



## GIFTS AND BENEFITS POLICY

### PURPOSE

The purpose of this policy is to:

- establish guidelines and procedures for the handling and receipt of gifts and benefits by Councillors and Council staff.
- ensure the process for the acceptance of gifts and benefits is transparent to preserve the community's confidence in Council as an impartial body

### SCOPE

This policy applies to situations where a Councillor or Council staff member is offered a gift or benefit as defined by this policy.

Gifts and Benefits can influence decision making and may lead to decisions that are not in the best interests of Council or are favourable to the person offering the gift or benefit where a merit based approach to decision making may lead to a different outcome. Whether or not a gift or benefit influences decision making, the perception of the possibility of it impacting on decision making can be damaging. The test should be what a reasonable impartial observer would think. Things which could influence the perception of a gift or benefit would include:

- The scale, lavishness or value;
- The frequency of occurrence; and
- The degree of openness surrounding the occasion or gift.

Dealing with gifts and benefits is not straight forward and will require the exercise of judgement even within the context of this policy.

The development of this policy is designed to assist Councillors and staff to do the right thing in relation to gifts and benefits. The existence and communication of this policy also removes the opportunity for those who may do the wrong thing to claim that they were unaware of what they should have done.

Guidelines for receiving Gifts and Benefits are contained in Part 5 of the Code of Conduct. This policy provides further guidelines regarding the handling and receipt of gifts and benefits.

The Independent Commission Against Corruption (ICAC) emphasises that the decision of whether or not to accept a gift or benefit should not be on a council official. Rather, it is the responsibility of the organisation to set limits on the gifts and benefits that council officials receive.

This policy was developed in accordance with the ICAC's 'Managing Gifts and Benefits in the Public Sector Toolkit' released in June 2006, which states that councils should have clearly articulated guidelines to manage the risks associated with the



offer and receipt of gifts and benefits, and establish standards that will enable Councillors and Council staff to identify when to accept or decline a gift or benefit.

The policy also reflects the position of the Division of Local Government to extend prohibition on acceptance of cash, to include other forms of "cash" inducements such as gift vouchers and shares. This policy also incorporates the minimum standards developed by the NSW Audit Office following a recent Performance audit of a number of Government agencies Gifts and Benefits Policies.

This policy applies to Councillors, members of staff of Council, delegates of the Council, members of Council committees, Council volunteers and contractors.

## DEFINITIONS

<b>Benefit</b>	A non-tangible item of value (e.g. a new job or promotion, preferential treatment or access to confidential information, etc.) that one person or organisation confers on another.
<b>Bribe</b>	A gift or benefit offered to or solicited by a public official to influence that person to act in a particular way.
<b>Cash Like Gifts</b>	Includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
<b>Council official</b>	Members and staff of Council, delegates of the Council, members of Council committees, Council volunteers and contractors.
<b>Gift</b>	<p>A gift is an item of value (e.g. gift voucher, tickets, entertainment, hospitality, travel, commodity, property etc.) which one person or organisation presents to another.</p> <p>For the purposes of this policy, a gift or benefit does not include:</p> <ul style="list-style-type: none"><li>• A benefit or transfer of property of a token monetary value of \$30.00 or less;</li><li>• Any multiple gifts from the same donor in any one financial year where the gifts have a total monetary value of \$30.00 or less;</li><li>• Any discounted product or service if the discount is reasonable and generally available or capable of being negotiated by others not connected with the Council;</li><li>• Any meal or other hospitality received at a function related to the role of the Councillor or employee, a function where the Councillor or employee is officially representing the</li></ul>



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- organisation, or where the appropriate fee for the function has been paid;
  - Any prize received in a raffle, competition or other game of chance or skill
  - Any gift, benefit or hospitality received in relation to membership of any professional organisation, club or other association or body;
  - Any gift, benefit or hospitality received by a relative or associate of a Councillor or Council employee if the Councillor or Council employee did not know about it.

