improvement

good governance

capability

Promoting Better Practice Program

FOLLOW UP
REVIEW REPORT

CANTERBURY CITY COUNCIL

June 2011

NSW GOVERNMENT

Division of Local Government
Department of Premier and Cabinet

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EXECUTIVE SUMMARY

This review has focussed on a limited range of Council's activities. While the decision to conduct the review has been substantially driven by concerns raised by the NSW Ombudsman following his investigation into the way that Council responded to a complaint, it has been a useful exercise both to review Council's response to the concerns raised in the Ombudsman's report and the manner in which Council has undertaken its own review of its policies and practices since the earlier Promoting Better Practice review.

The earlier Promoting Better Practice review described Council as an organisation that undertakes its work with regard to the future, and which engages in self-assessment and continuous improvement.

While the current review has been a more limited review, the views expressed in the earlier review are equally applicable.

Council has demonstrated that it has an ongoing commitment to self-assessment and improvement and has demonstrated a significant and widespread response to the concerns raised by the Ombudsman.

Council has committed significant resources responding to the concerns raised by the Ombudsman. It has reviewed, amended and/or adopted policies in response and has appointed a complaints manager.

Perhaps most importantly, Council has undertaken a significant training program for staff.

Council operates on a strong foundation and, while this report makes a number of recommendations, they should be regarded as indicating refinement rather than pointing out significant weaknesses or oversights.

This review has indicated instances where Council should be commended for its practices, including staff induction processes, staff training, the incorporation of changes to its code of conduct; and the inclusion of its gifts and benefits and its fraud and corruption policies into its code of conduct.

This review does not detract from the concerns raised by the Ombudsman in the way that Council dealt with the complaint which is the subject of that report. This Council,

like all councils, must be aware that it needs to adopt policies and strategies that mitigate against risk and which facilitate ongoing and independent review of its practices. Importantly, councils must always be vigilant to ensure that their policies and strategies are being implemented and applied.

As this review has not highlighted significant issues and as the recommendations involve refinement of Council's existing processes, this report recommends that Council report its progress to the Division at the expiration of 6 months from the date of this report. It is not anticipated that ongoing monitoring will be required.

BACKGROUND

1   ABOUT THE REVIEW

Background

In 2007, the then Department of Local Government conducted a review under its Promoting Better Practice program of Canterbury City Council. The review examined and commented on a wide range of matters and the review report made a number of recommendations to improve aspects of Council's performance.

In June 2009 the NSW Ombudsman commenced an investigation into the Council. The investigation centred on concerns regarding Council's response to a complaint relating to the safety of a cliff face on privately owned land.

In his report dated 1 February 2010, the Deputy Ombudsman made a number of recommendations regarding the Council's processes and recommended that the Division consider including the Council in the PBP program in the ensuing 12 months and to focus that review on the following issues:

- customer service

- complaints handling

- handling of Code of Conduct complaints

- records management

- regulatory functions

- policies and procedures regarding access to information.

In June 2010, Council's General Manager wrote to the Division referring to the Ombudsman's report and requesting that the Division undertake a further PBP review following the implementation of the Council's improvement program, which was to commence in July 2010.

On 11 November 2010, the Division wrote to Council noting that it had completed the training recommended by the Ombudsman and indicating that the Division was commencing a review. The Division advised Council that the proposed focus of the review would be on the issues raised by the Deputy Ombudsman in his report.

As the review was intended to focus on particular issues, Council was asked to respond to specific parts of the PBP checklist, rather than completing the entire checklist. The Council was also asked to provide a table comparing the current answers to those provided for the earlier review.

The Council has provided this material.

The table has allowed this review to consider both ongoing development and implementation of policies, as well as those specifically developed in response to the concerns raised by the Ombudsman.

This is important, as it is necessary to determine whether the Council is operating under a paradigm of continuous improvement or whether it has simply been reactive to the demands of an adverse report.

Review objectives

Promoting Better Practice Reviews have a number of objectives. The objectives include generating momentum for a culture of continuous improvement and the promotion of good governance and ethical conduct. The reviews are designed to act as a "health check", giving confidence about what is being done well and helping to focus attention on key priorities.

Processes

The process involves a review team or a single reviewer from the Department of Premier and Cabinet's Division of Local Government (the Division) evaluating the effectiveness and efficiency of the council's operations and giving feedback.

There are essentially five steps in a typical review - preparing, assessing, checking, analysing and reporting. The completion of a comprehensive self assessment checklist by the council is a key element in all PBP reviews.

While the review team or reviewer would ordinarily take a risk based approach targeting their resources to areas identified as core matters to be examined as part of a PBP review and those matters considered to be important having regard to the circumstances of an individual council, this review has limited its examination to particular aspects of a council's operations.

Focussed reviews involve checking compliance with a limited range of statutory requirements, examining appropriate practices and ensuring that council has frameworks in place to monitor its performance. Reviews generally aim to identify better and noteworthy practices and areas requiring improvement or further development across the range of council activities. Additionally, this review has considered the way in which the Council has responded to the concerns raised by the Ombudsman.

