

INTERNAL AUDIT REPORT
(FINAL)

LEGAL AND DEMOCRATIC SERVICE

GIFTS AND HOSPITALITY

2010/2011



Draft Report Distribution

Richard Long

Director of Legal and Democratic
Service

Maureen Braithwaite

Senior Governance Officer

Pip Schofield

Senior HR Client Officer

CC

Bryan Baldam

Deputy Director of Resources

Final Report Distribution

As draft:

Report Prepared by

Ian Johnson - Auditor

Report Approved by

Derek Robinson – Audit Manager

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Gifts and Hospitality

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EXECUTIVE SUMMARY

1. INTRODUCTION

- 1.1 As part of the approved audit plan an audit was undertaken on the systems and controls operated in connection with Gifts and Hospitality received and given by the Council Members, Council employees, Agency and Contract Staff.
- 1.2 The audit was undertaken using the systems based approach, whereby the system and controls were identified, documented, evaluated and tested in relation to system objectives.
- 1.3 Testing examined the procedures and necessary legislation in place to carry out the receipt and giving of Gifts and Hospitality.
- 1.4 The report is compiled on an exception basis and the findings and recommendations are recorded in the main report. Recommendations have been allocated a priority rating as follows:

Priority	Risk
1	Fundamental
2	Significant
3	Advisable

2. OBJECTIVES

- 2.1 To access and report upon management arrangements to control the activity surrounding Gifts and Hospitality and supporting operations of the service.

3. SCOPE

- 3.1 The scope of the audit was to assess the adequacy of the controls operating within the Council Directorates.
- 3.2 The work undertaken was to ensure that the following areas were controlled:
- Council policy complies with current best practice.
 - Members and officers are aware of the Council's policy in respect to gifts and hospitality.
 - A member's register of gifts received is securely retained in accordance with Council policy.
 - An officer's register of gifts offered to external parties is securely retained in accordance with Council policy.
 - The higher risks inherent in care work and provision of personal services are mitigated to an appropriate level.

3.3 Testing covered the period 1 April 2010 to 31 January 2011.

4. AUDIT OPINION

4.1 In our opinion **Substantial Assurance** is placed on the adequacy, efficiency and effectiveness of management controls.

4.2 A definition of audit assurance levels can be seen at Appendix A.

5.0 CONCLUSIONS

5.1 There are adequate controls exercised in the majority of the areas covered in the audit. The following areas found controls not as stringent as they should be:

- Policy changes not being updated on the HR Tile on Lotus Notes.
- Officers do not seek special consent to receive gifts and hospitality where the Protocol specifies this procedure.

5.2 The audit made eight recommendations and five verbal recommendations, which have been made to strengthen the control environment.

6.0 SUMMARY OF RECOMMENDATIONS

6.1 Recommendation 1

The HR Client Team should ensure the Council's Gifts and Hospitality Policy is updated with the changes approved on the 19th May 2010 and inform all directorates.

Priority 2

6.2 Recommendation 2

As the changes made in the Gifts and Hospitality Policy involves teaching and non-teaching staff employed by the Council for the first time a representative from the HR Client Team should liaise with Children, Families and Learning, Head of Commissioning and Resources.

Priority 2

6.3 Recommendation 3

A hard copy of the Council's 'Gifts and Hospitality Policy' should be held on file in administration offices, so employees who do not have access to Lotus Notes can view them.

Priority 3

6.4 Recommendation 4

Each Directorate Personal Assistant should inform appropriate Heads of Service that employees should refresh themselves of the Council's Policy for Gifts and Hospitalities.

Priority 3

- 6.5 **Recommendation 5**
The declaration form should be used when required. Once the form has been authorised by the Director Legal and Democratic Services it should be filed centrally and a copy should be returned to the relevant Directorate.
Priority 3
- 6.6 **Recommendation 6**
Every quarter a copy of each directorate's register should be sent to the Senior Governance Officer (Monitoring Officer).
Priority 3
- 6.7 **Recommendation 7**
The appropriate Director or a nominated senior officer within their service is to review the directorate's register annually.
Priority 3
- 6.8 **Recommendation 8**
The Social Care – Manual of Procedures for Residential and Home Care should be updated to include a section on wills and make specific reference to prohibit staff from assisting clients to prepare their wills.
Priority 3