**Gifts and Benefits of value** Gifts and benefits "of value" are those that have more than a token value (\$30.00) and include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting Codes including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, or any hospitality that extends beyond courtesy, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

**Gift register** An official agency record that details gifts and benefits received by staff and how they were managed.

**Token gifts** Generally speaking, token gifts and benefits have a value of less than \$30.00 and include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
  - The discussion of official business:
  - Council work related events such as training, education sessions, workshops;
  - Conferences;
  - Council functions or events;
  - Social functions organized by groups, such as Council committees and community organisations.
- b) Invitations to and attendance at local social, cultural or sporting events.
- c) 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).



- d) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

**Token Value** Shall mean a value of less than \$30.00

## POLICY STATEMENT

### PART 1 POLICY GUIDELINES

#### 1. SEEKING ADVICE

1.1 If a Councillor is uncertain whether they are receiving a gift or benefit, they should discuss the matter with the General Manager.

1.2 If a member of Council staff is uncertain whether they are receiving a gift or benefit, they should discuss the matter with the General Manager, or the Mayor in the case of the General Manager.

#### 2. RESTRICTIONS ON RECEIVING GIFTS AND BENEFITS

2.1 In general, you must not accept gifts and benefits of value that have a token value of greater than \$30.00.

This is to protect Councillors and members of staff from being compromised and to prevent a public perception of bias.

2.2 You must not:

- Seek or accept a bribe or other improper inducement.
- By virtue of your position, acquire a personal profit or advantage which has a monetary value, other than one of a token value.
- Seeks gifts or benefits of any kind.
- 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 an offer of money or cash like gift of any kind, regardless of the amount.

2.3 If you are offered a bribe, you must immediately report the incident to the General Manager. The Independent Commission Against Corruption and, where relevant, the police, must be informed immediately by the General Manager.

2.4 You 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 you to:

- Act in particular way (including making a particular decision);



- Fail to act in a particular circumstance;
  - Otherwise deviate from the proper exercise of your official duties.
- 2.5 You must not accept multiple gifts with a value of less than \$30.00, but the total value of which exceeds \$30.00, from the same person or organisation within a financial year.
- 2.6 You must avoid 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 from you or the Council.
- 2.7 You must take all reasonable steps to ensure that your immediate family members 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.
- 2.8 For the purposes of this section, 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.
- 2.9 You must never accept any offer of money or cash like gift, regardless of the amount.
- 2.10 If you are involved in corporate purchasing, contracts and tendering you must not accept any form of gift, benefit or hospitality from a current or potential purchaser, contractor or tenderer regardless of value. Any such offer must be declared in writing and recorded in the Gifts and Benefits Register.
- 2.11 If the gift, benefit or hospitality is offered during the period of evaluation of contracts, expressions of interest, tenders or other proposals, the declaration must be included in the records of the evaluation process.
- 2.12 All gifts or benefits offered to Councillors or staff who exercise discretionary authority in relation to the gift offerer/giver should be declined. Any such offer must be declared in writing and recorded in the Gifts and Benefits Register.

### 3. ACCEPTING GIFTS AND BENEFITS

- 3.1 You may accept gifts or benefits that have a token monetary value of less than \$30.00 that do not create a sense of obligation or create a perception of a conflict of interest on your part.



- 3.2 If a Council official's refusal to accept a gift or benefit is ignored, or for other reasons a gift cannot reasonably be refused or returned, the gift must be given to the General Manager to become property of the Council. The gift must be included in Council's Gift register.
- 3.3 Any bonus gift for Council purchases becomes Council property and must not be retained for personal benefit.
- 3.4 Once a gift or benefit becomes the property of the Council, its use or disposal is the responsibility of the Council, not the individual. Disposal can take many forms, including public auctions or charities. Council's Gift register should include details of gift disposal.

## 4. DECLARING GIFTS AND BENEFITS

- 4.1 If you receive a gift of value (i.e. worth more than \$30.00) in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to the General Manager.
- 4.2 Wherever possible, staff shall be required to notify the General Manager prior to receiving any gift, benefit or hospitality.
- 4.3 Wherever possible, the General Manager shall notify the Mayor prior to receiving any gift, benefit or hospitality.
- 4.4 The General Manager assesses any gifts disclosed and determines any action that may be necessary.