The review team also examines local circumstances in order to understand the pressures on council and how the council has sought to manage that environment.

This Report

As this review focuses on particular aspects of Council's activities which have been highlighted and adversely commented on by the Ombudsman, the format of this report differs from that customarily adopted by the Division.

While it is usual for the Division's review reports to highlight and comment on those areas the review team identify as exceeding good practice, in need of improvement or further development or otherwise noteworthy; this report adopts a more detailed approach and provides a more detailed commentary and analysis.

The Focussed Review Process

Canterbury City Council was asked to complete relevant parts of a comprehensive checklist/questionnaire about key Council practices. The review was undertaken by Senior Investigations Officer Angus Broad, who examined these and a range of other source documents prior to visiting Council, in order to gain a preliminary understanding of the circumstances of Council and how the Council is responding.

The on-site component of the review took place in February 2011. It involved initial interviews with relevant staff, a review of Council policies and other documents.

As this review has not highlighted significant issues, the Division does not propose to monitor the implementation of the recommendations of this report. This responsibility will rest with the elected body and senior management of Council.

2   ABOUT THE COUNCIL AND THE AREA

Council is located approximately 12 km south-west of the Sydney CBD and comprises an area of about 34 square kilometres and contains sixteen suburbs. The local economy contributes approximately one-tenth of the Southern Sydney region's economic output. Notwithstanding this, there are many parks and an extensive range of sporting and recreational facilities available for the local community.

The Southern Sydney region is within close proximity, and easy accessibility, to the Sydney CBD, with the region offering a variety of natural assets including beaches, waterways and a significant amount of bushland.

The Council area recorded an estimated Gross Regional Product of $3 billion in 2008-09, largely driven by the key sectors of manufacturing and wholesale trade.

The Council is one of the most culturally, socially and economically diverse communities in Sydney with an estimated resident population of 143,111 at June 2009. Over the past five years, the population has increased at an average annual rate of 1.3%, marginally higher than the regional average. The population growth rate peaked in 2008, during which the population grew by 2.1%. More than 40% of the population speaks another language at home, with the principal languages being Arabic Cantonese/Mandarin, Greek, Vietnamese and Korean.

Canterbury is home to the largest Korean-born population in Australia and maintains a sister-city relationship with Eunpyong-gu, a municipal district within Seoul, South Korea. The relationship with Seoul is commemorated with a special friendship garden in Loft Gardens at Campsie.

The Council reflects this cultural diversity with events such as the Campsie Food Festival, the Haldon Street Festival and the Earlwood Village Festival.

The Council area is divided into 3 wards, the central, east and west wards, with each being represented by 3 councillors. The Mayor is popularly elected.

The Council has been undergoing a reduction of staff by natural attrition. There are currently 547 full-time equivalent staff.

THE EARLIER REVIEW – The Executive Summary

The 2007 report contained the following statement:

There is evidence that Canterbury Council is an organisation that undertakes its work with regard to the future, and engages in self-assessment and continuous improvement.

Council has been active in undertaking a Governance Health Check over the past two years and has already identified certain deficiencies that have been prioritised and listed for implementation in a timetable in its Governance Improvement Program. It has identified the need for an updated ten (10) year Strategic Plan linking into a four (4) year delivery plan and annual Operating Plan and financial statement, all linked to the three (3) year Management Plan and other key documentation. It is anticipated that these documents will be finalised and implemented for the 2007/08 financial year.

Council has been active in strategic planning, driving many initiatives put forward by both staff and councillors. They include the Industrial Lands Study and the Canterbury Town Centres Study, the development of Urban Design Guidelines and the Towards 2032 - Proposed Economic Development and Employment Strategy. The latter study, which has received Department of Planning funding from the Planning Reform Fund, will ensure that 'employment lands' are identified "to provide opportunities for businesses to locate close to major transport routes, infrastructure and labour services." It is also active on a regional level with active participation in the Sydney South Regional Organisation of Councils (SSROC), and has recently received joint funding to develop a Regional Economic Development Strategy with Sutherland Shire Council and Hurstville City Councils. Council is active in the preparation of a single LEP and is working with the Department of Planning to complete this by 2010.

The General Manager and Directors are long term senior employees within Canterbury City, are well qualified and have broad experience to mentor staff, drive change and improved administrative performance.

Over the past years Council has acted to develop budgetary strategies to ensure that it is in a current strong financial position and well placed to undertake effective social and economic reforms within the community. It has established high profile community development programs to meet the needs of a culturally diverse community. Council, in

association with the Department of Housing, has acted to increase the facilities in the more disadvantaged areas of the city though the construction of a new Indoor Sports Centre at Riverwood. It is utilising the services of a highly regarded community organisation to operate this community centre and is considering providing loan funds to assist in capital development to ensure an effective return on investment at an early date.

Its action to identify critical infrastructure that had reached the end of its economic life has led to a decision to impose an Infrastructure levy to enable the condition of these services to be restored and properly maintained in what represents a systematic approach to asset management. This model could be promoted within the State to assist other councils facing this challenge to adequately maintain key infrastructure works.

