

GIFTS AND BENEFITS POLICY

Responsible Department:	Corporate and Commercial Services
Responsible Section:	Governance and Risk
Responsible Officer:	Manager Governance and Risk

Objective

To develop and maintain policy on the receipt of gifts and benefits consistent with the *Local Government Act 1993* (NSW) and *Local Government Regulation 2021* (NSW), as guided by the ICAC in maintaining accountability of the individual and the integrity of Council.

This policy should be read in conjunction with Council's Code of Conduct.

Policy

1. Gifts and Benefits

- 1.1. Council officials and employees must:
 - (a) Never solicit gifts and benefits;
 - (b) Never accept gifts of money;
 - (c) Always consider the value and purpose of a gift or benefit in light of this policy and the Code of Conduct before making any decisions about accepting it."
- 1.2. If an employee becomes aware of a staff member soliciting gifts or benefits or accepting money, they must report it immediately to the General Manager under the Code of Conduct, or as a Public Interest disclosure.
- 1.3. If Council Official is offered a gift of money (including offers of money to cover expenses for trips to view samples of work etc) it should be refused and the incident reported immediately to the officer's supervisor, the General Manager or, in the case of a Councillor, to the Mayor.
- 1.4. In deciding whether to accept a gift, consideration needs to be given to the provisions of this policy and the Code of Conduct, as well as:
 - (a) The motive of the gift giver;
 - (b) The actual or perceived effect of the gift;
 - (c) The cost of the gift; and
 - (d) Other situational factors.

2. The motive of the gift giver

- 2.1. Gifts can be given with varying motives and purposes. The purpose for which a gift is given, to a certain extent, affects how it should be managed.
- 2.2. There are a number of potential types of gift or benefit based on motive:
 - (a) Gift of influence – a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

- (e) Gift of gratitude – a gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.
- (f) Token gift – a gift that is offered in business situations to an agency or public official representative of an agency. Such gifts are often small office or business accessories (eg. Pens, calendars, folders) that contain the company logo. They are usually products that are mass produced and not given as a personal gift.
- (g) Ceremonial gift – an official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual.

2.3. Gifts of influence should never be accepted.

2.4. Gifts of gratitude, token gifts and ceremonial gifts are acceptable under certain circumstances set out in Council's Code of Conduct. The below offers further guidance in addition to the Code of Conduct.

The actual or perceived effect of the gift

2.5. If the likely perception of the gift-giving is that the gift could influence the recipient in the performance of their official function, the gift should not be accepted. This is so regardless of actual intent.

The Cost of the Gift

2.6. Gifts valued below the threshold in the Code of Conduct are for nominal gifts may be accepted. If a gift exceeds that value, it should be rejected, returned, or surrendered to Council in accordance with the Code of Conduct.

2.7. Nominal gifts that are gestures of appreciation or ceremonial gifts may be accepted, but must be recorded in Council's Gifts and Benefits Register.

3. Other situational factors

3.1. Certain elements of Council need to exercise greater care when considering accepting gifts or benefits, such as those involved in:

- (a) Regulatory functions;
- (b) Procurement and disposal; and
- (c) Approvals and orders.

4. Gifts and Benefits Register

4.1. The Gift and Benefits Register acts as a record of any gifts or benefits received by Council or its staff, and is available to the public. It includes details of the nature and value of the gift, who gave it, and what decision was made about the use or disposal of the gift. Therefore, if any issues arise later, there is a record proving that Council has been open and transparent in dealing with the gift.

4.2. Registering the acceptance of a gift on the Gift Register does not necessarily mean that it is ethical or appropriate to accept the gift in the first place. Anyone who is concerned about the offer of any gift/benefit should not be accepting the gift at all.

References

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2021* (NSW).
- *Code of Conduct*

History

Minute Number	Meeting Date	Description of Change
602/2001	December 18, 2001	Adopted
292/2007	May 15, 2007	Adopted
316/2009	April 21, 2009	Reviewed
26/2012	February 21, 2012	Reviewed
210/2013	April 2, 2013	Reviewed
336/2022	October 18, 2022	Endorsed for Public Exhibition
362/2022	November 22, 2022	Adopted