



LITHGOW CITY COUNCIL

Review of

GIFTS & BENEFITS REGISTER

IAB JOB NO: LITCOU12101

DRAFT NOVEMBER 2011

FINAL DECEMBER 2011

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EXECUTIVE SUMMARY

INTRODUCTION

Employees of Lithgow City Council (the Council) were identified as having received undeclared gifts and benefits from suppliers during an investigation of local government authorities by the Independent Commission Against Corruption (ICAC). The offer of gifts and benefits resulted in an increased number of orders being placed with the supplier by a supervisory staff member.

In its meeting held 10 October 2011, Councillors resolved to obtain an independent review of the Council's Gifts and Benefits Register to "... ensure compliance with the Lithgow City Council Policy 9.7 **Gifts & Benefits – Councillors & Staff** and the ICAC **Guidelines for Managing Gifts and Benefits in the Public Sector**". The Council has requested that IAB Services (IAB) undertake the review of the Council's Gifts & Benefits Register in terms of Council's resolution.

OBJECTIVES

To provide Council with assurance that the Council's Gifts & Benefits Register is compliant with Lithgow City Council Policy 9.7 **Gifts & Benefits – Councillors & Staff** and that both the Register and Policy 9.7 are compliant with the guidelines contained in the ICAC publication **Managing Gifts and Benefits in the Public Sector**".

METHODOLOGY & SCOPE

Interviews were held with following Council management in order to document the framework for mitigating risk of corruption flowing from the inappropriate receipt of gifts and benefits by Council staff.

- The General Manager.
- The Finance Manager.
- The Relieving Human Resources Manager.

The components of the framework were then examined to assess their compliance with the principles outlined in the ICAC publication **Managing Gifts & Benefits in the Public Sector**. This examination employed our **Gifts & Benefits Framework Compliance Checklist** and included review of the Council's:

- Policy 9.7 **Gifts & Benefits – Councillors & Staff**.
- Redrafted Policy 9.7 **Gifts & Benefits – Councillors & Staff** awaiting presentation to Council for adoption on 31 October 2011.
- Code of Conduct.
- Staff induction processes.

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- Communication of the Gifts & Benefits Policy to staff.
- Provision of ongoing staff access to the Code of Conduct and Gifts & Benefits Policy.
- Gifts & Benefits Register.

Transactions recorded in the Gifts & Benefits Register for the years 2009, 2010 and 2011 year-to-date were then reviewed in order to assess compliance with Policy 9.7 and the provisions of the ICAC document **Managing Gifts & Benefits in the Public Sector**.

EVALUATION

OVERALL CONCLUSION

Our review found that the overall compliance rating of Lithgow City Council's revised Gifts & Benefits Policy 9.7 and Gifts & Benefits Register is **MOSTLY COMPLIANT** with the ICAC guidelines contained in the document, **Managing Gifts & Benefits in the Public Sector**. In forming its conclusion, IAB has taken into account the Council's existing and revised Policy 9.7 **Gifts & Benefits – Councillors & Staff**.

While it is apparent from the review that the existing Policy 9.7 has been significantly improved while developing the revised Policy 9.7 yet to be presented to Council for adoption, there are a number of areas in which improvement can be made to provide a better fit with the ICAC guidelines. There were no findings with a risk rating higher than **Medium**. The findings with a risk rating of **Medium** are summarised below under **Key Findings** and discussed in detail within the attached **Detailed Report**.

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KEY FINDINGS

The review identified a number of areas where the Council should take action to ensure its gifts and benefits framework is compliant with ICAC guidelines. Findings rated as **Medium** risk are summarised below. These are discussed in more detail in the attached **Detailed Report** along with findings rated as being **Low** risk.

The findings rated as **MEDIUM** risk are as follows:

- **Requirement to report other employees** – Policy 9.7 needs to establish accountability for employees to report workmates soliciting gifts and benefits.
- **Need to reflect cumulative gifts and benefits** – Policy 9.7 should address the risks attaching to gifts and benefits accepted over a period of time.
- **Gift cards** – Policy 9.7 should prohibit acceptance of all gift cards. As these are redeemable for goods and services up to a dollar amount they are arguably in the nature of cash.
- **Employees in “at risk” positions** – Policy 9.7 expressly places restrictions on employees involved in procurement. This should extend to all “at risk” areas such as regulation and management of Council assets such as machinery.

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- **Periodic “refresher” training** – Council should ensure that “refresher” training including Gifts and Benefits policy is undertaken for all employees at least biannually. It should also include reminders to employees at regular meetings.
- **Tender documents and Council contracts** – Council should consider inclusion of an express reference to Council’s gifts and benefits policy in tender documents and contracts.
- **Periodic management review of the Gifts & Benefits Register** – Council should establish periodic review of the register to ensure completed correctly and identify any developing trends that may lead to corruption.
- **Periodic independent audit of the Gifts & Benefits Register** – Council should consider establishing a program of periodic independent audits of the register against Policy 9.7.