While Council has implemented risk plans based largely on OH&S considerations, it does not have a broader risk management strategy to guide these activities on an organisation wide basis. This review recommends Council form a risk management committee to draft such a strategy and then develop a council wide structured and integrated plan to cover all risks. This could include financial, operational, safety, security, environmental, technical and commercial activities.

The City Plan includes the Management Plan, Strategic Plan, Organisational Plan and Financial Plan. The Management Plan component prepared for the current year does not fully meet all legislative requirements. It would be beneficial for the Management Plan to be prepared as a separate component of the City Plan for issue to ratepayers and other stakeholders as a brief 'stand alone' document that summarises Council's future plans while containing all required information listed in the Act and Regulations. Council advised that action is well advanced in addressing any deficiencies in the City Plan through the preparation of a new format for the strategic plan and improved structuring of other documentation within the broad City Plan.

Council does have a challenge in managing its workforce budget, with pressures illustrated through a significant cost overrun in 2005/06. Overtime costs were identified as a large component of this. There appears to be a need to address the historical work structure and identify the current skill mix and staff profiles required to deliver

community services within the city. The workforce needs to be responsive to the changing internal and external demands upon its services, such as legislative, environmental and social factors. These pressures may require Council to consider funding the preparation of a comprehensive Workforce Strategy to identify the current staffing profiles and measure this against the future demands and required service delivery.

In summary, Council has strong, experienced leadership that is addressing the service delivery within the city, implementing social planning to the benefit of the culturally diverse community and is focussed on implementing clear strategic directions to meet the changing demands on the workplace.

3   SUMMARY OF KEY FINDINGS

Better practices/Other noteworthy practices		Areas for improvement	
GOVERNANCE			
1	The Council recognises the cultural diversity of its residents and has taken particular steps to respond by - ensuring that staff undertake cultural awareness training - providing forms and other material in a range of languages, and - providing in-house telephone interpreter services.	1	Periodically survey complainants to ascertain their level of satisfaction with Council's handling of the complaint.
2	Council has adopted sound complaint management practices which are supported by - sound policies - staff training - a strong reporting regime - apportionment of responsibility across the organisation, and - appointment of a member of staff with direct responsibility for complaint management.	2	Complete the processes necessary to adopt the customer service policy.
3	Council has adopted a modified Code of Conduct that - emphasises its values - includes greater definition	3	Adopt and implement the recommendations of its records management report.

Better practices/Other noteworthy practices		Areas for improvement	
	- procedural tables - examples - emphasises the need to keep records - other relevant policies.		
		4	Ensure compliance with the State Records Act.
		5	Adopt its draft risk management policy.
		6	Amend its gift register procedures.
PLANNING AND REGULATORY			
4	Council has adopted a vigorous yet pragmatic approach to compliance issues, emphasising the opportunity to facilitate compliance.		
5	Council supports its compliance function with an enforcement and prosecutions policy that provides extensive guidance to staff and to the community.		
WORKFORCE RELATIONS			
6	Council has adopted comprehensive and sound staff induction processes supported by - psychometric testing of prospective staff - initial face to face training - a comprehensive program that runs over		

Better practices/Other noteworthy practices		Areas for improvement	
	3 days • the provision of significant training resources, and • mayoral re-inforcement of the Council's values.		
7	Council undertakes an extensive and focussed training program for staff and councillors. This program is aligned to Council's long term strategic goals and will complement and form part of its Integrated Planning and Reporting framework.		

PART I. DELIVERING AND ACHIEVING

The issues dealt with in this report comprise:

- customer service

- complaints handling

- records management

- code of conduct

- access to information

- the manner in which the Council exercises its regulatory functions

- staff induction

- staff training

4 GOVERNANCE

4.1 OVERVIEW

"Corporate governance refers to all the means by which entities are directed and controlled." (Standards Australia, HB401-2004:12) Corporate governance is important because it enhances organisational performance; manages and minimises risks; increases the confidence of the community and the local government sector in the organisation; ensures that an organisation is meeting its legal and ethical obligations; and assists in the prevention and detection of dishonest or unethical behaviour.

4.1.1 Overview of Canterbury City Council's governance practices

This review has not sought to obtain a general overview of Council's practices and does not form any generalised view.

The Ombudsman's report refers to the Division's PBP report of September 2007 and notes that the scope of the review did not report on all of Council's functions and responsibilities and, relevantly, that the report did not comment on how the Council was meeting its basic service obligations.

It would be incorrect to interpret this comment on the earlier review as indicating an oversight. It has been and continues to be the practice of the Division to comment by exception, based on practices exceeding good practice, in need of improvement or which are otherwise noteworthy.

As has been indicated previously, this has been a focussed review of a limited range of governance issues.

4.1.2 Aspects Reviewed

Complaints management

An effective complaint handling system is an essential part of the provision of quality council services. It is one method of measuring customer satisfaction to provide a useful source of information and feedback for improving the council's service.

Council appears to have placed substantial focus on its complaint management function.

The 2009/2010 annual report records that 67 complaints were received in the period from 1 January to 30 June 2010, following the introduction of Council's new complaint reporting system. The report indicates that the great majority had been resolved.

