

Gifts, hospitality and conflicts of interest

Wirral Council

Audit 2011/12

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Introduction

1 In 2010/11 I raised concerns around two of the aspects of 'proper arrangements' in the value for money conclusion:

- promoting and demonstrating the principles and values of good governance; and
- managing risks and maintaining a sound system of internal control.

2 As part of our assessment of the Council's arrangements for value for money this year we reviewed work carried out by Internal Audit and sought to rely on its work on gifts and hospitality and conflicts of interest.

Table 1: **Summary of Internal Audit work**

Internal Audit work	Star rating	Headline findings
Gifts and Hospitality: Department of Adult Social Services 30 January 2012	1 star	A departmental gifts and hospitality register for the Department was not maintained.
Gifts and Hospitality Authority wide 30 January 2012	3 star	No consistent approach to the senior officers' review of the Gifts & Hospitality register.
Conflicts of interest Law, HR & Asset Management 1 February 2012	3 star	A nil declaration tick box or section is not included on the declaration form.
Conflicts of interest Authority wide 1 February 2012	3 star	Each department operates in their own way.
Conflicts of interest Chief Officers 12 April 2012	3 star	Not all Chief Officers completed an annual declaration; guidance needs to be documented and officers notified.

Key for star ratings - the control environment as currently designed and operated:

1 star - system of control in operation is in urgent need of improvement as existing controls do not meet minimum standards and are currently placing the service or system's business objectives at risk.

3 star - there is a good system of control in operation that is performing well but opportunities exist to enhance the control environment further.

Background

Gifts and hospitality

- 3 The procedures for gifts and hospitality are as follows.
- There is a standard form (M17) for recording the offer of gifts and hospitality.
 - All officers must declare any offer on the M17 regardless of whether accepted and the form must be sent to their line manager.
 - The line manager signs the form after discussing and noting potential issues and the M17 is retained on the officer's personal file.
 - The information from the declaration forms must be entered on the departmental register (M21) which is then reviewed and signed off by the chief officer.
 - There is guidance setting out what can be and what should not be accepted. This recommends refusing all but trivial gifts and modest hospitality.

Conflicts of interest

- 4 The arrangements for conflicts of interest are as follows.
- There is a standard form (M15) for recording conflicts of interest.
 - All officers must complete an annual declaration (even if there is nothing to declare) and return it to their line manager to sign off and discuss at their annual review.
 - If there is any change in circumstances an amendment must be made immediately.
 - There is further guidance set out in the Conflicts of Interest Procedure.

Scope

5 The authority-wide guidance for both gifts and hospitality and conflicts of interest also covers Merseyside Pension Fund (MPF) which is administered by Wirral Council. However, this is supplemented by further guidance in the Pension Fund Governance Compliance Manual.

Audit approach

6 We:

- reviewed the Internal Audit reports and the evidence to support their assessments;
- discussed issues with Internal Audit staff;
- reviewed the procedures and protocols in place;
- tested 13 personal files (including a sample of chief officers' files) for compliance with gifts and hospitality and conflicts of interest procedures; and
- reviewed the gifts or hospitality accepted to assess compliance with the guidance (see summary of guidance at appendix 1).

7 We provided interim feedback to the Director of Law, HR and Asset Management and the Head of HR on 11 June 2012 prior to carrying out the detailed testing of the personal files.

Main conclusions

8 I have identified a number of weaknesses in the Council's arrangements. These weaknesses are indicative of previous concerns I have raised regarding the Council's arrangements for promoting and demonstrating the principles and values of good governance, managing risks and maintaining a sound system of internal control. Without good governance, risk increases and priorities might not be achieved.

9 The Council needs to take action to ensure compliance with its procedures for recording gifts and hospitality and conflicts of interest and improve arrangements for Internal Audit work and reporting. Without sound arrangements risks cannot be managed to a reasonable level and resources may not be used effectively to deliver value for money.

