



# **Gifts and Benefits Policy**



## POLICY OBJECTIVE

To provide clear and objective requirements for all Council officials when dealing with gifts and benefits.

## LEGISLATIVE PROVISIONS

*Local Government Act 1993*  
Model Code of Conduct for Local Councils in NSW

## POLICY STATEMENT

### 1. Introduction

Council has a Code of Conduct to clearly articulate the expectations placed upon all Council Officials. Council Officials include staff, Councillors and Council delegates.

Council recognises there are very real risks associated with Council Officials being offered and accepting gifts and benefits during the course of their work.

There is potential for a gift to inappropriately influence a Council Officials' behaviour resulting in them acting partially toward the gift giver rather than impartially in accordance with the Council's Code of Conduct. This is not the only concern as the perception of compromise can be equally damaging to Council and its ability to demonstrate commitment to its values.

### 2. Gifts and Benefits

A gift or benefit is something offered to or received by a Council Official or someone personally associated with them for their personal use and enjoyment.

A reference to a gift or benefit is defined under Part 6 Personal Benefit of Council's Code of Conduct.

Council's preferred position is that gifts and benefits not be offered to Council Officials.

Council Officials must never demand or request any gift or benefit in connection with their Council duties or status with Council. This includes gifts or benefits for other people.

Council Officials must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from them or from Council.

Council Officials must take all reasonable steps to ensure that their immediate family members do not receive gifts or benefits giving rise to the appearance of an attempt to secure favourable treatment. Immediate family members include parents, spouses, partners, children and siblings.

A gift or benefit is deemed to have been accepted where it is received by a Council Official or someone personally associated with them.

### 3. Offers of Gifts and Benefits

Council Officials must never accept any gift or benefit:

- If the person offering it, or a reasonable person, would expect the Official to be influenced in the way they do their job or carry out their duties
- If they would feel a sense of obligation or debt to the person offering the gift or benefit
- If they or Council are likely to be compromised.

Council Officials **must not**:

- Seek or accept a bribe or other improper inducement
- Seek gifts or benefits of any kind
- Accept any gift or benefit that may create a sense of obligation on the part of the Council Official or may be perceived to be intended or likely to influence the Council Official in carrying out their public duty
- Accept any gift or benefit of non-token value
- Accept an offer of cash or cash-like gift regardless of the amount
- Participate in competitions for prizes where eligibility is based on Council being in or entering into a customer-supplier relationship with the competition organiser
- Personally benefit from reward points programs when purchasing on behalf of Council.

Where a Council Official receives a gift or benefit of any value other than one referred to in clause 6.2 of Council's Code of Conduct, it must be disclosed to the Official's manager or the General Manager in writing within 1 working day. The details of the gift or benefit must be recorded in Council's gift register.

Where a gift or benefit of **non-token value** is received that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Governance Business Unit, unless the nature of the gift or benefit makes this impractical.

#### 4. **Accepting Gifts and Benefits**

##### 4.1 **Gifts and benefits of token value**

Council Officials may accept gifts and benefits of **token value** if:

- The gifts or benefits are one or more gifts or benefits received from a person or organisation over a 12-month period, when aggregated, do not exceed a value of \$100
- Acceptance does not create a sense of obligation
- The gift or benefit has not been solicited
- Acceptance complies with this Policy and Council's Code of Conduct
- Specific consideration has been given to the provisions contained within Section 5 of this Policy.

Council Officials must take the following into account when determining whether to accept a gift or benefit of **token value**:

- What an impartial observer might think
- The frequency of occurrence
- The degree of openness surrounding the occasion or gift.

Gifts and benefits of **token value** include but are not limited to:

- Invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- Gifts of alcohol that do not exceed a value of \$100
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- Prizes or awards that do not exceed \$100 in value.

Council Officials who are in doubt about whether or not a gift is of **token value** should discuss it with:

- Their supervisor or Council's Business Manager Governance if they are a member of staff.
- The Mayor or General Manager if they are a Councillor.