A summary of the recommendations contained within the report is presented in **Attachment B**. This summary is presented in the form of an **Action Plan** that is designed to allow management to more readily monitor the implementation of audit recommendations.

ACKNOWLEDGEMENT

We acknowledge the co-operation and assistance given by management and staff of Lithgow City Council during completion of the review.

ACCOUNTABILITY AND RESPONSIBILITY

IAB Services takes responsibility for this report, which is prepared on the basis of the limitations set out below.

The matters raised in this report are only those that came to our attention during the course of our review and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Lithgow City Council should assess recommendations for improvements for their full commercial and operational impact before they are implemented.

This report is confidential, has been prepared solely for the use of Lithgow City Council and ownership of the report and any attachments lies with your organisation. It is the responsibility of your organisation to determine if you wish to release this report, in whole or in part. However, this should not occur without our prior written consent. Costs of information requests under any Freedom of Information legislation such as the NSW Government Information (Public access) Act 2009 or the Commonwealth Freedom of Information Act 1982 or Subpoenas arising from actions taken by individuals or groups as a result of this report will be passed on to your organisation.

No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.

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DETAILED REPORT OF FINDINGS

COMPLIANCE RATING KEY

Each component of interest forming a part of an area examined during the review has been provided with an internal controls effectiveness rating on the basis below. These ratings are reflected in an Overall Compliance Rating for the area examined.

Compliant	Activity is compliant with Council policy and/or ICAC Guidelines.
Mostly Compliant	While activity is mostly compliant with Council policy and/or ICAC Guidelines, some improvements to Council's policy and procedures are required.
Partly Compliant	Activity is only partly compliant with Council policy and/or ICAC Guidelines. Significant improvements to Council's policy and procedures are required.
Non Compliant	Activity is non compliant with Council policy and/or ICAC Guidelines. Immediate action is required to address risks.

RISK RATING KEY

We have given each finding in this report a risk (significance) rating on the following basis:

Extreme	Extreme risk, immediate action required.
High	High risk, urgent management attention is needed.
Medium	Medium risk, management responsibility must be specified.
Low	Low risk, manage by routine procedures.

OVERVIEW

ICAC points out that a Gifts & Benefits Register is merely a “tool” to capture gifts and benefits received by employees reportable under an organisation’s Gifts & Benefits Policy. As such the integrity of a Gifts & Benefits Register is almost totally dependent upon the decision of individual employees to comply with organisational gifts and benefits policy. What isn’t reported is likely to pass unseen.

IAB employed its **Gifts and Benefits Framework Checklist** to assess the Council’s compliance with the ICAC guideline, **Managing Gifts & Benefits in the Public Sector** (the ICAC guideline). The checklist employs 33 questions to identify areas of compliance and non compliance with the ICAC guidelines in the following areas:

- Gifts & Benefits Policy
- Internal and External Policy Communication
- Gifts & Benefits Register

Only areas not considered fully compliant are discussed in the **Detailed Report**. Additional areas may be found in the copy of the completed checklist included as **Attachment A**.

Where IAB considers that the Council is compliant in some but not all of the requirements, a compliance rating of either “Partly Compliant” or “Mostly Compliant” is provided.

Entries to the Council’s Gifts & Benefits Register were examined for the period 2009, 2010 and 2011 year-to-date. These were assessed for compliance with the existing Policy 9.7 **Gifts & Benefits – Councillors & Staff**.

1. POLICY 9.7 GIFTS & BENEFITS – COUNCILLORS & STAFF

OVERALL COMPLIANCE RATING: PARTLY COMPLIANT

The Council has revised Policy 9.7 **Gifts & Benefits – Councillors & Staff** as a result of the ICAC investigation. At the time of review the revised policy was due to be submitted to Council on 31 October 2011. It has since been withdrawn pending receipt of the IAB report.

It should be noted that IAB has considered both the existing and revised Policy 9.7 when assessing compliance. This will provide Council with guidance on potential improvements to the revised Policy 9.7 prior to its adoption.

COMPLIANCE RATING: NON COMPLIANT

Cumulative Gifts and Benefits

The ICAC guidelines draw attention to the dangers of multiple gifts and benefits received over a period of time. Each gift or benefit may be considered nominal/token when viewed on a standalone basis but when all gifts or benefits are taken into account on a cumulative basis they may exceed the policy requirements and result in an increased risk of corruption.

The existing and revised Policy 9.7 overlooks the potential danger of cumulative “notional or token gifts”. It is a known strategy of dishonest suppliers to corrupt public officials by establishing a sense of obligation through token gifts and benefits provided over time. When viewed individually each gift or benefit may be considered to fall below the notional value provided by the Policy but the cumulative value of gifts and benefits provided over time may be significant.

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.1 Council should consider amending the revised Policy 9.7 to address the risks attached to the receipt of notional and token gifts from another party over time.

