



# Council Policy Manual

## GIFTS AND BENEFITS

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## Purpose

The purpose of this policy is to provide guidance to Councillors and staff regarding the issue of receiving or being offered gifts or benefits and to ensure that in dealing with any gifts, benefits or the offer of gifts or benefits, Councillors and staff are not influenced in the performance of their duties and that there is no perception of undue influence due to these offers.

## Statement

A councillor or staff member must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence a Councillor or staff member to:

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise deviate from the proper exercise of his or her official duties.

## Token gifts and benefits

**Council has a nil value for any gift or benefit. This requires all 'token gifts and benefits' to be declared and determined by either the General Manager or Mayor.**

Generally speaking, token gifts and benefits may include:

- 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)
- free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business
- free meals, of a modest nature, and/or beverages provided to council officials who formally represent their council at work related events such as training, education sessions, workshops
- refreshments, of a modest nature, provided at conferences where a Councillor or staff member is a speaker
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages



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- invitations to appropriate out of hours parties or social functions organised by groups, such as, council committees and community organisations.

## **Gifts of value**

A Councillor or Staff member must never receive any gift or benefit including 'Token Gifts', unless first declaring it, by registering it through the General Manager, or Mayor.

A Councillor or Staff member must never accept an offer of money, regardless of the amount. Gifts deemed to have a value higher than the previously suggested 'token gift' must never be received.

These gifts may include;

- tickets to major sporting events,
- corporate hospitality at a corporate facility at a sporting venue,
- discounted products for personal use,
- the frequent use of facilities such as gyms,
- use of holiday homes,
- free or discounted travel and
- free training excursions.

## **Procedure for recording the receipt of a 'token gift' or benefit or the offer of a gift or benefit**

If a Councillor or staff member receives the offer or a gift or benefit gift, the Councillor or staff member shall:

- disclose this promptly to their supervisor, the Mayor or the General Manager and complete a Gifts Register return.

If a Councillor or staff member receives a gift or benefit in circumstances where it cannot reasonably be refused or returned, the Councillor or staff member shall:

- accept the gift and disclose this promptly to the appropriate person, ie a supervisor, the Mayor or the General Manager.
- complete a Gifts Register return which shall be signed by the General Manager and recorded in the Gifts Register. The General Manager will then arrange for the gift to be returned or make a determination where the gift is a 'token gift'.

Situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour must be avoided.

All reasonable steps must also be taken to ensure that immediate family members of



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Councillors or staff do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

Councillors and other designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less. (*required to be included in the disclosure of interests returns – section 449*).

## **Improper and undue influence**

A Councillor or staff member must not take advantage of his or her position to improperly influence other council officials in the performance of their public or professional duties to secure a private benefit for themselves or for somebody else.

A Councillor or staff member must not take advantage (or seek to take advantage) of his or her status or position with, or functions performed for, council in order to obtain unauthorised or unfair benefit for themselves or for any other person or body.

It should be noted that a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

## **Examples**

### ***Example 1 – Gifts, benefits and hospitality***

*A regular supplier offers the Council's purchasing officer a free weekend for two at a beach resort.*

*The officer's impartiality when dealing with a supplier would be compromised if he or she accepts the offer.*

*Planning and building staff are regularly offered alcohol, food, tickets to major sporting events and free lunches by developers, builders, project managers and suppliers. Staff sometimes accept these gifts without declaring them and argue that they are in return for providing good service and are an accepted way of "doing business". Again, this will be perceived to have compromised the impartiality of the staff concerned.*

*In this situation staff should, in the first instance, refuse any gift offered. If staff feel obliged to accept gifts, then they should declare the gift and have it recorded in council's gift register. Council may then determine how these gifts are dealt with and could, for example, donate specific items to charity.*

### ***Example 2 – Acceptance of gifts and bribery***



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*A local council employee is involved in a series of inspections on a building site. During the inspections, the developer offers the employee numerous gifts including alcohol and a present for the employee's new born child. The employee accepts the gifts as he feels they are offered as unconditional and genuine tokens of appreciation for his work, especially as the inspection involved a number of lengthy tasks.*

*The employee believes he is not compromised by the gifts and eventually makes a recommendation that is not in the developer's interests. After the recommendation is made, the developer complains to the council about the employee accepting gifts.*

*Although the employee accepts the gifts in good faith, he nevertheless places himself in a vulnerable position. While each of the gifts is of modest value, when viewed in total, the value of the gifts seems quite substantial. The developer is able to manipulate the situation to allege the employee has accepted bribes.*

*The employee's acceptance of the gifts could also be used as circumstantial evidence of bribery.*

*The employee could not rely on the fact that he made a decision he would have made, regardless of the gifts, as a defence to bribery.*

### **Example 3 – Acceptance of gifts and influence**

*A council's Information Technology Manager attends two meetings with potential suppliers. During the first meeting the suppliers serve tea, coffee and biscuits. The second meeting is held at a restaurant and the suppliers pay for the manager's three course meal.*

*Both of the meetings arguably provide the manager's council with a benefit, namely the opportunity to discuss the supplier's products. Despite this, a contrast can be drawn between the meetings.*

*In the first, the refreshments are only modest in nature and consequently do not create the impression that an attempt is being made to gain the manager's favour. In the second, the nature of the lunch creates the impression that an attempt is being made to compromise the manager's impartiality. The damage of this perception far outweighs any benefit associated with the manager's absence.*

### **Who is responsible for implementing this Policy?**

General Manager

### **Document owner**

General Manager

### **Legislation and references**

Local Government Act 1993 & Model Code of Conduct.