



West Midlands Combined Authority

Internal Audit Report: WMCA Gifts and Hospitality Arrangements 2023 - 24

Report Date: 22 September 2023

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1. Executive summary

Introduction

An audit of the gifts and hospitality arrangements has been undertaken as part of the approved internal audit plan for 2023/24.

Under Section 117 of the Local Government Act 1972 it is a criminal offence not to declare a pecuniary interest in any contract that may be entered into by the Combined Authority. In addition, Section 2 of the Bribery Act 2010 sets out the offences that relate to being bribed. It is for this reason and to avoid any allegations of corrupt intent, the Code of Conduct for Officers does not permit employees to accept any fee or reward (including gifts) for their employment other than their proper pay.

Greater detail of the organisation's arrangements for the acceptance and requirements to declare the receipt of gifts and hospitality is included in the Declaring Hospitality and Gifts, and the Travel and Expenses policies, accessible to all officers via the intranet site.

The reporting of gifts and hospitality is maintained by an electronic reporting system, available to all staff and monitored by the Monitoring Officer and the Head of Governance.

Objectives, potential risks, and scope of audit work

Our audit was conducted in conformance with the Public Sector Internal Audit Standards and considered the following:

Objectives:	A review of the application of the Declaring Hospitality and Gifts policy, ensuring associated procedures are followed, as set out in the Constitution.
Potential Risks:	<ul style="list-style-type: none">• Failure to comply with the Declaring Gifts and Hospitality policy and the Code of Conduct for officers.• Lack of openness and transparency, with accepted gifts and hospitality having the potential to be deemed to have influenced a business decision or lead to allegations of a conflict of interest• Opportunity for officers to accept gifts or hospitality for personal gain• Reputational and legal risk to the organisation
Scope:	The scope of the review will entail auditing the following areas: <ul style="list-style-type: none">• Review of policies, procedures, and guides for the declaring of hospitality and gifts.• Review of the arrangements in place for the recording of hospitality and gifts• Review of the monitoring systems in place for the tracking and management of declarations.• Review of procedures in place in response to non-conformity.
Limitations to the scope of our audit:	Our review has focussed on the policy and reporting of gifts and hospitality by officers only.

Overall conclusion

Our audit provides **Limited** assurance over the adequacy of the controls reviewed as part of the process to mitigate risks to an acceptable level.

No Assurance	Limited	Satisfactory	Substantial
Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.

Key issues identified

We rate each issue identified based on the following:

Red Action is imperative to ensure that the objectives for the area under review are met	Amber Action is required to avoid exposure to significant risks in achieving objectives	Green Action is advised to enhance risk control or operational efficiency
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We have identified two red and two amber issues where improvements could be made, arising from the following:

- WMCA's Declaring Gifts and Hospitality policy is out of date and requires review, including a need for consistency of the policy requirements within all associated documents.
- Monitoring of declarations needs to be consistent and robust in order to ensure that there is sufficient understanding across all directorates and teams regarding what is acceptable, or otherwise, in terms of accepting gifts and/or hospitality.
- Access to the system, data requirements and security settings requires improvement, including increased reporting to support the Monitoring Officer in their oversight of gifts and hospitality.
- Visibility of the Code of Conduct for officers requires attention, to ensure that officers are aware of their obligations regarding expected behaviours, including the acceptance and reporting of gifts and hospitality.

Detailed findings and recommendations are set out in section 2 of the report below.

Acknowledgement

Several employees gave their time and co-operation during this review. We would like to record our thanks to all the individuals concerned.

2. Findings and recommendations

Action is imperative to ensure that the objectives for the area under review are met
Red

1. Updating of Declaring Gifts and Hospitality Policy

Findings:

The Declaring Gifts and Hospitality policy is not dated but is presented with a previous WMCA logo. It is therefore assumed this policy is c5 years old and requires review to ensure it remains relevant to current expectations.

The acceptance and declaration of gifts and hospitality is also referenced in the Travel and Expenses policy, dated 2021. Whilst the two documents reflect the same policy requirements, the Travel and Expenses policy provides greater detail on the accepted type of gifts and a maximum financial value for hospitality. The requirement to declare gifts and hospitality is also included in the Code of Conduct for Officers.

Neither policy provides a record of who owns, or is responsible for the management of them, it has been identified however the Declaring Gifts and Hospitality policy was prepared by the previous Head of Governance, and the Travel and Expenses policy by the Group Payroll and Payments Manager.

The policies clearly state when gifts or hospitality should be declined, however there is no requirement for officers to declare when this decision has been taken.

The policy requires declarations to be made retrospectively, does not provide a key contact point for officers to raise questions or to query the acceptability of an item, and provides no details on the monitoring and management of declarations made. In addition, where the officer responsible for monitoring declarations may decide a gift or hospitality event should not have been accepted, there are no details on what actions should be considered as a result.

The policy does not consider what, if any, actions are to be taken in the event of failure to declare an item.