COMPLIANCE RATING: PARTLY COMPLIANT

Accountability for Reporting Apparent Corrupt Conduct

The ICAC guidelines recommend that a gifts and benefits policy include a requirement that employees notify management when they become aware of another staff member soliciting gifts or benefits.

While it is understood from discussions with management that induction and refresher training includes instruction on action to be taken when an employee becomes aware of another employee soliciting gifts or benefits, the existing and revised Policy 9.7 fails to establish employee responsibility and accountability..

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.2 Council should consider amending the revised Policy 9.7 to include requirements for employees to notify management when they become aware of another staff member soliciting gifts and benefits.

Definitions and Implications

The existing Policy 9.7 contains only a limited guidance on the various types of gifts and benefits and their implications. While it is pleasing to note that the revised Policy 9.7 contains a dedicated definitions section, the Policy would be strengthened by expanding the document to better describe the various types of gifts and benefits as outlined in the ICAC guidelines:

- Gifts of Influence
- Gifts of Gratitude
- Token Gifts
- Ceremonial Gifts.

This would improve staff understanding and assist in identifying instances where the acceptance of gifts and benefits might lead to corrupt behaviour.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.3 Council should consider expanding the definitions contained in the revised Policy 9.7 to reflect the definitions of gifts and benefits contained in the ICAC guidelines. This will assist in employee understanding of the types of gifts and benefits and their associated risks.

Quantifying Nominal or Token Value

The ICAC guidelines recommend the establishment of a dollar amount as a measure of what is “nominal” for purposes of a gifts and benefits policy. This eliminates subjectivity and aids in determining the appropriate treatment of a gift or benefit regardless of its nature.

Both the existing and revised Policy 9.7 states that gifts and benefits that have “...more than a nominal or token value” must not be accepted. The revised policy defines nominal value as being a value “...that will not create a sense of obligation, to influence, or appear to influence, the receiver in exercising their official duties”. Under the revised Policy 9.7 nominal value is, therefore, a subjective measure.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.4 Council should consider amending the revised Policy 9.7 to include a dollar value for identifying what constitutes a nominal or token gift. This objective measure will aid in minimising inconsistencies created by subjective measures.

COMPLIANCE RATING: MOSTLY COMPLIANT

Treatment of Gift Cards

The ICAC guidelines recommend prohibition of gifts of money.

The existing and revised Policy 9.7 states that acceptance of gifts of money and “...gift cards that can be redeemed for cash” are prohibited. The Policy may be misleading as gift cards are generally redeemable for goods and services to a certain dollar value, not cash. While not redeemable in cash, all gift cards are arguably in the nature of cash and should not be accepted.

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.5 Council should consider amending the revised Policy 9.7 to prohibit the receipt of gift cards as well as cash.

Disposal of Non-Returnable Gifts and Benefits

The revised Policy 9.7 provides management with limited guidelines for the disposal of non-returnable gifts and benefits declared by staff members. Consideration should be given to providing management with more definitive policy guidelines for the disposal of non-returnable gifts and benefits.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.6 Council should consider amending the revised Policy 9.7 to include more prescriptive guidelines for the disposal of gifts that exceed nominal or token value and cannot be returned.

“At Risk” Areas

The revised Policy 9.7 includes a section addressing receipt of gifts and benefits by employees involved in the procurement and disposal of goods and services. Gifts must not be accepted from a potential or current supplier.

The Policy would benefit from the inclusion of express references to additional key “at risk” areas such as:

- Regulation such as building and health inspectors.
- Control of organisational resources such as machinery.

RISK RATING	MEDIUM
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RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 1.7 Council should consider amending the revised Policy 9.7 to include limitations on the acceptance of gifts and benefits by employees in all “at risk” areas.

2. INTERNAL AND EXTERNAL POLICY COMMUNICATION

OVERALL COMPLIANCE RATING: MOSTLY COMPLIANT

INTERNAL COMMUNICATIONS

COMPLIANCE RATING: PARTLY COMPLIANT

Refresher Training

All employees are introduced to the Code of Conduct and Gifts & Benefits Policy during induction followed by periodic refresher training. Periodic refresher training has not been undertaken within a reasonable timeframe.

Refresher training was undertaken for all employees during 2006 and again in 2011. While it is understood that the five year gap between training was unusual, steps should be taken to ensure a more frequent training.

Supervisory staff has not been instructed to revisit the Gifts & Benefits Policy at regular meetings. It is recommended that awareness be heightened by more frequent references either in business unit meetings or possibly at the quarterly staff meeting.

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 2.1** Council should take steps to ensure that refresher training is undertaken for all employees at least bi-annually. The requirements of the Code of Conduct and the Gifts & Benefits Policy 9.7 should also be brought to the attention of employees more frequently either through team meetings or at the Council's quarterly meeting.

COMPLIANCE RATING: MOSTLY COMPLIANT

Targeted Communications

The same guidance is provided to all staff regardless of position. This is undertaken through:

- Induction training – within two weeks of start.
- Periodic refresher training – run 2006 and again 2011 (refer comments above).