Council's complaints management policy, adopted in November 2009 (as modified in December 2010), provides a clear statement of:

- what it defines as a complaint

- the way in which it will deal with complaints

- responsibility for dealing with complaints across the organisation

- the processes that will be undertaken

- its record keeping processes

- the manner in which complaints will be resolved

- timeframes for dealing with complaints

- the rights to external review

- dealing with difficult complainant conduct

- learning from complaints.

It is clear that this document is intended to provide a concise statement on how the Council will deal with complaints. This policy is publicly available on Council's website.

The policy fits with Council's internal complaint handling manual titled "Resolving Your Complaint".

Additionally, the Council has published a brochure titled "Resolving Your Complaint". The brochure defines what Council regards as a complaint and contains a flow chart setting out how Council will deal with complaints. The brochure incorporates a tear-off complaint form. The brochure is available in Greek, Korean, Arabic, Vietnamese and Chinese languages and is available at Council's libraries and its civic centre.

In January 2010 the Council introduced a new complaint management reporting system.

During May and June 2010 the Council provided comprehensive training to staff on complaint management and has incorporated generic responsibility for complaints handling across its organisation.

Responsibility for complaint handling falls under the direct supervision of Council's complaints manager, through customer service and compliance staff, and more widely across the organisation.

Staff position descriptions require that complaints from the public *are dealt with in an appropriate and timely manner in accordance with the Complaints Management Policy.*

However, responsibilities differ according to their position.

For example, the performance agreement for a labourer in Council's Parks and Property Branch requires that the staff member *respond to customer complaints in accordance with the Complaints Management Policy*; conversely, a team leader librarian in Council's Aged and Disability Services is responsible for *effective complaints handling and records management.*

Again, the performance targets for a labourer require that *all complaints acknowledged within 5 days or referred to the Manager*; and those for a team leader librarian includes responsibility for *investigating, referring or monitoring of complaints in accordance with the Complaints Management Policy and set timeframes*.

The reviewer was advised that the majority of complaints are received by mail. On receipt complaints are categorised and distributed to staff through the respective manager.

Complaints are currently categorised by nature and/or outcome. Council intends to move to an action based categorisation.

Council's complaint manager also receives a copy of each complaint. She has responsibility for maintaining the complaint register and ensuring that complaints are finalised. Where cross-divisional issues arise, the complaints manager co-ordinates Council's response.

A weekly and quarterly reporting regime exists with a further monthly report on overdue matters.

Responses are variously signed by the relevant director, manager or team leader depending on the complexity of the issue. A review of the reports provided by the Council suggests that it is responding to complaints in a timely manner.

While the Council has taken significant steps to ensure that it is responding to complaints, it is noted that Council does not survey complainants to ascertain their levels of satisfaction.

Recommendation 1

Council should periodically survey complainants to ascertain their level of satisfaction with Council's handling of the complaint.

Customer service

Council has a customer service staff of 16 undertaking counter/telephone services. There are 2 team leaders, with Council's complaint manager having overall responsibility for the group. Staff are generally long-term employees with the majority of

staff having over 8 years experience. Newly recruited staff work with rangers and other staff to obtain practical training. This is supplemented by monthly meetings, often accompanied by presentations from staff in other branches.

The Council operates its own call centre during office hours, with a minimum of 4 staff at any time. An external call service provides services after hours. The Council deals with an average of 600 calls on Mondays and an average of 500 calls on each of the other working days. Issues commonly involve missed services, illegal dumping, grass cutting, tree issues, childcare and community services issues.

Staff are rotated between telephone and counter services daily, if possible.

Council attempts to respond or resolve customer service issues on the spot or within a day, if possible. Calls and letters are classified as either requests for service, community assistance or complaints. If they are classified as complaints they are dealt with under Council's complaint management processes.

While the Council deals with a substantial number of telephone calls and other correspondence, there are only a relatively small number of complaints.

The Council has a number of language aids in order to assist callers, some from within its customer service branch. Additionally, there are a number of staff who provide telephone interpreter services. Staff providing these services receive an additional salary allowance.

The Council undertakes replicated reality testing in order to benchmark its service levels. This involves assessment of staff responses to telephone calls, emails and website to measure their ability to deal with and to answer scenarios put to them. The Council deals with questions that incorporate personal characteristics, such as age or cultural or educational background and Council's responses are analysed on a number of bases, including knowledge, communication skills and timeliness.

The Council is also a member of the National Customer Service Network and staff participate in training, conferences and seminars conducted by the group.

Interviews with staff suggest that the Council has a strong commitment to and emphasis on customer service.

At the time of the on-site component of the review, a customer service policy had been drafted and was to go to the executive team for adoption.

Recommendation 2

The Council needs to complete the processes necessary to adopt the customer service policy.

Records management

Council is required to make and keep full and accurate records of its activities in accordance with section 12 of the *State Records Act 1998*. Council must establish and maintain a records management program that conforms with best practice standards and codes.

The Ombudsman's report was critical of Council's record-keeping processes and his investigation demonstrated significant gaps in Council's record keeping.