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
1.		<u>POLICY</u>			
1.1		<p>Council policy details the responsibilities of members and their families, officers, agency and contract staff with regards to giving and receiving of gifts and hospitality:</p> <ul style="list-style-type: none"> Accepted by council members and officers from third parties. Offered by council members and officers to third parties. Covering agency and also contracted staff. 	<p>Receiving gifts and hospitality is included in the following Council documents:</p> <ul style="list-style-type: none"> Middlesbrough Council Constitution (Members). Middlesbrough Council - Code of Conduct (Members/Officers). The Gifts and Hospitality Protocol ("the Protocol"), which applies to officers and members, and covers only gifts and hospitality. The Gifts and Hospitality Policy ("the Policy"), which applies only to officers and also gives guidance and instructions on giving gifts and hospitality. Financial Regulations (specific to tender officers). <p>The financial regulations do not specify the responsibility of agency staff and contracted staff. Audit spoke to the Senior HR Client Officer, Pip Schofield about including appropriate wording in respect to 'Agency Staff' and 'Other Contractors' within the context of the term 'Employees' within the gifts and hospitality policy. Audit gave a verbal recommendation to the Senior HR Client Officer that the HR Client Team will ensure that appropriate wording is included in the policy in respect of 'Agency Staff and other Contractors' must be made aware of the Gifts and Hospitality policy when they start to work with the Council.</p>	<p>Audit gave a verbal recommendation to the Senior HR Client Officer that the HR Client Team will ensure that appropriate wording is included in the policy in respect of 'Agency Staff and other Contractors' must be made aware of the Gifts and Hospitality policy when they start to work with the Council.</p>	<p>Agreed. The policy will be amended once the final report is issued. Action by: Senior HR Client Officer, Pip Schofield. Action date: 3rd May 2011.</p>

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
1.3	2	Council documents are consistent with each other about gifts and hospitality and are a foundation on which good procedures can be built.	<p>When a new policy is introduced, reference is made to all appropriate documents.</p> <p>Testing found that the Council Management Team (CMT) approved the current Council's Gifts and Hospitality Policy on the 13th November 2008, and was implemented on the same day.</p> <p>The Standards Committee reviewed this document on the 8th September 2009, when the following Amendment to Policy was agreed that the current Council policy on the offer and receipt of gifts and hospitality by officers, paragraph. 6.4 of the existing policy, be amended and that the following rules now be applied:</p> <p>"That the offer of gifts, hospitality or cash donations (e.g. from clients/residents in thanks for personal services) may be accepted up to the value £10.00 from any one individual in any year without specific consent and that no other gift, hospitality or cash donation may be accepted above that threshold".</p> <p>"That the above policy to apply to all Middlesbrough Council employees including teaching and non-teaching personal employed in schools maintained by the Council".</p> <p>This is the first time reference has been made to school employees.</p> <p>In respect to the above changes, it was found that the Gifts and Hospitality Policy, which is overseen and updated by Human Resources (HR) Client Team, had not been updated to take into effect the changes made in the Constitution under Codes and Protocols – Gifts and Hospitality Policy, which were approved on the 19th May 2010.</p>	<p><u>Recommendation 1</u></p> <p>The HR Client Team should ensure the Council's Gifts and Hospitality Policy is updated with the changes approved on the 19th May 2010 and inform all directorates.</p>	<p>Agreed.</p> <p>Action by: Senior HR Client Officer, Pip Schofield.</p> <p>Action date: 3rd May 2011.</p>

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
.	2	<ul style="list-style-type: none"> The Codes and Protocols that are included in the Constitution are available to be viewed by the general public. 	<p>It was found that the Middlesbrough Borough Council Constitution – 4th Edition dated May 2006 and amended in September 2006, that is available to be viewed by the general public is out of date, as it does not reflect the changes made and approved in May 2010.</p> <p>The Senior Governance Officer, Maureen Braithwaite informed audit that this would be an updated version on the MBC web site once, additional changes are made around other areas of the document, not least of which are the changes at senior management level, which impact on schemes of delegation, proper officer functions etc.</p> <p>Service departments need to advise what changes are required and the Director of Legal and Democratic Services is intending to raise at CMT to get Directors to provide updated information. There is also to be a further change in respect to contract standing orders, which is likely to go to the next Corporate Affairs Committee.</p>	<p><u>Recommendation 2</u> As the changes made in the Gifts and Hospitality Policy involves teaching and non-teaching staff employed by the Council for the first time a representative from the HR Client Team should liaise with Children, Families and Learning, Head of Commissioning and Resources.</p>	<p>Agreed. Action by: Senior HR Client Officer, Pip Schofield. Action date: 3rd May 2011.</p>