Consideration should be given to more frequent, targeted revision training for employees engaged in higher risk areas such as procurement and regulation.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 2.2** Council should consider tailoring periodic refresher training to those employees in “at risk” positions. These would be those employees in positions involving procurement, regulation and disposition of Council assets.

Gifts and Benefits Decision-Making Guide

ICAC recommends consideration to the implementation of a decision-making guide for use by employees. This takes the form of a flowchart and guides employees through a range of questions and actions reflective of organisational policy.

The Council does not have a decision-making guide in place relying solely on Policy 9.7 to provide guidance to its employees. Given the range of employees and their abilities, it is felt that the adaptation of the ICAC decision-making guide would be beneficial to the Council. It is a convenient format for laminating and posting on notice boards and in lunchrooms which has the added benefit of keeping the requirements of Policy 9.7 before Council's officials and employees.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 2.3 Council should give consideration to adapting the decision-making guide included in the ICAC document *Managing Gifts & Benefits in the Public Sector* to reflect the Council's Policy 9.7 requirements. These can then be posted in prominent places accessible to all officials and employees.

EXTERNAL COMMUNICATIONS

COMPLIANCE RATING: PARTLY COMPLIANT

Tender Documents and Council Contracts

The ICAC guidelines recommend that organisations include a statement in all tender documents and contracts to the effect that gifts and benefits provided to employees are unacceptable.

Council Tender documents and contracts do not include reference to the Council's gifts and benefits policy or the Statement of Business Ethics. The latter, however, is freely available on the Council's website.

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 2.4 Council should give consideration to including a reference to the Council's Policy 9.7 **Gifts & Benefits – Councillors & Staff** in tender documents and Council contracts.

Community Communications

The ICAC guidelines recommend that communications addressed to the community contain a statement that the organisation does not support the provision of gifts and benefits to its employees.

The General Manager advised that he is unaware of any communications made to the public that includes a reference to the Council's gifts and benefits policy.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 2.5 Council should give consideration to including a statement that gifts and benefits to Council employees are discouraged in relevant communications to the community.

3. GIFTS AND BENEFITS REGISTER

OVERALL COMPLIANCE RATING: MOSTLY COMPLIANT

PERIODIC MANAGEMENT REVIEW AND AUDIT

COMPLIANCE RATING: PARTLY COMPLIANT

The ICAC guidelines recommend periodic high level review of the Gifts & Benefits Register by management as well as periodic independent audit.

While the Council relies upon the supervisory authorisation of individual gifts and benefits declarations, management has advised that there is a periodic high level review undertaken of the Gifts & Benefits Register. This review, however, is not formalised nor is it designed to identify developing trends such as cumulative gifts to the one recipient and parties providing an excessive number of gifts to employees.

There is currently no independent audit undertaken of the Gifts & Benefits Register as recommended in the ICAC guidelines

RISK RATING

MEDIUM

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 3.1** Council should give consideration to formalising its periodic management review of the Gifts & Benefits Register in line with ICAC guidelines.
- 3.2** Council should give consideration to establishing periodic independent audit of the Gifts & Benefits Register in line with ICAC guidelines.

FORMAT

COMPLIANCE RATING: **MOSTLY COMPLIANT**

Details of disposal should be included in Gifts & Benefits Declaration forms to preserve transparency and provide an audit trail.

While the Declarations forming the current Gifts & Benefits Register comply in the main with details required in ICAC's standard Gifts & Benefits Register, until recently the forms lacked details of gifts disposal. Additionally, until late 2010 gifts and benefits declarations did not require evidence of third party checking and authorisation.

It is also noted that the supervisor/manager authorising gifts and benefits declarations does not complete a certificate confirming compliance with the Council's Policy 9.7. This is fundamental in establishing accountability.

While the gifts and benefits declarations forming the Gifts & Benefits Register are numbered sequentially by year, there was no index included with the Register. Management advised that an index was established only within the last twelve months and is retained in soft copy by the General Manager's secretary who receives all Gifts & Benefits Declarations after scanning by the Council's Records Department.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 3.3** Council should give consideration to establishing accountability by inserting a certificate in the Gift & Benefits Declaration for completion by the authorising supervisor/manager. This certificate should state that the declaration and disposal are compliant with Council Policy 9.7.

4. GIFTS AND BENEFITS DECLARATIONS – COMPLIANCE WITH POLICY 9.7 GIFTS & BENEFITS – COUNCILLORS & STAFF

OVERALL COMPLIANCE RATING: MOSTLY COMPLIANT

It is important reiterate that the Gifts & Benefits Register is merely a tool to support a sound, well communicated Gifts & Benefits Policy. It can only record declarations made by officials and employees and cannot identify non-compliances apart from declarations where disposals are outside of policy or where there is an irregular trend over time. The integrity of the Register is therefore reliant upon officials and employees complying with policy and management undertaking a third party checking and authorisation process. It must be noted, therefore, that there is no way of confirming by reviewing the Register that all gifts and benefits received by officials and employees have been declared in terms of Policy 9.7.