Gifts and hospitality

10 The Council's written procedures for managing and recording gifts and hospitality were generally adequate during 2011/12. Whilst the procedures were found to be adequate, our testing identified a high instance of non-compliance with procedures and incomplete records in a number of departments. In particular DASS had not maintained a gifts and hospitality register.

Results of Audit testing

11 We reviewed the departmental registers (M21 forms) on the Internal Audit file and found that in a number of departments the registers were incomplete and there had been a lack of senior officer or appropriate line manager sign-off for a significant number of entries.

12 In addition:

- a number of entries on the registers did not have monetary values noted;
- entries for some senior officers had been signed by themselves or their deputies;
- some entries on the registers had not been signed by any (senior) officer at all; and
- the disposal arrangements for gifts accepted were generally noted as 'none'.

13 There was no evidence on the Internal Audit file of any testing against the original declarations (form M17) although the auditor indicated that these were tested. We checked the registers to individual declarations (M17 forms) for gifts and hospitality accepted for a sample of officers to assess whether procedures and guidance had been complied with. Our testing concluded that nine out of thirteen personal files did not comply with

procedures and there was generally insufficient information to assess whether gifts and hospitality had been considered in line with guidance. The key issues are set out at appendix 2.

14 During our review of the personal files we also noted a small number of forms seeking approval for overseas travel (M38 forms). The source of funding was not always clear but some of the travel and expenses was sponsored by outside organisations and there was not consistent recording of this on the M17 gifts and hospitality declarations or on the departmental registers.

Conflicts of interest

15 There were generally adequate procedures in place for conflicts of interest in 2011/12. The current procedures do not however require a central or departmental register to be maintained to aid the management of conflicts of interest. We have been informed that the Council is currently reviewing its guidance to ensure that procedures are fit for purpose and are introducing mechanisms to check compliance.

16 Our testing concluded that there was a high incidence of non-compliance with procedures and poor recording. For example:

- only one out of the 13 personal files contained annual M15 declaration forms; and
- where there were individual annual or updated forms on other files, information recorded was generally incomplete and some had not been reviewed or signed off by line managers.

Merseyside Pension Fund

17 Our testing of the arrangements for gifts and hospitality and conflicts of interest also covered Merseyside Pension Fund officers and the results are included above. Merseyside Pension Fund has also provided additional guidance in the Pension Fund Compliance Manual that has been approved by members of the Pensions Committee.

18 We found that the Pension Fund guidance for gifts and hospitality is more permissive than that set out for the Council overall. There is no evidence that the Council has considered this in terms of its overall governance responsibilities.

Internal Audit

19 Internal Audit assessed the control environment as currently designed and operated for gifts and hospitality in DASS as one-star: 'system of control in operation is in urgent need of improvement as existing controls do not meet minimum standards and are currently placing the service or system's business objectives at risk'. Our review has confirmed this assessment.

20 Internal Audit assessed the control environment as currently designed and operated for gifts and hospitality (except for DASS) and conflicts of interest as three-star: 'there is a good system of control in operation that is performing well but opportunities exist to enhance the control environment further'. Our review is not consistent with this assessment as there is a high level of non-compliance and poor recording. We were generally unable to confirm the areas identified by Internal Audit as best practice (see appendix 3).

21 In my view Internal Audit's review of authority wide gifts and hospitality does not show sufficient documentary evidence of testing back to individual declarations nor consideration of whether the gifts/hospitality were in line with guidelines. Internal Audit has agreed that without evidence of this testing there is not enough information to support its conclusion of three-star assurance.

Recommendations

- R1** Reinforce to all staff, line managers and chief officers their responsibilities for good governance, risk management and internal control in respect of gifts and hospitality and conflicts of interest.
- R2** Ensure procedures and guidance are clear and understood, including
- agreeing any differences between the arrangements within the Council and the Pension Fund;
 - specifying the departmental and central management information requirements for the managing and monitoring of compliance with gifts and hospitality and conflicts of interest policies;
 - ensuring consistency with other procedures, such as foreign travel approvals;
 - ensuring declarations are accurate, complete and made in a timely manner; and
 - ensuring risks are managed appropriately.
- R3** Consider whether the work of Internal Audit on gifts and hospitality and conflicts of interest provides management and those charged with governance with appropriate assurance for the Annual Governance Statement.
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Appendix 1 Gifts and hospitality guidance