In response to the report, the Council appointed Recordkeeping Innovations to conduct an audit of its records management processes. The review was completed in April 2010.

As a result of the review, the Council is currently looking to:

- review and refine records system documentation

- refine current processes by providing targets to document processing in the data set

- make better use of network drives to store data

- provide an IT strategy and oversighting

- provide checklists.

A report has been prepared setting out a program for implementation and, at the time of the on-site component of the review, was about to be considered by the executive team.

The Council appears to have taken a number of steps to respond to the concerns raised by the Ombudsman and is emphasising the need for staff to keep records.

As indicated elsewhere in this report, Council's adopted code of conduct emphasises the need for records to be kept. Additionally, as is indicated later in this report, staff have received specific training on record keeping.

Council's processes have also been supplemented by monthly reporting of complaints and through the appointment of a complaints manager to oversee complaints management.

Review of a limited number of files provided by the Council indicates that staff are recording telephone, on-site and other attendances. However, it was not possible for the reviewer to form an overall view whether Council staff had implemented Council's record keeping strategies.

Council concedes that it has issues regarding the registration of emails and may not be currently complying with the State Records Act. However, it indicates that it is reasonably close to doing so.

Recommendation 3

Council should adopt and implement the recommendations of its records management report.

Recommendation 4

Council needs to ensure that it undertakes the outstanding work to ensure compliance with the State Records Act.

<u>Risk Management</u>

Risk management is about the systematic identification, analysis, evaluation, control and monitoring of risks. While risk cannot be entirely eliminated, councils should aim to establish a risk aware culture and to continually work towards establishing structures, processes and controls that cost effectively reduce the council's risk profile and thereby protect the interests of council, the public and other key stakeholders. There should be a balance between the cost of managing risk and the benefits expected from engaging in an activity that has inherent risks.

Councils are exposed to a wide range of risks as a consequence of their diverse functions. The significance of specific risks will vary from council to council. A risk

management plan should provide a council with a framework to proactively identify, communicate and manage generic and specific risks. It is important that council consider the development and implementation of a risk management plan to minimise the likelihood of negative events which could have otherwise been foreseen and thereby managed or avoided. Such a plan should extend beyond those risks that are insurable. Council may wish to refer to AS/NZS 4360:2004 for more information on risk management.

The 2007 PBP report contained the following statements and recommendation in relation to the Council's risk management plans:

While Council has implemented risk plans based largely on OH&S considerations, it does not have a broader risk management strategy to guide these activities on an organisation wide basis. This review recommends Council form a risk management committee to draft such a strategy and then develop a council wide structured and integrated plan to cover all risks. This could include financial, operational, safety, security, environmental, technical and commercial activities.

Council should prioritise the preparation of an independent risk assessment across all functions of the organisation to identify levels of risk exposure that need to be addressed.

In 2008 Council won the Management Excellence Award from Local Government Managers Australia (NSW) for its risk management program.

Council has undertaken further work in response to the concerns raised by the Ombudsman. This includes refinement of the framework and preparation of a new policy.

The documents reflect the relevant Australian Standard and apportion responsibility for risk management across the whole of the organisation.

To enshrine this approach to risk management, the Council:

- prepared a risk register and circulated it to managers

- ran 30 workshops, with 200 members of staff attending particular workshops dealing with issues relevant to their areas of work

- has given priority to "high" risks and ensured that each is contained in the relevant manager's work plan, and

- scoped the evaluation of the adequacy and effectiveness of aspects of risk management into its internal audit charter.

Council's risk management committee comprises the Director Corporate Services, the Manager Governance and Administration, the Risk Management Co-ordinator, the managers of Council's works, planning and compliance branches, as well as its OH&S officer. The committee meets each 2 months.

Council's Audit Committee is charged with responsibility, inter-alia, "to assist Council to meet responsibilities in relation to … risk management".

At its inaugural meeting on 16 November 2010, the committee resolved to adopt a 3 year plan auditing 6 risks per annum.

Recommendation 5

Council has not adopted its draft risk management policy and should do so.

Legislative compliance

Council initially sought to match legislative changes to managers with responsibility for that legislation.

More recently, the Council worked with Fairfield City Council to develop a legislative compliance program. This program is widely accepted as a benchmark for local government in New South Wales.

The program is augmented by providing relevant staff with written copies of the NSW Government Gazette and circulars from the Division of Local Government. Staff are required to provide written acknowledgment of receipt and understanding of the particular documents or amending legislation.

Code of Conduct

A council's code of conduct sets out the standards of conduct expected of councillors and staff. Part 6.2 of the *Model Code of Conduct for Local Councils in NSW* requires that staff exercise a reasonable degree of care and diligence in carrying out their functions.

The Council has varied the Model Code of Conduct to emphasise the importance of Council's own values, emphasising that it regards itself as a responsible and customer focussed council serving the people of its area.

The code extends the obligations of staff in part 8, emphasising the obligation to disqualify themselves where conflicts of interests arise, to act within their delegations and to document their decisions.