Declarations forming the Council's Gifts & Benefits Register were examined for the period 2009, 2010 and 2011 year-to-date. These were assessed for compliance with the existing Policy 9.7 **Gifts & Benefits – Councillors & Staff**. The following points were noted during this review:

- **Missing Declaration** - An electronic Gifts & Benefits Register was in place but was apparently abandoned due to technical issues and the fact that outdoor employees were still required to complete manual declarations. It was noted that an electronic declaration lodged by Andrew Muir in December 2009 was not included in the Register apart from the associated emails. While this was said to be due to technical problems with the software, a manual declaration should have been completed.
- **Evidence of Authorisation** - Up until the end of the 2010 calendar year gifts and benefits declarations did not include a place to evidence third party review and authorisation (refer comment above). For example, Declarations 2009-8 and 2010-17.
- **Documenting Disposal of Gifts** - Until recently there was no place on a gifts and benefits declaration form to record details of gifts and benefits disposals. Despite this, declarations were identified where details of disposal were noted when a gift was not retained by the recipient. For example Declaration 2010-17 where a leg ham with a recorded value of \$70.00 was gifted to a local aged care home.

DETAILED REPORT

- **Declarations for Nominal or Token Gifts** - While current Policy 9.7 states that Council officials are not required to record gifts of nominal or token value, gifts and benefits declarations are being raised for gifts considered of nominal or token value. For example Declaration 2010-16 chocolates with a recorded value of \$20.00.
- **No Third Party Review and Authorisation Evidenced** - Instances were identified where the Mayor and a Group Manager completed gifts and benefits declarations which bore no evidence of third party review and authorisation (Declarations 2010-19, 2011-30 and 2011-32). The integrity of the Gifts & Benefits Register is reliant upon a third party review and authorisation function.
- **Potential Perceived Influence (Hospitality)** - Two employees provided declarations for attendance at a function held in the Hunter Valley by X-Strata Coal which is said to be providing community funding to Council. This included accommodation and hospitality of more than nominal value (Declarations 2011-26 and 2011-29). ICAC guidelines caution organisations about accepting hospitality beyond that of courtesy. It recommends payment of costs by the organisation where its officials or employees are required to attend as part of their duties. Acceptance may create the perception of a gift of influence.
- **Potential Perceived Influence (Nominal)** - The Water & Waste Manager accepted a gift box with a declared value of \$30.00 from SITA waste disposal which provides waste recycling services to the Council (Declaration 2009-8). While we consider this as most likely a token gift, it may be perceived as a gift of influence by the public.
- **Gift Certificate** - Declaration 2011-30 relates to a gift certificate valued at \$100.00 received by the Group Manager, Community & Strategy in her capacity as a Board member of Blue Mountains, Lithgow & Oberon Tourism (BMLOT). The gift certificate could only be used at the Yindi Day Spa where the BMLOT board meeting was being held and as such was not redeemable for cash or any other services. It is unlikely to be perceived as a gift of influence.
- **Prize** - Declaration 2011-37 relates to a Navman GPS won as a prize by Group Manager, Community & Strategy while attending the Local Government Managers Australia (LGMA) conference. While a member of the LGMA in a private capacity, the Council paid the costs of attendance for “professional development”. As the prize was provided by IMB with whom Council invests funds, there is a risk that the prize may be perceived as potentially influencing the recipient. ICAC guidelines suggest that such prizes be disposed of within the organisation to avoid perceptions of improper influence.

In each of the above cases, officials and employees have complied with the current Policy 9.7 by declaring gifts, benefits and, in one instance, a prize. Notwithstanding this, as noted above, there are areas in which the revised Policy 9.7 can be improved to provide clearer guidelines and procedures better aligned with the ICAC guidelines.

RISK RATING

LOW

RISKS/IMPLICATIONS

- Loss through corrupt behaviour flowing from acceptance of inappropriate gifts and benefits.
- Damage through public perception of undue influence by way of gifts and benefits.

RECOMMENDATION

- 4.1 All individual Gifts and Benefits Declarations should be subject to third party review and authorisation.


END OF REPORT

ATTACHMENT A – GIFTS & BENEFITS FRAMEWORK COMPLIANCE CHECKLIST

This **Gifts & Benefits Framework Compliance Checklist** is based on the ICAC publication, **Managing Gifts & Benefits in the Public Sector – Toolkit**.

Compliance Rating:

C	The organisation's policy and procedures are compliant with the ICAC guidelines. No action is required.
M	The organisation's policy and procedures are mostly compliant with the ICAC guidelines. Some improvements can be made to improve policies and procedures.
P	The organisation's policy and procedures are partly compliant with the ICAC guidelines. Significant improvements can be made to improve policies and procedures.
N	The organisation's policy and procedures are non compliant with the ICAC guidelines. Prompt action is required.
NA	The ICAC guidelines criteria do not apply to the organisation's policy.