Excerpt from Council guidance

'With the exceptions listed below, an employee should refuse any personal gift (including cash) offered to him/her or to a member of his/her family by any person who has, or seeks, dealings with the Authority, and the offer should be reported to the Chief Officer of the department concerned'

Exceptions refer to 'a trivial gift of promotional character given to a wide range of people and not uniquely to the employees' or 'Trivial gifts on the conclusion of any courtesy visit ... Hospitality/Entertainment is sometimes offered to senior officers as official representatives of the Authority and may be accepted in the following circumstances:

- if the appropriate Chief Officer can justify acceptance in the context of fulfilling duties as a representative of the Authority;
- if the extent of the hospitality/entertainment is reasonable and is likely to be regarded as a normal part of the courtesies of public life;
- if details of the hospitality/entertainment are recorded as soon as practicable in a register to be maintained by each Chief Officer.'

There is also guidance on the M21 form (register) that states 'All offers of gifts and hospitality should be registered, whether or not they have been accepted. Officers should not accept such offers except in very limited circumstances. It is a criminal offence to accept money, gifts or hospitality in return for special favours.'

The M17 form (officer declaration) also attaches the guidance and states: 'Any breach of these guidelines could result in disciplinary action being taken'.

Appendix 2 Gifts and Hospitality and Conflicts of interest testing

Key issues from review of 13 personal files

Nine out of thirteen personal files did not comply with procedures and there was generally insufficient information to assess whether gifts and hospitality had been considered in line with guidance. The key issues are noted below.

- A senior officer accepted hospitality to Chester races and noted this in the register; this had not been signed by the chief officer on the register; there was no M17 declaration form to support this on the personal file. There were a number of other M17 declarations on the personal file that were not entered in the register and had been self approved by the officer. Procedures were not complied with and there was insufficient information to assess whether the hospitality was considered in line with guidance.
- An officer accepted a lottery ticket and noted this in the register; there was a supporting M17 declaration. Procedures were complied with but there is no evidence that this was considered in line with guidance.
- A senior officer accepted honorary membership for West Kirby Sailing Club; this was signed on the register by his deputy; no value was noted although annual membership is currently £226 per annum; there was no M17 declaration form to support this on the personal file. There was a M17 declaration on the file for a golf event that had not been entered on the register. Procedures were not complied with and there was insufficient information to assess whether the hospitality was considered in line with guidance.
- An officer accepted tickets to Liverpool Philharmonic; there was no M17 declaration form to support this on the personal file. Procedures were not complied with and there was insufficient information to assess whether the hospitality was considered in line with guidance.
- A senior officer accepted a European Cup match ticket at Old Trafford; there was no M17 declaration form to support this on the personal file. There were further entries on the register that were not supported by a declaration form. The same senior officer also accepted a ticket for a rugby match at Twickenham; this was noted on a M17 declaration but the form was not approved by the officer's line manager. Procedures were not complied with and there was insufficient information to assess whether the hospitality was considered in line with guidance.
- A senior officer accepted a number of instances of hospitality including golf and also a flight, accommodation and meals amounting to £2,000; there were no M17 declarations to support these items. Procedures were not complied with and there was insufficient information to assess whether the hospitality was considered in line with guidance.

Appendix 3 Internal Audit reports

Gifts, hospitality and conflicts of interest

Table 2: **Internal Audit good practice identified**

Internal audit identified good practice that is generally not consistent with our testing.