## 4.2 Gifts and benefits of non-token value

Gifts or benefits that exceed \$100 in value are of **non-token value** and must not be accepted.

Gifts and benefits of **non-token value** include, but are not limited to:

- Tickets to major sporting events with a ticket value that exceeds \$100
- Corporate hospitality at a corporate facility at major sporting events
- Free or discounted products or services for personal use
- The use of holiday homes
- Artworks
- Free or discounted travel.

A gift or benefit of **non-token value**:

- Must only be accepted when it cannot reasonably be refused or returned and all reasonable steps have been taken in the first instance to decline or return the gift or benefit
- Must not be accepted if when added to the value of earlier gifts received from the same person or organisation during the same 12-month period would exceed \$100 in value
- Which cannot be returned or refused must be surrendered to Council, unless the nature of the gift, benefit or hospitality makes this impractical
- Must be disclosed immediately to the relevant supervisor/manager, the Mayor or General Manager
- Where immediate disclosure is not possible, disclosure must be undertaken at the first available opportunity but not more than 1 day after receipt of the gift.

For the purposes of this Policy, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

### Disclosure of Gifts and Benefits

Disclosure is required as follows:

- Inform the appropriate supervisor/manager or the General Manager or the Mayor
- Complete Council's Declaration of Gifts form.
- In situations where a gift of **token** or **non-token value** has been declined, a disclosure is required if it could be perceived as influencing a Council Official.

Council's Governance Unit will ensure all gifts and benefits that are declared are recorded in Council's Gift Register.

### "Cash-like gifts"

Cash-like gifts include but are not limited to:

- Gift vouchers/cards
- Credit cards
- Debit cards with credit on them
- Prepayments such as phone/internet credit
- Lottery tickets
- Memberships or entitlements to discounts.

## 5. Additional Provisions

### *Staff with Regulatory and Decision Making Functions*

Some Council Officials have roles in regulatory and approval functions such as inspection and certification and therefore make decisions which affect members of the community. These Council Officials have significant discretion to impact on individuals or commercial entities.

These individuals or commercial entities may seek to influence the outcome of the regulatory or approval process by offering gifts or benefits to a Council Official.

For Council Officials with these functions, all gifts, benefits and hospitality, regardless of their value:

- Offered to and received by the staff must be treated as if they were of a non-token nature
- May only be received when they cannot reasonably be refused or returned. All reasonable steps must be taken in the first instance to decline or return the gift or benefit
- Which cannot be returned or refused must be surrendered to Council, unless the nature of the gift or benefit makes this impractical
- Must be disclosed immediately to the relevant supervisor/manager, the Business Manager Governance or the General Manager. Where immediate disclosure is not possible, disclosure must be undertaken at the first available opportunity but not more than 1 day after receipt of the gift.

## 6. Bribery and the Law

Corruptly receiving a gift or benefit is an offence under both the common law and NSW legislation. The offence extends to the offering or seeking of a gift or benefit. The common law offence of bribery is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity.

If a Council Official is offered a bribe or an inappropriate gift they must report this matter immediately to:

- The Mayor, if it is a Councillor or the General Manager
- The Business Manager Governance if it is a member of Council staff or a delegate.

Any such report will be immediately referred to the NSW Police and The Independent Commission Against Corruption.

Version	Council Meeting Date	Resolution	Adoption Date	Effective From
1	15 November 2005	05/613		
2	15 July 2008	08/410	15 July 2008	15 July 2008
3	20 October 2009	09/622	20 October 2009	20 October 2009
4	20 October 2011	11/459	20 December 2011	21 December 2011
5	18 June 2013	13/249	18 June 2013	18 June 2013
6	18 July 2017	2017/310	18 July 2017	18 August 2017
7	1 December 2020	2020/515	1 December 2020	22 February 2021
8	19 July 2022	2022/240	19 July 2022	16 August 2022
<b>All policies can be reviewed or revoked by resolution of Council at anytime.</b>				

**DIRECTORATE:** Corporate & Community Services

**BUSINESS UNIT:** Governance