GIFTS & BENEFITS POLICY

P	<p>Provides clear definitions of the various types of gifts and benefits and their implication.</p> <p>Comments: Current policy lacks definitions but does include examples of token gifts and benefits. The draft policy contains a definitions section but would benefit from expansion to include types of gifts e.g. gifts of influence, gifts of gratitude, token gifts etc.</p>
C	<p>Makes clear reference to the impact of perception of corrupt conduct when accepting gifts and benefits.</p> <p>Comments: Draft policy contains references throughout the document but consider would benefit from a concise statement of the impact of perception.</p>
C	<p>Contains clear directions on action to take if offered a bribe.</p> <p>Comments: Currently states only to refer to supervisor etc. Draft policy contains step-by-step instructions on action to take where offered a bribe. This could be linked to a <i>Risks & Benefits Decision-Making Guide</i> along similar lines to that contained in the ICAC publication, <i>Managing Gifts & Benefits in the Public Sector</i>.</p>
N	<p>Contains clear directions on action to take if aware of others soliciting gifts and benefits.</p> <p>Comments: Draft policy needs to be strengthened to establish the accountability of those to report instances where they become aware of other staff members soliciting gifts and benefits.</p>

ATTACHMENT

M	<p>Contains clear directions on action to take if offered a gift of influence.</p> <p>Comments: Currently states only to refer to supervisor etc. Draft policy would benefit from strengthening to provide step-by-step instructions on action to take as for bribes. This could be linked to a <i>Risks & Benefits Decision-Making Guide</i> along similar lines to that contained in the ICAC publication, <i>Managing Gifts & Benefits in the Public Sector</i>.</p>
C	<p>Clearly states that gifts of money are strictly prohibited.</p> <p>Comments: Current and draft policies both state that gifts of money are prohibited. The draft policy also prohibits acceptance of "...gift cards that can be redeemed for cash". This may create confusion as gift cards may be used in place of cash but not redeemed for cash. It is recommended that the reference to redemption for cash be removed.</p>
C	<p>Alerts staff of implication of gifts to family members.</p> <p>Comments: Current and draft policies refer to this exposure.</p>
P	<p>States either a zero tolerance policy or stipulates a nominal value for the acceptance of gifts and benefits.</p> <p>Comments: The current policy refers to "token" gifts and gifts of "nominal value". While it provides examples of token gifts and benefits it does not provide a dollar value. The Finance Manager also responsible for governance advised that the draft policy includes a dollar value but the draft policy due to go to Council for approval on 31 October 2011 was found to lack the dollar value.</p>
N	<p>Alerts staff to the danger of cumulative gifts.</p> <p>Comments: Draft policy should be strengthened to include the potential risk created by multiple gifts of nominal value over time.</p>
M	<p>Includes clear guidelines for the treatment of prizes and incentives.</p> <p>Comments: Draft policy expressly treats gifts and benefits received as prizes and incentives.</p>
C	<p>Includes action to take in the event of gifts that can't be returned.</p> <p>Comments: Draft policy addresses gifts and benefits that can't be returned providing examples. It states that these must be managed through the Gifts & Benefits Register.</p>
M	<p>Includes guidelines for the disposal of gifts received.</p> <p>Comments: Draft policy contains a statement on disposal of gifts but would be strengthened by identifying the process to be undertaken for disposal.</p>
C	<p>Includes clear guidelines for the treatment of hospitality and work related functions.</p> <p>Comments: Draft policy contains a section on hospitality and work related functions.</p>

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P	Adequately addresses the exposure to inappropriate gifts and benefits where involved in regulatory relationships.
	Comments: Consideration should be given to strengthening the draft policy to expressly address the high risk areas relating to the regulatory operations of the organisation and control of Council assets such as machinery.
P	Adequately addresses the exposure to inappropriate gifts and benefits where involved in the provision of services.
	Comments: Consideration should be given to strengthening the draft policy to expressly address risks attaching to the misuse of organisational resources. This may be machinery provided for personal use.
C	Expressly addresses the exposure to inappropriate gifts and benefits where involved in procurement and disposal of goods.
	Comments: Draft policy includes a section expressly addressing the procurement and disposal of goods and services. Officials engaged in the procurement, tendering and disposal processes are forbidden from accepting gifts and benefits from a potential or current supplier.
NA	Addresses joint ventures between the organisation and private partners where the requirements for public officials differ to those in the private sector.
	Comments: Advised that there are no partnerships with other agencies or private operations.
C	Supported in the Code of Conduct, Procurement and other policies.
	Comments: Gifts and benefits are included in the Code of Conduct.
M	Establishes accountability and the consequences of non-compliance.
	Comments: Draft policy has a section outlining the potential consequences of non-compliance with the Gifts & Benefits Policy. Does not include accountability of employees who become aware of workmates soliciting gifts and benefits.
P	Provides clear guidelines for the use of supervisors and management when assessing the appropriate treatment of gifts and benefits reported as received by staff members.
	Comments: There is no express guidance for the use of supervisors and managers when assessing and authorising the reported receipt of gifts and benefits. The draft policy would benefit from brief guidance for the use of supervisory/management staff members.