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
1.5		There is evidence that officers are:	Audit viewed the following Council documents:		
	3	<ul style="list-style-type: none"> Systematically informed of Council policy on to gifts and hospitality. Easily able to check the policy. Informed when the policy changes. 	<ul style="list-style-type: none"> Rules governing gifts and hospitality are incorporated in the employee statement of written particulars. Rules governing gifts and hospitality are covered in the employee induction training. At the end of the induction course, each member receives a copy of the Middlesbrough Council Employee Induction Course – Delegate Pack. The full Code of Conduct, Employee Summary and a detailed Gifts and Hospitality Policy are available on Lotus Notes, but not all employees have access to Lotus Notes. There is also a 'HR Guide for Employees' that is accessible on the Lotus Notes HR Tile. When the policy is changed a link is sent to managers via their communications list, and the accompanying email highlighted the most important changes. It was found that the PA's to the appointed Director's, who maintain the register, were not included in the appropriate link. 	<p>Recommendation 3 A hard copy of the Council's 'Gifts and Hospitality Policy' should be held on file in administration offices, so employees who do not have access to Lotus Notes can view them.</p> <p>Audit gave a verbal recommendation to Human Resources Client Officer (PS) that each of the directorate's personal assistants should be included in the relevant link.</p>	<p>Agreed. Directorate Personal Assistants to ensure that appropriate manager's are informed. Action by: All Directorates Personal Assistants. Action date: 3rd May 2011.</p>
	3	<ul style="list-style-type: none"> All employees are informed annually about the Council's Policy on Gifts and Hospitality. 	<ul style="list-style-type: none"> Each of the Personal Assistant's to the Directors informed audit that employees are not reminded on an annual basis. 	<p>Recommendation 4 Each Directorate Personal Assistant should inform appropriate Heads of Service that employees should refresh themselves of the Council's Policy for Gifts and Hospitalities.</p>	<p>Agreed. Heads of Service to be informed through the Management Communication List email address on Lotus Notes. Action by: All Directorates Personal Assistants. Action date: 3rd May 2011.</p>

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1.6		<p>There is evidence that agency staff and other contractors are:</p> <ul style="list-style-type: none"> • Systematically informed of Council policy on Gifts and Hospitalities. • Easily able to check the policy. • Informed when the policy changes. 	<p>There is no written policy on informing agency and other contractors of the Code of Conduct issues.</p> <ul style="list-style-type: none"> • Rules governing gifts and hospitality are covered in the employee induction training. At the end of the induction course, each attendee receives a copy of the Middlesbrough Council Employee Induction Course - Delegate Pack. • The Council's Policy on Gifts and Hospitalities, employees Code of Conduct and employee summary are available on Lotus Notes, but they may be some that do not have access to Lotus Notes. • Agency staff and other contractors are not personally informed of any changes to the policy. It is up to the individual to keep themselves up to date with policy changes. 	As per recommendation 3	As per recommendation 3

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2.		<u>GIFTS AND HOSPITALITY RECEIVED FROM EXTERNAL PARTIES - MEMBERS</u>			
2.4		<p>The members register should record:</p> <ul style="list-style-type: none"> • Date of offer • What was offered • Who by • Who to • It's value, or an estimate • If appropriate, what they did with it • Accepted or declined <p>The supporting documentation should make clear:</p> <ul style="list-style-type: none"> • On what grounds they accepted it (e.g. logo, working meal, special consent) • What connections the donor has or seeks with Middlesbrough Council 	<p>Testing of the member's register being maintained by the Senior Governance Officer (MB) found the format was as required in the expected control.</p> <p>It was found that members were using the Protocol form. This form guides members to provide appropriate information, although an additional section to identify which grounds they were accepting a gift on (in the absence of special consent) and what connections the donor has or seeks with the Council, would be useful.</p>	<p>Audit gave a verbal recommendation to the Senior Governance Officer that members should ensure that there is sufficient information retained about gifts received to confirm that the Protocol is being complied with.</p>	

