



Policy Owner: **Manager Governance and Committee Services**

Direction: **5. Our Civic Leadership**

1. STATEMENT OF INTENT

1.1 This Policy is intended to provide guidance and assistance to Councillors, staff and other council officials in dealing with gifts or benefits in order to ensure that there is a consistent and practical approach to managing gifts and benefits. As a general principle, council officials should not accept any gifts or benefits that give rise to a real or perceived influence in relation to their decision-making role.

1.2 Gifts or benefits may be offered for a variety of reasons including:

- a) Gifts of influence
- b) Gifts of gratitude
- c) Token gifts
- d) Ceremonial gifts

2. ELIGIBILITY

2.1 This Policy applies to all permanent, temporary and casual employees, volunteers, work experience persons and Councillors of Council.¹

3. DEFINITIONS

3.1 Bribe - a gift or benefit is considered a bribe if it is offered or sought in order to influence a public official's behaviour.

3.2 Council Officials - includes Councillors, members of staff of Council, administrators, citizen members of Council's Reference/Working Groups and other special interest groups, conduct reviewers and delegates of Council.

3.3 Gifts and Benefits - in accordance with the *Model Code of Conduct for Local Councils in NSW (August 2020)* there are two types of gifts and benefits, these

¹ ICAC Publication - Bribery, corrupt commissions and rewards, June 2006

include:

- a) Token Gifts and Benefits - to an estimated maximum value of \$100.
- b) Gifts and Benefits of value - gifts and benefits that have more than a

Gifts and benefits do not include a political donation or contributions to an election fund that is subject to the provisions of the relevant funding legislation.

- 3.4 Gift/Benefit Register - a public register which details the gifts and benefits received by Council officials, and how they were managed.

4. PROVISIONS

4.1 Inappropriate offers (bribes)

- 4.1.1 Council officials must avoid situations giving rise to the appearance that a person or body, through the provision of gifts or benefits (including hospitality) of any kind, is attempting to secure favourable treatment from you or from the Council.
- 4.1.2 Council officials must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for themselves or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the appropriate exercise of their representative functions.
- 4.1.3 Council officials must not take advantage (or seek to take advantage) of their status or position with or of functions they perform for Council in order to obtain a private benefit for themselves or for any other person or body.
- 4.1.4 Council officials must never accept any offer of a gift or benefit which they consider is intended to influence them to do something (or not do something) or show favour (or not show favour) or disfavour to any person in relation to the person's official duties.
- 4.1.5 If a Council official is offered a bribe, the incident must be immediately reported to the General Manager and, where appropriate, their direct manager. The Independent Commission Against Corruption (ICAC) and, where relevant, the police, must be informed immediately by the General Manager.
- 4.1.6 Soliciting personal gifts or benefits is strictly prohibited. Any Council official who becomes aware that another Council official is soliciting gifts or benefits, must report the matter to the General Manager. The General Manager will take appropriate steps to investigate the matter and will notify the ICAC.

4.2 Gifts of appreciation/gratitude

4.2.1 Token gifts (nominal value):

- a) A gift may be offered to an individual in appreciation of a specific task or for exemplary performance of duties. Gifts offered for speaking at official functions would be considered gifts of gratitude. These are generally of a token nature.
- b) Council's *Code of Conduct - Councillors and Staff* defines token gifts² such as:
 - i. Free or subsidised meals, beverages or refreshment
 - The discussion of official business;
 - Council work-related events such as training, education sessions, workshops;
 - Conferences;
 - Council functions or events; or
 - Social functions organised by groups, such as Council committees and community organisations.
 - ii. Invitations to and attendance at local social, cultural or sporting events;
 - iii. Gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address);
 - iv. Ties, scarves, coasters, tie pins, diaries, chocolates or flowers;
- c) Token gifts of gratitude may be accepted by Council officials. There is no requirement to declare token gifts of gratitude.

4.2.2 Non-token gifts (gifts and benefits of value)

- a) Gifts of gratitude where the value exceeds \$100 must not be accepted.
- b) Council's *Code of Conduct - Councillors and Staff* defines gifts and benefits that have more than a token value as including, but not being limited to:
 - Tickets to major sporting events (such as state or

² A gift to a maximum value of \$100 may be used as a guide.

international cricket matches or matches in other national sporting codes (including the NRL, AFT, FFA, NBL));

- Corporate hospitality as a corporate facility at major sporting events (this excludes events at North Sydney Oval);
- Discounted products for personal use;
- Frequent use of facilities such as gyms, use of holiday homes; and
- Free or discounted travel.

1 A gift to a maximum value of \$100 may be used as a guide.

4.2.3 Gifts and benefits of value cannot be accepted by Council officials and should be declined. Gifts of money must never be accepted. Gifts and benefits of value must be declared using the Gift/Benefit Declaration Form even when they are refused.

4.3 Cumulative gifts:

4.3.1 A series of small gifts, which individually fall under the nominal value of \$100, may have an aggregate which exceeds the nominal value in any twelve-month period. Such gifts, while seemingly modest, may pose a risk or apparent compromise, in the same vein as accepting one gift or benefit which alone exceeds the nominal value.