The code is also strengthened by:

- the inclusion of further definitions, including "corrupt conduct", "maladministration" and "wrong conduct"

- the inclusion of procedural tables for interaction between council officials, protected disclosures, disclosure of gifts and for fraud control, and

- the inclusion of a number of examples and notes throughout the code.

The Council is to be commended on its approach, which reflects a number of suggestions contained in the *Guidelines for the Model Code of Conduct for Local Councils in NSW.*

In order to supplement the importance of the code, specific training on the code has been provided to staff.

Council has not been called upon to deal with any conduct complaints in the last few years. In the circumstances, it was determined not to pursue this aspect of the review.

Council indicated that it has a significant number of staff who live within the Council area and advised that it has dealt with one instance of a staff disclosure under section 459 of the Act.

The issue, which involved a development application made by a member of Council's planning staff, appears to have been dealt with in a satisfactory manner.

Gifts and Benefits

Council officials at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently, or in good faith or could be offered in an attempt to influence the council official.

If council officials accept a gift or benefit, this can give rise to feelings of obligation on their part towards the giver. It can also create perceptions that they are or will be influenced because of the gift or benefit.

It is therefore important that councils develop a policy and procedures to guide and assist council officials in dealing with gifts and benefits and to support the provisions in the Model Code of Conduct regulating gifts and benefits. Since 1 January 2005 councils are required to maintain a gift register to, as a minimum, record the receipt of gifts of more than nominal value.

Council's gift policy forms part of its code of conduct and provides a monetary threshold of $100 or more to determine whether a gift or benefit is a gift of value.

In turn, the gifts register procedure, which is also contained in the code, provides that councillors and staff must declare and record gifts and benefits, whether the gift or benefit is declined, accepted or returned.

The policy provides that recipients have the option to either retain such gifts or (if practical and appropriate) relinquish the gift to Council for periodic disposal. It does not differentiate between gifts of value and token gifts and does not reinforce the provisions of Council's Code of Conduct, which generally prohibits acceptance of any gift or benefit of more than token value.

A review of Council's gifts register indicates a relatively small number of declarations (49) since October 2005.

While staff indicated that gifts would go to the Mayor's Charity Fund, there was only 1 instance of this recorded in the register. Similarly, there was only 1 instance where the gift was returned.

The policy provides that the declaration form be completed and forwarded by a staff member to their Manager or Director. The policy only requires that prior managerial/directorial approval is obtained where an invitation to attend a function is received.

Council's gift register procedures do not reflect the provisions of part 7.3 of Council's Code of Conduct, nor do they require that members of staff receiving token gifts obtain prior managerial/directorial approval before retaining any gifts. Similarly, the gift register

procedures fail to enunciate what gifts can be retained, be distributed among other staff within Council, the Mayor's charity fund or be returned.

Recommendation 6

Council should amend its gift register procedures.

Access to information

On 1 July 2010 the *Government Information (Public Access) Act 2009* (GIPA) commenced. GIPA replaced and extended the access provisions formerly contained in section 12 of the Local Government Act. GIPA anticipates that a substantial body of information will be made available by councils with or without the need for an application, introducing the concept of "open access" through direct publication.

Council has undertaken substantial work in order to comply with the new requirements, including convening a working party and purchasing a search engine to allow online access to information regarding development applications.

In order to facilitate access under the new scheme, the Council developed an information page on its website, placed articles in the local press advising of the new access to information laws, prepared a detailed report to Council, provided training to councillors and staff and included articles for staff on its intranet page.

In June 2010 Council adopted a new access to information policy, replacing its earlier policy that had dealt with access under section 12 of the Local Government Act. The new policy recognises Council's responsibilities under GIPA, the *Privacy and Personal Information Protection Act 1998* and the *State Records Act 1998.* The policy recognises its relationship to Council's code of conduct. The policy also recognises the rights of members of the public and councillors to access records.

Council's website contains pages setting out the rights to both privacy and access to information. The page dealing with access to information provides links to Council's policy register, its publication guide, its disclosure log, its open access documents, its Government contracts register and its land register, which is linked to an interactive map.

Council's publication guide provides substantial background material on the Council, the councillors, its committees and the policies that it has adopted. The guide provides a useful tool to persons seeking access to information regarding the Council.

The webpage provides direct access to forms for both formal and open access applications and for review.

Council has endeavoured to provide access to all information through open access, except objections to development applications. It has taken the view that privacy issues mitigates against open access and facilitates access by application.

5   PLANNING AND OTHER REGULATORY FUNCTIONS

5.1 OVERVIEW

Council exercises regulatory functions in relation to a range of activities within its area. The efficiency and probity of Council's regulatory functions is important for effectively managing Council's responsibilities and for preserving public trust in Council and its staff. Regulation is important to achieve a wide range of social, economic and environmental goals.

5.1.1 Scope of review

The review considered a limited range of the compliance and enforcement aspects of Council's planning and regulatory practices.

5.1.2 Overview of regulatory practices

Compliance

Council's Compliance Branch is responsible for a wide range of compliance issues, including health, building, pollution and parking. The Branch deals with a significant number of issues relating to unauthorised work.