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
3.		<u>GIFTS AND HOSPITALITY RECEIVED FROM AND OFFERED BY EXTERNAL PARTIES – OFFICERS</u>			
3.1	3	Acceptance of gifts and hospitality is approved in advance by the Director of Legal and Democratic Services except as specified in the Policy.	The declaration form entitled 'Request for consent to accept a gift or hospitality' can be found and printed on the HR tile on Lotus Notes. The form allows officers to obtain permission from the Director Legal and Democratic Services if the policy and protocol require it. Testing found that the form is not currently being used.	<u>Recommendation 5</u> The declaration form should only be used as and when required. Once the form has been authorised by the Director Legal and Democratic Services it should be filed centrally and a copy should be returned to the relevant Directorate.	Agreed. Action by: All Directorates Personal Assistants. Action date: 3 rd May 2011.
3.2	3	A central register of gifts and hospitality offered and received has been kept up to date.	As outlined in I.A Ref. 2.2, a member's register is maintained by the Senior Governance Officer (MB), but she does not maintain other directorate registers, as this is done by the the appropriate Personal Assistants. The Senior Governance Officer (MB) informed audit that she does not know who holds each other directorate registers, but as the monitoring officer she is required to hold this information centrally as required by the Director Legal and Democratic Services. Testing of each directorate's register found that they are all kept up to date and that a similar format was being used. During testing of the registers it was found that: 1. The register being kept by the Personal Assistant to the Director of Regeneration did not record whether the gift and hospitality had been accepted or declined.	<u>Recommendation 6</u> Every quarter a copy of each directorate's register should be sent to the Senior Governance Officer (Monitoring Officer). Audit gave a verbal recommendation to the Personal Assistant to the Director of Regeneration that an additional column be included to record whether the gift and hospitality was accepted or declined.	Agreed. Action by: All Directorates Personal Assistants. Action date: 3 rd May 2011.

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.			2. They were no entries in the register kept by the Personal Assistant to the Director of Social Care.	Audit also gave a verbal recommendation to the Personal Assistant to the Director of Adult Social Care and Environment that the Directorate Management Team should cascade appropriate information on the receiving and giving of gifts and hospitality to service employees.	
3.4	3	The register should be independently reviewed.	Audit found that the officer's register held by each directorate is not reviewed.	Recommendation 7 The appropriate Director or a nominated senior officer within their service is to review the directorate's register annually.	Agreed. Action by: All Service Directors or nominated Senior Officer's Action date: 3 rd May 2011.

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
5.		<u>GIFTS TO EMPLOYEES PROVIDING CARE OR PERSONAL SERVICES - OFFICERS ONLY</u>			
5.1		<p>Measures over and above those applicable to other employees are used to ensure that such staff are aware that:</p> <ul style="list-style-type: none"> • They should not accept any gifts unless they are of very low intrinsic value similar to that of a box of chocolates. 	<p>It was found that sometimes, particular problems around receiving gifts encountered by employees who have a "caring" role or provide direct personal services to vulnerable people.</p> <p>It is not unusual for people receiving support at home from employees, or their relatives, to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their will.</p> <p>It is most important in such situations that employees are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, members of staff and their families are not allowed to accept gifts or legacies from clients unless this is a very low intrinsic value e.g. a box of chocolates or a tin of sweets.</p> <p>Testing of four services found that gifts of sweets by service users are shared amongst staff and other service users, but personal gifts are not allowed and all staff aware of this.</p> <p>Testing found that Social Care – Manual of Procedures for Residential and Home Care Services does not include the new policy that is outlined in I.A Ref. 1.3. Audit spoke to Putting People First Programme Manager, Tom Boyd who was the officer who put together the manual, informed audit that he did not know of the new changes in the Gifts and Hospitality Policy.</p> <p>Audit gave a verbal recommendation to the Putting People First Programme Manager to ensure that the appropriate Manual of Procedures for Residential and Home Care Services is updated, to take into effect the changes as outlined in I.A Re. 1.3.</p>		

MAIN REPORT					
I.A Ref	Priority	Expected Control	Findings	Recommendation	Management Comments / Agreed Actions
.	2	<ul style="list-style-type: none"> They should not get involved in helping service users (past or present) to make their Will. 	<p>If employees are made aware that a service user is considering making a gift to them or including them in their Will, or has actually done so, then they should immediately report the matter to their Manager who will take it up with the client and courteously decline any gift and suggest a letter of appreciation instead. Similarly, employees should never become involved with making Wills for service users nor act as an Executor in a service user's Will. "Service User" includes those service users currently receiving a service or any who may have done so in the past.</p> <p>On reading the Social Care – Manual of Procedures for Residential and Home Care Services under the heading 'Gifts', subheading 'Prevention of Corruption' there is no mention of the reference to the subject of Wills, but reference is made in the Home Care Manual.</p>	<p><u>Recommendation 8</u> The Social Care – Manual of Procedures for Residential Care Services should be updated to include a section on wills and make specific reference to prohibit staff from assisting clients to prepare their wills.</p>	<p>Agreed. Action by: Putting People First Programme Manager, Tom Boyd. Action date: 3rd May 2011.</p>