

 Brent	Audit and Standards Advisory Committee 26 July 2018
	Report from the Director of Legal and HR Services
Standards Update	

Wards Affected:	All
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One: • Gifts and Hospitality- March 2018 to June 2018
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman Director of Legal and HR Services Email: debra.norman@brent.gov.uk Tel: 020 8937 1578 Looqman Desai Senior Solicitor, Governance Email: looqman.desai@brent.gov.uk Tel: 020 8937 1366

1.0 Purpose of the Report

- 1.1 This report updates the Audit and Standards Advisory Committee on gifts and hospitality registered by Members and a recent High Court case on standards.

2.0 Recommendation

- 2.1 That the Committee notes the contents of this report.

3.0 Detail

Gifts and hospitality update

- 3.1 Members are required to register gifts and hospitality received in an official capacity worth an estimated value of at least £50. This includes a series of gifts and hospitality from the same person that add up to an estimated value of at least £50 in a municipal year.
- 3.2 Gifts and hospitality received by Members are published on the Council's website and open to inspection at Brent Civic Centre. A list of gifts and hospitality registered by Members from January 2017 to 19 March 2018 were reported to Members of the Standards Committee on 27 March 2018. This was the Committee's final meeting.
- 3.3 The gifts and hospitality registered by Members from 20 March to 30 June 2018 are set out in **Appendix 1**.
- 3.4 Members are advised that recent changes to the Members' Code of Conduct introducing the requirement to record the value or approximately value of gifts and hospitality (among other details) did not come into effect until 14 May 2018. The new rules therefore did not apply when all the gifts and hospitality set out in Appendix 1 were registered.

Recent High Court case on standards

- 3.5 The case of **R (Harvey) v Ledbury Town Council [2018]** concerned the Town Council's decision to impose sanctions on a councillor under its staff grievance procedures, banning her from serving on any committees and from communicating with any staff, following complaints of bullying and harassment.
- 3.6 The High Court decided that councils cannot run a grievance procedure alongside, or as an alternative to, a standards procedure under the Localism Act 2011, and that complaints regarding a Member's conduct have to be dealt with under the Council's standards arrangements.
- 3.7 The Court noted that the involvement of the independent person in the formal Members' complaint process is an important safeguard which cannot be bypassed. However, as this and a 2017 standards case confirmed, a non-formal investigatory or mediation stage, or even a pause for some other relevant step to be taken (e.g. criminal proceedings), prior to a formal standards investigation is an option available to councils in appropriate cases.
- 3.8 The case also highlights the importance of ensuring Member complaints are dealt with fairly (procedurally and substantively) and with an open mind, that the rules of natural justice are followed, that a Member's right to freedom of expression is properly weighed in the balance and that any interference can be justified as necessary and proportionate.

- 3.9. The outcome of this case puts beyond any doubt that when the current statutory standards regime was introduced, it marked a shift from the past. Councils can no longer rely on incidental or implied powers under the Local Government Act 1972 to investigate complaints or supplement the very limited sanctions available under the Localism Act 2011 by dealing with complaints under staff grievance procedures.

4.0 Financial Implications

- 4.1 None.

5.0 Legal Implications

- 5.1 These are contained within the report.

6.0 Equality Implications

- 6.1 None.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Not applicable.

Report sign off:

DEBRA NORMAN

Director of Legal and HR Services.