



1.09.01 - GIFTS AND BENEFITS POLICY

1. BACKGROUND

A gift or a benefit is something offered to or received by a Council Official or someone personally associated with them for their personal use and enjoyment. Council's Code of Conduct and Procedures sets a number of provisions relating to Gifts and Benefits. The Draft Gifts and Benefits Policy ('Draft Policy') provides further Council's requirements in relation to gifts and benefits. The Draft Policy makes clear Council's actions to provide accountability and transparency in relation to the disclosure of offers and acceptance of gifts and benefits by Council Officials.

2. PURPOSE

The purpose of the Draft Gifts and Benefits Policy is to:

- ensure that Council Officials are made aware of their obligations and responsibilities concerning the offer or acceptance of any gift or benefit, and
- provide guidance to Council Officials in identifying, assessing and managing offers of gifts or benefits to ensure they do not constitute or are perceived to constitute as serious wrongdoing as defined in the *Public Interest Disclosure Act 2022*.

The Policy is a local supplement to the provisions of the Act and Regulation.

3. POLICY OBJECTIVES

The objectives of this Policy are to:

- Ensure Council Officials are required to act with integrity at all times and meeting their obligations under the Council's Code of Conduct and Procedures.
- Provide Council Officials a clear framework on how to deal with gifts and benefits.
- Provide Council a means of declaration and recording of the management of offers of gifts and benefits.
- Ensures that Council complies with its necessary legislative reporting requirements.

4. LEGISLATION

The Policy relates to the:

- *Local Government Act 1993*
- Local Government (General) Regulation 2022
- *Public Interest Disclosure Act 2022*
- Council's Model Code of Conduct and Procedures



5. APPLICATION/SCOPE

This Policy applies to all Council Officials (Councillors, employees, contractors, volunteers, committee members and other delegates). The Policy applies to someone personally associated with a Council Official. The policy applies to the offer of gifts or benefits to individual Council Officials and to Council services. The Policy does not apply to political donations nor the private giving of gifts between staff.

6. POLICY

6.1. Roles and Responsibilities

The following table outlines the roles and responsibilities of personnel. Noting that the position titles may change, however, the responsibilities remain the same.

Roles	Responsibility
The Elected Council	The Elected Council have the role of adopting this local Policy and to adhere to the Policy that applies to them as their capacity as a Council Official.
General Manager	The General Manager is responsible for the overall control and implementation of the Policy.
Director of Corporate Services	The Director of Corporate Services is responsible for the administration of the Gifts and Benefits Register.
Council Officials	All personnel who must adhere to the provisions set out in this Policy.
Family or Personal persons	Family or personal relationship persons associated with Council Officials who are offered a gift or benefit must also adhere to this Policy.
General Public	The general public must act in accordance with this Policy and abide by any determination made as a result of this Policy.

6.2. What is a gift or benefit?

A gift or benefit is something offered to or received by a Council Official or someone personally (family or personal relationship) associated with them for their personal use and enjoyment. Council's Code of Conduct and Procedures outlines what is not a gift or benefit.



6.3. Gifts or Benefits Guidelines

6.3.1 General Obligations

Council Officials must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from them or from Council, through the provision of gifts or benefits of any kind to the Council Official or someone personally associated with them.

However, while it is Council's general preference that all offers of a gift or benefit should be politely refused by Council Officials, it is understood that this may not be practical in all situations. Consequently, gifts or benefits can be accepted by Council Officials or someone personally associated with them in limited circumstances only as provided by this Policy, the need to declare and/or in accordance with any other governing policy such as the Code of Conduct and Procedures.

A gift or benefit is deemed to have been accepted for the purposes of this Policy, where it is received by you or someone personal associated with you.

6.3.2 Prohibited Acceptance

Council Officials must not:

- a) seek or accept a bribe or other improper inducement.
- b) seek gifts or benefits of any kind.
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty accept any gift or benefit of more than token value.
- d) accept an offer of cash or a cash-like gift regardless of the amount
- e) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
- f) personally benefit from reward points programs when purchasing on behalf of the council.

Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

6.4. Declaration Obligations

When Council Officials receive a gift or benefit of any value (over \$10), they must disclose this promptly to their manager or the General Manager in writing. If any gift, reward or benefit is offered (whether it is accepted or not) must be disclosed using the Council's Gifts and Benefits Declaration Form.

Lucky door prizes must also be declared.