GIFTS & BENEFITS MANAGEMENT TOOLS

POLICY COMMUNICATION STRATEGY

STAFF COMMUNICATION

M	Communication designed to target risk areas.
	Comment: Same guidance is provided to all staff regardless of position. This is undertaken through:

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	<ul style="list-style-type: none"> • Induction training – within two weeks of start • Periodic revision training – run 2006 and again 2011. <p>Consideration should be given to more frequent revision training. While it is understood that the five year gap between training was unusual steps should be taken to ensure a more frequent training.</p>
C	<p>The gifts and benefits policy is freely accessible to staff.</p> <p>Comment: Available on the organisation’s intranet and in hard copy from supervisory staff members. Awareness is established through induction and training.</p>
P	<p>Management reinforces the gifts and benefits policy and implications of non-compliances to staff on a regular basis.</p> <p>Comment: While there is a re-training program in place re-training has not been undertaken within a reasonable timeframe (refer comments above). Supervisory staff has not been instructed to revisit the Gifts & Benefits Policy at regular meetings. It is recommended that awareness be heightened by more frequent references either in business unit meetings or possible at the quarterly staff meeting.</p>
C	<p>New staff members are introduced to the gifts and benefits policy and the Code of Conduct during induction training.</p> <p>Comment: Confirmed. Powerpoint presentation. HR Manager advised that she isn’t sure how much the new employees take in given the volumes of information provided at induction. New staff are not signing in confirmation that they have read, understood and agree to abide by the Code of Conduct and other key policies. It is recommended that the organisation seek written confirmation.</p>
P	<p>Key “at risk” staff members receive training in gifts and benefits risks through a formal workshop training course.</p> <p>Comment: “At risk” staff members receive the same training and instruction as all staff. Consideration should be given to tailored workshops for these staff members.</p>

EXTERNAL COMMUNICATION

C	<p>Agency promotes a Statement of Business Ethics.</p> <p>Comment: Available on Council website.</p>
N	<p>Tender documents and contracts include reference to the organisational gifts and benefits policy and Statement of Business Ethics.</p> <p>Comment: No reference in tender documents and contracts.</p>
N	<p>Published communication to the community includes words that clearly state that the organisation discourages gifts and benefits to individual staff members.</p> <p>Comment: No statement in community communications.</p>

GIFTS & BENEFITS REGISTER

M	<p>Maintained in a format compliant with the ICAC Gifts & Benefits Management Toolkit.</p> <p>Comments: While the forms forming the current Gifts & Benefits Register comply in the main with details required in ICAC’s standard Gifts & Benefits Register, the forms lack details of disposal of assets. Details of disposal should be included in the forms to preserve transparency and provide an audit trail.</p> <p>Instances were noted where Gift declarations were not counter-signed by a senior officer. These relate to the Mayor and the Group Manager, Community & Strategy. It is recommended that all Declarations should be subject to management review regardless of the official’s position/status.</p>
M	<p>Supported by well documented procedures and forms available to organisation staff members.</p> <p>Comments: The Gifts & Benefits Policy would benefit from more detailed instructions and implementation of a <i>Risks & Benefits Decision-Making Guide</i> along similar lines to that contained in the ICAC publication, <i>Managing Gifts & Benefits in the Public Sector</i>.</p>
P	<p>Subject to periodic review and examination by management for trends and risk areas.</p> <p>Comments: Supervisory staff/management review and authorise each Gifts & Benefits Register entry raised by staff members. Reliance is being placed on this checking and authorisation procedure. Senior management advised that while it undertakes a periodic review of the register, the review is not formalised and is not designed any trends in gifts and benefits reported.</p>
N	<p>Subject to periodic independent audit for compliance with the gifts and benefits policy and procedures.</p> <p>Comments: There is no regular audit of the Gifts & Benefits Register for compliance with policy.</p>

GIFTS & BENEFITS DECISION-MAKING GUIDE

N	<p>The organisation provides a decision-making guide to aid staff members in deciding whether a gift or benefit may be accepted.</p> <p>Comments: Consideration should be given to the introduction of a <i>Risks & Benefits Decision-Making Guide</i> along similar lines to that contained in the ICAC publication, <i>Managing Gifts & Benefits in the Public Sector</i>. This may be appended to the Gifts & Benefits Policy.</p>
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ATTACHMENT B- ACTION PLAN FOR IMPLEMENTATION OF REPORT RECOMMENDATIONS