The Branch team is divided into 2 primary groups, compliance and regulatory control. The compliance group has responsibility for food surveillance, environmental health, building compliance, environmental audit and Council's immunisation program. The regulatory group has responsibility for animal control and other regulatory control functions.

There are 29 members of the group with various qualifications and/or competencies.

At the time of the review there were a number of vacancies within the unit, including the principal position of Manager Environmental Health & Regulatory Control, with the team leader of the compliance team acting in the position.

Additionally, the Council has adopted a number of policies to define the role of staff of particular branches and to assist them in undertaking their responsibilities.

In May 2009 Council implemented a Memorandum of Understanding relating to the allocation of work between the development assessment and the environmental health

and compliance teams intended to better handle unauthorised building and land use compliance issues. The MOU was amended in June 2010 in response to staff issues.

Other guidance is provided in the form of internal memoranda. For example, the Council has issued a memorandum setting out the procedures to be adopted when issuing penalty infringement notices and for documenting and recording information about its activities.

Discussions with staff indicated that the Council deals with a significant number of instances relating to unauthorised building work. In order to deal with this issue, the Council has adopted a clinical but pragmatic approach. Council seeks both to be consistent in its enforcement role and to provide practical advice to owners.

The reviewer was able to inspect a number of Council files. They demonstrated that while the Council took appropriate action by issuing notices and orders, it also provided practical advice to recipients and was flexible in the implementation of its timeframes - allowing recipients to lodge applications for development consent and construction certificates - in order to obtain compliance. Quite correctly, Council focussed on the overarching need to ensure compliance.

Council staff indicated that while the Council allowed flexibility in lodgement of applications to legitimise the work, it had a strict policy of issuing penalty infringement notices, other notices and orders, in instances of unlawful activity, as it was considered that this approach acts as a deterrent.

Council's compliance and recording processes are supported by a suite of forms used by staff.

In order to assist staff in the performance of their role, Council has adopted an enforcement and prosecutions policy. The current policy was adopted as a new policy on 16 April 2009. The policy was prepared in response to the 2007 PBP review. The policy is available on Council's website.

The policy specifies, inter-alia, criteria to be taken into account in determining whether to take enforcement action and, if so, the most appropriate type of action. The policy draws on Council's responsibilities under its charter, as contained in section 8 of the Act. The policy provides clear guidance regarding the use of discretion, the nature of the proceedings that may be utilised by the Council and reasons why a particular strategy (eg, civil versus criminal proceedings) may be adopted. The policy apportions

responsibility across the organisation, deals with options for enforcement, determination of appropriate action and procedural matters. The policy provides a table detailing examples of and commentary on matters that may be taken into consideration when determining appropriate actions. While not in the form of a flow chart, the examples follow a deliberative process.

The policy also contains a table setting out key options for particular unlawful acts.

Discussions with staff suggested that a cross-divisional approach is undertaken, particularly in instances of unlawful building activities with a view to determine whether the breach can be overcome through the lodgement of an appropriate application. This approach was confirmed by a limited review of Council's files.

Council's solicitors provided training to 42 members of staff on investigative procedures, enforcement and prosecution. The training was provided to small groups in 3 sessions during May 2010.

In order to assess its performance, reports indicating outcomes and issues are prepared on a weekly and quarterly basis.

Review of these reports suggests that Council deals with the majority of complaints within its adopted timeframes.

6 WORKFORCE RELATIONS

6.1 OVERVIEW

Councils have a number of legislative responsibilities in relation to their role as an employer. Council is required to conduct itself as a responsible employer.

6.1.1 Scope of review

A review was conducted of Council's workforce relations practices, in relation to:

- *Recruitment and selection*

- *Induction*

- *Training*

6.1.2 Overview of the organisation

Council currently employs 547 equivalent full-time staff. Nearly 40% of the staff are female.

Council's total salary budget for the last financial year was almost $41.6m, a reduction of about $101,000 on the previous year's costs.

6.1.3 Significant Observations

Staff selection and appointment

While Council was not asked to indicate whether the makeup of its workforce reflected the cultural make-up of its local community, discussions with Council's complaint manager indicated that staff possess the languages necessary to respond to the great majority of languages spoken by the local community.

While interviewees are asked to indicate whether they are multi-lingual, it was surprising that Council does not seek an earlier indication whether prospective employees have non-English language skills.

Induction

The Council has adopted a comprehensive induction program that commences at the interview stage.

As part of the interview process Council undertakes psychometric testing of applicants to ascertain if they are a reasonable fit with Council's goals and to ascertain areas for possible improvement through individual training programs. This testing provides the foundation of a Job Fit and Development report for each applicant. The report provides a simple assessment of the person's suitability by percentage point and summaries of the assessed competencies measured against the desirable competencies. Those areas showing a current lack of competency are then drawn on to target further training. The testing also provides an insight into the ongoing management of staff.

Upon joining Council, staff undergo a comprehensive induction. On the first day face-to-face training is provided in Council's HR branch where staff complete paperwork and undergo a comprehensive online step-by-step corporate induction that includes modules on:

- the City of Canterbury

- general policies and Acts

- bullying and occupational violence management

- code of conduct

- customer service standards, including telephone etiquette

- EEO & anti-discrimination

- other business employment

- records management.