Report	Internal Audit good practice identified	Audit Commission testing
Gifts and hospitality – authority wide	Achievement of professional best practice	Our testing of the personal files identified 9 of the 13 files did not comply with procedures.
	Disposal arrangements for all departments are adequate	A number of registers had no entries or noted 'none' within the disposal arrangements.
	M17 was available for the sample selected and were completed accordingly	M17 forms were not available for 9 of the 13 personal files sampled and of those sighted they were not all countersigned by a senior officer.
	Offer acceptance/decline accordingly	There was no evidence to support consideration of some entries, eg rugby and football tickets, honorary membership of Sailing Club, golf accepted.
	Value of offer recorded on M21	Not all values of offers were recorded.
	Date of offer recorded on the M21	Agreed.
	Identification and declaration of organisation seeking work with the Authority.	The name of the donor organisation is inserted on the M21 form – there was no evidence of any management or Internal Audit testing of this.

Report	Internal Audit good practice identified	Audit Commission testing
	Dissemination of the policies and procedure surrounding Gifts and Hospitality are appropriate	The gifts and hospitality procedure is available on the intranet. However our testing showed a high incidence of non-compliance.
	A separation of duties is evident on M17 forms.	A number of M17 forms had been self certified or approved by junior rather than senior officers.
Conflicts of interest	Achievement of professional best practice	Our testing concluded that there was a high incidence of non-compliance with procedures and poor recording.
	Retention/storage arrangements for all departments are adequate	All the personal files requested were provided. However, not all files were complete.
	M15's were available for the samples selected and were completed accordingly.	Only one out of the thirteen files contained annual M15 declaration forms. Where there were forms on other files, information recorded was generally not complete and some had not been reviewed or signed off by line managers.
	Identification and declaration of conflicts.	The absence of annual declarations on files does not support this.
	Dissemination of the policies and procedure surrounding Conflicts of Interest are appropriate	The conflicts of interest procedure is available on the intranet. However our testing showed a high incidence of non-compliance.
	A separation of duties is evident on the M15 forms.	Some had not been reviewed or signed off by line managers.

Source: IA reports & Audit Commission testing 2011/12

Appendix 4 Action plan

Recommendations

Recommendation 1

Reinforce to all staff, line managers and chief officers their responsibilities for good governance, risk management and internal control in respect of gifts and hospitality and conflicts of interest.

Responsibility	Head of Human Resources
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Priority	High
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Date	December 2012
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Comments	<p>The key learning point is that recording the acceptance of a gift is not enough. There should be a prior consideration as to whether the gift should be accepted in the first place, or, that it be accepted for the use by residents, rather than officers/members.</p> <p>Human Resources will review the guidance and fold it into the training of officers and members.</p>
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Recommendation 2

Ensure procedures and guidance are clear and understood, including:

- agreeing any differences between the arrangements within the Council and the Pension Fund;
- specifying the departmental and central management information requirements for the managing and monitoring of compliance with gifts and hospitality and conflicts of interest policies;
- ensuring consistency with other procedures, such as foreign travel approvals;
- ensuring declarations are accurate, complete and made in a timely manner; and
- ensuring risks are managed appropriately.

Responsibility	Head of Human Resources
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Priority	Medium
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Date	December 2012
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Comments	<p>The refresh of the Council's HR philosophy and approach is in train as part of the Improvement Plan and the recently appointed Chief Executive, who is keen to establish behaviour changes.</p> <p>Human Resources will review the processes and fold it into the training of officers and members.</p>
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Recommendation 3

Consider whether the work of Internal Audit on gifts and hospitality and conflicts of interest provides management and those charged with governance with appropriate assurance for the Annual Governance Statement.

Responsibility	Director of Finance
Priority	High
Date	October 2012
Comments	<p>The Council accepts that a change of Audit approach will improve the level of assurance. This will be implemented along four lines of action.</p> <ol style="list-style-type: none">1. Firstly, conducting a whole audit rather than splitting it into two parts, systems and compliance. This will ensure that it will not be possible to approve a system, but leave the fact that its controls are being ignored, which does not close the risk for the Council.2. Secondly, to complete the re-organisation of Audit, to ensure the right balance is effected between tactical and strategic audits, over a three year planning horizon.3. Thirdly, to improve the leadership of the audit function across the Council, including raising awareness of the creative role audit can play in improving the organisation of the Council.4. Fourthly, in the light of the high level of non-compliance, from the AC's sample, the Council will extend the sample to improve the level of assurance.

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