Implications:

- The policy has the potential to no longer reflect the organisational expectations of officers.
- Lack of clarity on who is accountable for the Declaring Gifts and Hospitality policy with the potential for misinterpretation of requirements.
- Inability for officers to determine the relevant policy for the purposes of declaring a gift or hospitality event.
- Inability to monitor all prospective and accepted gifts and hospitality to determine if suppliers are making multiple offers, if there are collective offers of significant value being made, and/or if items have the potential to be construed as an attempt to influence a business decision.
- In the absence of a policy or details of actions to be taken where a gift or hospitality should not have been accepted or hasn't been declared, there is no deterrent for officers to consider the implications of their decision making.
- Inability to defend a challenge of a third party's attempt to influence a business decision.

Action is imperative to ensure that the objectives for the area under review are met
Red

Recommendations:

1. WMCA's Declaring Gifts and Hospitality policy, should be reviewed and amended to reflect the current processes and procedures to be followed. This should include:
 - a. Confirmation of who is accountable for the policy
 - b. Policy to reflect all requirements as set out in the Code of Conduct for officers.
 - c. Consideration to be given to the reporting of, and monitoring of offers that have been declined.
 - d. Management arrangements where officers fail to declare a gift or hospitality, or where acceptance is considered inappropriate.
 - e. Arrangements for the approval of a gift or hospitality event in exceptional circumstances, including the acceptance for charitable purposes.
 - f. A review of the Travel and Expenses policy to determine if the declaring of gifts and hospitality should remain within the policy. If yes, it should be updated to ensure it is consistent with, and refer to the Declaring Gifts and Hospitality policy as the primary document.
 - g. The provision of a named key contact for all gift and hospitality matters.

2. All staff should be briefed on the revised Declaring Gifts and Hospitality policy, to ensure there is sufficient understanding across all directorates of the process, and what is acceptable, or otherwise, in terms of accepting gifts and/or hospitality. Seasonal reminders should be provided thereafter when it is anticipated gifts and hospitality are more likely to be offered.

Agreed Actions:

Recommendation accepted.

1. A full review of the policy will be undertaken and will consider all items highlighted above. The Monitoring Officer (MO) will take overall responsibility for the policy and compliance of it with the MO and two deputy MO's being the key contacts for all enquiries.
2. A communications plan will be developed with support from the Internal Communications team and will include a communication to all staff in the run up to Christmas 2023 about the acceptance of gifts and hospitality.

Responsible Officer:

Julia Cleary, Head of Governance and Corporate Support

Target Date:

November 2023

Action is imperative to ensure that the objectives for the area under review are met
Red

2. Monitoring of gifts and declarations

Findings:

Access to the system for the monitoring of declarations is restricted for security purposes but should be limited to key personnel responsible for governance matters only, to ensure confidentiality of the data contained. 12 individuals currently have access with the roles of some, no longer considered relevant for this purpose.

There is no notification provided to officers responsible for monitoring declarations and is reliant on periodic checks being undertaken to determine if any declarations have been made. There is no evidence of records being maintained to demonstrate what, if any actions have been taken when reviewing submissions including a record of whether submissions have been assessed, validated as an acceptable item, or to indicate where an item has been referred back to the person making a declaration for review. It is unclear who is responsible for, or actively monitors new declarations made.

32 declarations have been made in the past 12 months with the majority of these compliant with the Declaring Gifts and Hospitality policy. Eight of the declarations made include items that would have required further consideration by the Monitoring Officer in line with the policy, but only two of the eight were referred to the Monitoring Officer for consideration prior to acceptance.

Implications:

- Poor data security in place, with access to third party, sensitive and potentially confidential information, contrary to the Data Protection Act 2018.
- Ineffective monitoring in place, with the potential for officers to breach the gifts and hospitality policy and no corrective action being taken.
- Risk of officers being investigated for potential breaches of the Bribery Act 2010 and the Local Government Act 1972.
- Inadequate records being maintained for monitoring purposes, or for use in the event of an external challenge.
- Reputational risk to the organisation.

Recommendations:

1. Access to the administrative area of the system requires immediate review, limiting access to responsible officers only. Annual reviews should be undertaken thereafter.
2. The roles and responsibilities of those responsible for monitoring declarations needs to be defined.
3. A centralised records management system should be established including the ability to record all decisions and actions taken by those responsible for reviewing declarations made. This could include improvements to the system, enabling a record of decisions made to be registered alongside each declaration.

Action is imperative to ensure that the objectives for the area under review are met
Red

Agreed Actions

Recommendation agreed.

1. Access to the administrative area will be limited to officers as directed by the MO only.
2. This will be considered in conjunction with recommendation 2.3, ensuring both the individuals responsible for monitoring declarations and the records management system provide a consistent approach for the monitoring of all declarations made.

Responsible Officer:

Julia Cleary, Head of Governance and Corporate Support

Target Date:

December 2023

Action is required to avoid exposure to significant risks in achieving objectives
Amber

3. Recording of gifts and hospitality

Findings:

An electronic system is in place for the purposes of declaring an accepted gift or attendance at a hospitality event and is accessible to all staff. Visibility of the site used to declare an item is limited however, and access is only available via the policy document.

