ending 31st March)) with the Town Clerk's Department within 28 days of receipt. In order to fully effect this change,

the City's Code of Conduct will have to be amended, as set out in Appendix 1. DCLG has recommended some further changes to the Code, which have also been incorporated in the revised Code of Conduct and the Committee is asked to consider whether these amendments should now be recommended to the Court of Common Council for adoption.

14. Finally, DCLG has updated its accompanying guidance for councillors, and the Committee is asked to note this revised documentation (Appendix 2).

**Appendices:-**

- (1) Proposed Code of Conduct and Schedule
- (2) DCLG, "Openness and Transparency on personal interests – a guide for councillors"
- (3) DCLG, "Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity"
- (4) Guidance to Members on Gifts and Hospitality

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