Staff are required to answer questions on topics before they can move to the next topic.

A further 3 day induction program for new staff takes place at approximately 6-8 week intervals in small groups. The Mayor attends new staff morning teas hosted by the General Manager to welcome new staff and to reinforce the Council's values and principles.

The Council relies on some external facilitators to assist this process. Topics currently covered include:

- code of conduct

- cultural intelligence

- an overview of strategic planning

- waste reduction & procurement

- OH&S

- record keeping

- EEO

- customer service.

The process ends with evaluation and feedback being provided by staff.

Staff indicated that the induction process is undergoing continuous improvement, with further material being added from time to time. All existing staff were required to undertake the online induction program after it was introduced.

Overall, it was the reviewer's view that Council provides a very comprehensive induction process to new staff.

Staff training

The Local Government Award (clause 23) requires each council to develop a training plan and budget. The Award prescribes what is required to be taken into account when preparing the plan. The Award requires that the plan be designed in conjunction with the council's consultative committee.

Councils have other obligations in regard to staff training. Council staff in specialised roles are often required to maintain certain qualifications/complete refresher training in order to be allowed to carry out their work. Ensuring staff are appropriately trained is a key requirement in any OH&S system. Councils need to ensure staff have the required qualifications/training. Relying on line managers/supervisors to ensure that this occurs is a high-risk approach in the absence of clear business rules that communicate what is required.

The Council has linked its learning and development schedule to the core themes of its IP&R framework, comprising:

- An attractive city

- A stronger community

- A sustainable environment

- Improving the organisation, and

- Providing strategic leadership.

For example, leadership training links to all of the core strategies; conversely, customer care and professional training aligns with the 2nd, 3rd and 4th themes.

The schedule provides nearly 100 programs, both general and technical/job specific training, as well as apprenticeships and traineeships.

Council undertook a staff training program in response to the concerns raised in the Ombudsman's report, including records management, complaints management and code of conduct, which was conducted over 21 sessions and involved 542 staff. Additionally, 42 members of staff with enforcement responsibilities received training on investigative procedures, enforcement and prosecution provided by Council's solicitors.

Staff receive individual training programs from their managers annually.

Council undertook its last major staff survey in 2008 and intends to conduct the next survey in 2012. Council indicates that it has fully implemented the recommendations for improvement highlighted in the last survey by adopting a number of strategies, including its leadership series and through its study assistance program.

Cultural awareness training

The Council describes itself as the "City of Cultural Diversity", recognising the diverse cultural backgrounds of its community.

In 2008 the Council sought external assistance to develop a cultural awareness training program. While initially intended to target outdoor staff, the program has been extended to cover all staff and forms part of Council's corporate induction.

Council response

- The report refers to 574 full-time equivalent staff. Our records show that this figure should read as 547 full-time equivalent staff.

- The report states that the salary budget for the last financial year was almost $38m, about 10% over budget. Note 4 of our 2009/10 Financial Statements

(Expenses from Continuing Operations) showed our total employees costs to be $41,566m, a reduction of $101,000 on total employees costs compared to the 2008/09 financial year.

- As discussed between Mr McPherson from Council and Mr Broad from your office, the Statement "The Mayor attends on the first day of these sessions to reinforce the Council's values" should be amended to read "The Mayor attends new staff morning teas hosted by the General Manager to welcome new staff and reinforce Council's values and principles."

Reviewer comment

The above comments have been noted and relevant changes have been made to the report.

PART II. RISK RATING OF RECOMMENDATIONS

The recommendations made in this report have been assessed for a priority ranking based on the following risk analysis.

		CONSEQUENCE		
		Significant *Significant risk to the operations of council and if not addressed could cause public outrage, non-compliance with council's statutory responsibilities, severe disruption to council's operations and council's ability to meet its goals.*	**Moderate** *Moderate risk to the operations of council and if not addressed could cause adverse publicity, some disruption to council's operations and council's ability to meet its goals.*	**Minor** *Minimal risk to the operations of council, little disruption to council's operations and will not limit council's ability to meet its goals.*
LIKELIHOOD	**Almost certain**	High	High	Medium
	Possible	Medium	Medium	Low
	Rare	Medium	Low	Low

Priorities for recommendations: *(based on application of risk analysis)*	**Risk categories could include:**
• **High** • **Medium** • **Low**	• Reputation • Compliance with statutory requirements • Fraud/corruption • Financial • Legal liability • OH&S

PART III.   RECOMMENDATIONS

Recommendation	Risk rating
1 *Council should periodically survey complainants to ascertain their level of satisfaction with Council's handling of the complaint.*	*medium*
2 *The Council needs to complete the processes necessary to adopt the customer service policy.*	*medium*
3 *Council should adopt and implement the recommendations of its records management report.*	*medium*
4 *Council needs to ensure that it undertakes the outstanding work to ensure compliance with the State Records Act.*	*high*
5 *Council has not adopted its draft risk management policy and should do so.*	*medium*
6 *Council should amend its gift register procedures.*	*medium*