Any gift or benefit, which could not reasonably be refused or returned, is to be regarded as the property of the Council and must be surrendered to their Supervisor



who will and make a recommendation to the General Manager on disposal or use of same. The outcome will be included in the Gift and Benefit Register. Outcomes may include, but not limited to:

- a) Sharing of gift, for example a box of chocolates in the communal kitchen.
- b) Raffle of gift, for example a bottle of wine.
- c) Destruction of gift, for example a cash voucher.
- d) Acceptance of gift, for example below the nominal value and determined not to be a 'gift of influence' where there is an intention by the giver to receive favourable treatment.

6.5. Gifts and Benefits Register

Council will maintain a Gifts and Benefits Register of all gifts/benefits offered to all Council Officials or services whether or not the gift or benefit is accepted. The Register is available for public inspection. The Gifts and Benefits Register must be provided to the Audit Office at the time of auditing of the annual financial statements.

The responsibility to submit the Council's Gifts and Benefits Declaration Form lays solely with the individual Council Official.

6.5.1 Government Information (Public Access) Act 2009

In accordance with section 7 'authorised proactive release of government information' of the *Government Information (Public Access) Act 2009*, the Gifts and Benefits Register will be made publicly available on Council's website and updated on a six monthly basis. Certain details (for example, personal information of third parties) will be redacted where there is an overriding public interest against disclosure of that information.

6.6. Breaches to this Policy

Breaches of this Draft Policy may be breaches of Council's Code of Conduct and Procedures may result in disciplinary action. However, where a Council Official is reasonably suspected of serious wrongdoing (for example, corrupt conduct by allegedly soliciting gifts or benefits or accepting a bribe), that conduct will be reported to the Independent Commission Against Corruption and the Council official may be investigated.



7. DEFINITIONS

Key Terms	Meaning
Benefit	A non-tangible item of value that one person or organisation confers on another (for example, hospitality, preferential treatment, access to confidential information, free access to services which are normally charged at a fee, or access to a private spectator box at a sporting or entertainment event).
Bribe	A gift or benefit offered for the purpose of winning favours or to influence the decision or behaviour of a Council Official to benefit someone or something.
Council Official	Means Councillors, Council employees or contractors, administrators, Council Committee members, delegates of Council and volunteers.
Giver	The individual or organisation that offers a gift or benefit.
Gift	An item of value which one person or organisation presents to another (for example, cash, gift voucher, alcohol, products, or tickets to a sporting or entertainment event)
Hospitality	The provision of meals, refreshment or other forms of entertainment.
Serious wrongdoing	Same definition under the <i>Public Interest Disclosure Act 2022</i> .
Token Value	<p>Value nominated in Council's Code of Conduct and Procedures.</p> <p>Means the monetary limit of the value of gifts or benefits that may be accepted. This value is \$100 (or refer to the Council's Code of Conduct and Procedures) and therefore any non-cash-like gift or benefit valued at no more than \$100 is considered to be of token value in accordance with this Policy. However, the intent of the giver and the role of the Council official must also be considered when deciding whether to accept a token value gift or benefit</p>



Title: Gifts and Benefits Policy		
Department: Corporate Services		
Version	Date	Author
0.1 - 1.09.01	14 December 2023 Adopted Resolution 280/23	General Manager
<p>This policy may be amended or revoked at any time and must be reviewed at least three (3) years since its adoption (or latest amendment). The Director Corporate Services will be responsible for the review of this policy. Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guideline.</p>		
Review Date: Every three (3) years		
Amendments in the release		
Amendment History	Date	Detail
<p>Annexure Attached: Gifts and Benefits Declaration Form</p>		
<p>Noreen Vu General Manager</p>		



GIFTS AND BENEFITS DECLARATION FORM

Date Gift or Benefit Offered or Received

Received by or Offered to (Name, Position):

Gift Offered or Given by (Name, Position and Organisation):

Description of Gift or Benefit:

TOKEN GIFTS

Estimated Value of Gift: \$ _____

GIFTS OF VALUE

Estimated Value of Gift: \$ _____

Gift Accepted (✓)

- Yes
- No (politely refused as acceptance may compromise Council's position)

Circumstances surrounding offer:

Action taken/required:

Outcome:

Signature of Recipient

Signature of Supervisor

Signature of General Manager

Print Name

Print Name

Print Name

Position

Date

Date

Date

Registered on the Gifts and Benefits Register Yes No