Whilst the policy and electronic system indicates a requirement for declaring accepted items only, the system enables the reporting of items that have been offered but not accepted.

It is not compulsory for officers to state who or where a gift or hospitality has been offered by when making a declaration.

Individuals are required to provide photographic evidence of gifts and hospitality, with the declaration not fully submitted until this has been provided. Photographic evidence may not be accessible in the event of, for example, hospitality and may restrict an officer's ability to declare all items.

On submission of a declaration, the system automatically takes the individual to the Gifts and Hospitality register, where details of declarations previously made by other officers is accessible.

There is a reliance on officers reporting gifts or hospitality received, with those responsible for monitoring declarations not having the ability to identify non-conformance where officers may have inadvertently, or purposefully, not followed due process.

Implications:

- Incomplete records maintained
- Access to third party, sensitive and potentially confidential information which is contrary to the Data Protection Act 2018.
- Ineffective governance arrangements in place with the inability to demonstrate robust management of gifts and hospitality.

Recommendations:

1. Improvements should be made to the system to remedy the gaps identified in testing, including:
 - a. Declarations to be required for all gift and hospitality offers received.
 - b. It should be compulsory for the supplier name to be provided.
 - c. Consideration to be given to the purpose and relevance of requiring photographic evidence for all declarations.
 - d. Details of entries to the gift and hospitality register should be restricted to personal records only.
 - e. the recommendation in 2.3 above regarding record management for the monitoring of declarations made
2. Consideration to be given to establishing a process for all senior officers and for roles where third party engagement is anticipated (e.g Procurement, Finance) to provide an annual declaration of gifts and hospitality, including a nil return if applicable.
3. Accessibility to the system for recording gifts and hospitality should be made more accessible and regard given to the Data Protection Act.

Agreed Actions

Recommendation accepted.

1. Changes to the system for declaring gifts and hospitality is currently in progress as part of a general IT refresh, as generated by ICT. A review of these changes will be made with further system improvements requested from ICT, if/where the gaps identified by this audit have not already been addressed.
2. This will be considered in consultation with HR.
3. DPA issues will be reviewed and addressed alongside 3.1 above.

Responsible Officer:

Julia Cleary, Head of Governance and Corporate Support

Target Date:

December 2023

**Action is required to avoid exposure to significant risks in achieving objectives
Amber**

4. Code of Conduct

Findings:

Details on the acceptance of gifts and hospitality is included in The Code of Conduct for Officers and contained within the Constitution. This document is currently under review and includes a statement on the acceptance of gifts and hospitality, with a further directive on the actions of WMCA in the event of an officer's failure to comply with the Code:

'Failure to follow this Code of Conduct may amount to misconduct or gross misconduct and may lead to disciplinary action being taken against the Officer'.

In the absence of details regarding the organisation’s response to non-compliance within the Declaring Gifts and Hospitality Policy, officers should have access to the Code of Conduct to ensure they are aware of their obligations as an officer of WMCA.

On review of the induction documentation provided to new starters when joining the WMCA, and more generally, documents available to officers via the intranet, neither the Code of Conduct or the Constitution are provided and readily accessible to officers. These documents can only be sourced independently through the WMCA external website.

Implications:

- Opportunity for officers to successfully appeal disciplinary actions due to the lack of access to the Code of Conduct and lack of detail contained within the Declaring Gifts and Hospitality policy.

Recommendations:

1. The Code of Conduct should be a key document available to all staff upon recruitment and accessible to all staff on the intranet.
2. All staff should be made aware of any changes made to the Code of Conduct on completion and approval of the current review.

Agreed Actions:

Recommendation agreed.

1. We will work with HR and OD & Engagement teams to ensure these documents are provided to new recruits as part of the induction process, and are accessible to all staff on the intranet site.
2. This will be addressed within the Communications Plan as per the agreed action within recommendation 1.2.

Responsible Officer:

Fiona Bebbington, Head of Business Improvement
 Julia Cleary, Head of Governance and Corporate Support

Target Date:

December 2023 and ongoing

Limitations inherent to the internal auditor's work

This report has been prepared in accordance with the terms of reference prepared for the audit. Internal audit does not accept or assume any liability of duty of care for any other purpose or to any other party. This report should not be disclosed to any third party, quoted, or referred to without prior consent. Internal audit has undertaken this review subject to the limitations outlined below.

Internal control

- Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgement in decision making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

Responsibilities of management and auditors

- It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance for the prevention and detection of irregularities and fraud. Internal audit work should not be a substitute for management's responsibilities for the design and operation of these systems.
- Internal audit endeavours to plan audit work so that it has a reasonable expectation of detecting significant control weakness and if detected, will carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected.
- Accordingly, these examinations by internal auditors should not be relied upon solely to disclose fraud or other irregularities which may exist.

Stage	Date
Draft issued	29 August 2023
Exit meeting	20 September 2023
Final issued	22 September 2023
ARAC meeting date	4 October 2023