4.3.2 Where a Council official receives a series of gifts as described in Section 4.2.1, in any twelve months' period, the gifts must be declared. Where the gift giving continues, the Council official must decline the gifts. Such gifts must be declared and the matter raised with the staff member's Director and/or the Director Corporate Services and in the case of Councillors or other Council officials, with the General Manager.

4.4 Hospitality and work-related functions:

4.4.1 Hospitality often forms part of a work-related function, such as morning/afternoon tea at a meeting; a modest lunch offered to a working group; a networking function, etc. Such hospitality is acceptable. A useful guide of what would be acceptable hospitality is the type of hospitality which the Council would provide to its business associates. Refer to Section 4.2.1.

- 4.4.2 Hospitality that extends beyond that described in Section 4.4.1 needs to be given careful consideration before accepting. The following should be considered:
- a) Is it likely that, by accepting the hospitality, the Council official may be perceived to show favouritism to the host in some way in the future (e.g. procurement process, development application)?
 - b) Is there a business rationale for attending the function/accepting the hospitality?
 - c) Is the value of the hospitality at a reasonable level?³
 - d) Will there be a number of other clients/representatives from other councils attending the function?
 - e) Is the hospitality being offered by a service provider where the tender is due for renewal in the next twelve months or during the tender process?

Council has set a limit of \$100 for token gifts and this should be used as a guide for hospitality.

4.5 Hospitality should only be accepted where

- 4.5.1 There is a strong business reason for attending the function/accepting the hospitality.
- 4.5.2 The estimated value of the hospitality is at a reasonable level, i.e. not at a “silver service” restaurant or similar.
- 4.5.3 Other clients will be attending the function, e.g. an end of year event hosted by a contractor for a range of clients.
- 4.5.4 Where there is a business reason for accepting hospitality that is considered more than a token value, then Council should pay the expenses rather than have the event organisers cover the expense.

4.6 Prizes

- 4.6.1 A Council official may receive a prize through the completion of a survey or a purchase incentive scheme. As the Council official is working in their official capacity in these circumstances, the receipt of such gifts or prizes also falls within this Policy.

4.6.2 Prizes that are won as a result of a purchase incentive scheme or the completion of a survey will become the property of Council.

4.6.3 The gift/prize must be declared using the *Gifts and Benefits Declaration Form* and the item handed to the Director Corporate Services to become the property of Council.

4.7 Gifts that cannot be returned

4.7.1 There may be circumstances where a gift that falls outside of what is acceptable under this Policy, is accepted. Such circumstances may include:

- a) A wrapped gift that the recipient does not open in the presence of the gift giver;
- b) Gifts accepted for cultural, protocol or other reasons, where returning it would be inappropriate;
- c) Anonymous gifts received through the mail or left without a return address;
- d) A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.

Under the circumstances, the gift must be declared using the *Gifts and Benefits Declaration Form* and the gift handed to the Director Corporate Services to become the property of Council.

4.8 Disposal of gifts

When a gift, etc is received which is above the recommended token limit, the recipient must complete a *Gifts and Benefits Declaration Form* and present the item to the Director Corporate Services who will determine the appropriate means of disposing of the gift. Some options will include:

- a) Securing the item as an asset for the Council (e.g. a computer printer could be utilised for business purposes within the Council);
- b) Donating the gift to an appropriate charity or community group; and
- c) Donating the item for the benefit of all staff or a group of staff.

4.9 Giving of gifts

In circumstances where it is appropriate for Council officials to give a gift or benefit (for example when receiving overseas visitors), these gifts and benefits should be of token value in accordance with this Policy.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 All Council officials are responsible for complying with this Policy.
- 5.2 All Managers/Directors are responsible for providing advice to staff on the provisions of this Policy.
- 5.3 Council's General Manager and Director Corporate Services are responsible for advising Council officials on the provisions of this Policy.
- 5.4 Council's Director Corporate Services is responsible for maintaining the Gifts and Benefits Register.
- 5.5 Council's Manager Customer Services and Records is responsible for facilitating public access to the Gifts and Benefits Register.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Charitable Collections Policy
- Code of Conduct - Contractors, their staff and Business Associates
- Code of Conduct - Councillors and Staff
- Code of Conduct - Volunteers and Community Representatives
- Internal Reporting - Public Interest Disclosures Policy
- Mayor and Councillors Benefits and Facilities Policy

The Policy should be read in conjunction with the following documents/legislation:

- *Local Government Act 1993*
- Bribery, Corrupt Commissions and Rewards June 2006 (ICAC)
- *Crimes Act 1900*
- Managing Gifts and Benefits in the Public Sector Toolkit (ICAC)

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- Model Code of Conduct for Local Councils in NSW (August 2020)

| Version | Date Approved | Approved by | Resolution No. | Review Date |
|----------------|----------------------|--------------------|-----------------------|--------------------|
| 1 | 16 February 2009 | Council | 61 | 2012/13 |
| 2 | 23 November 2009 | Council | 918 | 2012/13 |
| 3 | 18 February 2013 | Council | 61 | 2016/17 |
| 4 | 25 June 2018 | Council | 214 | 2020/21 |
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