No	Summary of Recommendation(s)	Risk Rating	Management Response(s)	Responsible Manager(s)	Target Implementation Date(s)
1	POLICY 9.7 GIFTS & BENEFITS – COUNCILLORS & STAFF				
1.1	Council should consider amending the revised Policy 9.7 to address the risks attached to the receipt of notional and token gifts from another party over time.	Medium	Policy 9.7 to be amended for cumulative gifts	EMT / CMT	To EMT 09.01.12
1.2	Council should consider amending the revised Policy 9.7 to include requirements for employees to notify management when they become aware of another staff member soliciting gifts and benefits.	Medium	Policy 9.7 to be amended to ensure reporting occurs	EMT / CMT	To EMT 09.01.12
1.3	Council should consider expanding the definitions contained in the revised Policy 9.7 to reflect the definitions of gifts and benefits contained in the ICAC guidelines. This will assist in employee understanding of the types of gifts and benefits and their associated risks.	Low	Definitions shown on Policy 9.7 to be expanded	EMT / CMT	To EMT 09.01.12
1.4	Council should consider amending the revised Policy 9.7 to include a dollar value for identifying what constitutes a nominal or token gift. This objective measure will aid in minimising inconsistencies created by subjective measures.	Low	Policy 9.7 will be modified to show a \$ value for nominal and token gifts	EMT / CMT	To EMT 09.01.12
1.5	Council should consider amending the revised Policy 9.7 to prohibit the receipt of gift cards as well as cash.	Medium	Policy 9.7 to be amended to prohibit the receipt of gifts cards	EMT / CMT	To EMT 09.01.12
1.6	Council should consider amending the revised Policy 9.7 to include more prescriptive guidelines for the disposal of gifts that exceed nominal or token value and cannot be returned.	Low	Policy 9.7 to be amended to provide guidelines for the disposal of gifts by employees	EMT / CMT	To EMT 09.01.12

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No	Summary of Recommendation(s)	Risk Rating	Management Response(s)	Responsible Manager(s)	Target Implementation Date(s)
1.7	Council should consider amending the revised Policy 9.7 to include limitations on the acceptance of gifts and benefits by employees in all “at risk” areas.	Medium	Policy 9.7 to be amended to include specific at ‘risk’ employee categories	EMT / CMT	To EMT 09.01.12
2 INTERNAL AND EXTERNAL POLICY COMMUNICATION					
2.1	Council should take steps to ensure that refresher training is undertaken for all employees at least bi-annually. The requirements of the Code of Conduct and the Gifts & Benefits Policy 9.7 should also be brought to the attention of employees more frequently either through team meetings or at the Council’s quarterly meeting.	Medium	The incidents of refresher training to be increased	EMT / OD	30.06.12
2.2	Council should consider tailoring periodic refresher training to those employees in “at risk” positions. These would be those employees in positions involving procurement, regulation and disposition of Council assets.	Low	The incidents of refresher training to be increased for at ‘risk’ employee categories	EMT / OD	30.06.12
2.3	Council should give consideration to adapting the decision-making guide included in the ICAC document Managing Gifts & Benefits in the Public Sector to reflect the Council’s Policy 9.7 requirements. These can then be posted in prominent places accessible to all officials and employees.	Low	‘ICAC’ Decision making guide to modified and posted on employee notice boards at all Council locations.	Finance Manager	09.01.12
2.4	Council should give consideration to including a reference to the Council’s Policy 9.7 Gifts & Benefits – Councillors & Staff in tender documents and Council contracts.	Medium	Policy 1.4 Tenders to be modified to include Gifts and Benefits	EMT / CMT	Completed 22.11.11
2.5	Council should give consideration to including a statement that gifts and benefits to Council employees are discouraged in relevant communications to the community.	Low	Council forms to suppliers to be modified advising Council officers are not to be offered or received gifts and benefits	Finance Manager	Completed 22.11.11

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No	Summary of Recommendation(s)	Risk Rating	Management Response(s)	Responsible Manager(s)	Target Implementation Date(s)
3 GIFTS AND BENEFITS REGISTER					
3.1	Council should give consideration to formalising its periodic management review of the Gifts & Benefits Register in line with ICAC guidelines.	Medium	Audit currently performed on report summary which now will be altered to include formal signatures as authorisation	Finance Manager	09.01.12 then quarterly
3.2	Council should give consideration to establishing periodic independent audit of the Gifts & Benefits Register in line with ICAC guidelines.	Medium	Audit currently performed on report summary which now will be altered to include formal signatures as authorisation	Finance Manager	09.01.12 then quarterly
3.3	Council should give consideration to establishing accountability by inserting a certificate in the Gift & Benefits Declaration for completion by the authorising supervisor/manager. This certificate should state that the declaration and disposal are compliant with Council Policy 9.7.	Low	Form will be altered to allow for Supervisors signature as authorisation	GM Assistant	To EMT 09.01.12
4 GIFTS AND BENEFITS DECLARATIONS – COMPLIANCE WITH POLICY 9.7 GIFTS & BENEFITS – COUNCILLORS & STAFF					
4.1	All individual Gifts and Benefits Declarations should be subject to third party review and authorisation.	Low	Audit performed on report summary which will be altered to include formal signatures as authorisation. External Auditors will be requested to include a third party audit a random intervals during interim audit visits.	Finance Manager	09.01.12 then quarterly