## 5. IMPROPER INFLUENCE

- 5.1 You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- 5.2 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

## 6. RECORDKEEPING

- 6.1 All offers (including those declined) of gifts and benefits of value (i.e. above a monetary value of \$30.00) should be recorded in writing on a Gifts and Benefits Declaration form – refer to [Appendix 1](#). A gifts and benefits declaration form must be completed as soon as possible after the gift or benefit is offered.
- 6.2 A copy of the declaration form should be kept by the Councillor or member of staff and the original form given to the General Manager,



who should also sign and date it, and then register the document in Councils Record Management System and keep the original in the Gifts and Benefits Register.

- 6.3 Disclosures of gifts and benefits of value (with a monetary value of more than \$30.00) will be kept in a public Gifts and Benefits Register, which is available for public inspection. Each entry must include:
- The date of the offer;
  - The nature/description of the gift;
  - The value of the gift;
  - Whether gift accepted;
  - Why gift accepted;
  - The name/position of the recipient;
  - The name of the person who offered the gift and their agency or organisation name;
  - The relationship of the gift giver and the recipient;
  - The reason for the gift;
  - Disclosure of any potential conflict of interest;
  - The decision that was taken in relation to the gift and the reasons for that decision.
- 6.4 The completion of a Gifts and Benefits Declaration Form by Council officials, who receive or are offered gifts or benefits of a token value, is optional. Where a Declaration form is completed it must be processed in accordance with sections 6.2 and 6.3 above.

## 7. COMMUNICATIONS STRATEGY

In order to be effective this policy needs to be effectively communicated to Councillors and staff as well as to stakeholders such as contractors, suppliers and applicants seeking Council approval for development or other activities.

Staff are to be advised of the policy at induction and then regular refresher training is to be provided.

Reminder emails to be sent to all staff around Christmas, Easter and other holidays.

Councils Statement of Business Ethics outlines the gifts and benefits policy and is to be communicated to all current major regular contractors, suppliers and relevant third parties.

A copy of this policy is available on Council's web site.



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## 8. STATEMENT OF BUSINESS ETHICS

Council's Statement of Business Ethics incorporates details of Council's policy on gifts and benefits and notes that all offers of more than token value will be recorded even if declined.

Council's Statement of Business Ethics is to be distributed as part of any procurement documentation for any public tenders.

The Statement of Business Ethics is to be communicated to current major regular suppliers and contractors and to be included in any terms/conditions package provided to future potential suppliers and contractors.

A copy of the Statement of Ethics can be found on Council's website

(Include link)

## 9. SANCTIONS

Consequences for breach of this policy may include reprimand, warning, suspension, dismissal, and even referral to ICAC and the possibility of prosecution.

Council is committed to being free of fraud and corruption. All reported cases of fraud and corruption will be independently investigated and where evidence exists to support the allegation, disciplinary action will be taken.

In cases which may involve criminal or corrupt conduct, management has an obligation to report these to police and or Independent Commission Against Corruption.

Employees are encouraged to report suspected cases of fraud or corruption to the General Manager or the Group Manager, Corporate Governance.

## 10. DECISION MAKING FLOW CHART

The flowchart at Appendix 2 provides an easy to follow chart to assist Councillors and Council staff to determine the appropriate response when offered a gift or benefit.



## RELATED RESOURCES

Hunter's Hill Council Code of Conduct (CORP.S-Pol.03)

Hunter's Hill Council Conflict of Interests Policy (CORP.S-Pol.15)

Hunter's Hill Council Statement of Business Ethics (CORP.S-Pol.07)

## POLICY OWNER

The policy authority is the General Manager.

## AUTHORISATION AND REVIEW

### Next Review Date

This policy should be reviewed in 2016 or with changes to any relevant legislation or Council policy.

### Version Control Table

Date	Version	Res. No.	Key Changes	Author
26.06.2006	1.0	263/06	Policy initially adopted	Barry Smith
14.09.2009	1.1	285/09	Policy updated for definition of key terms; clearer guidelines on what is appropriate to accept inclusion of Declaration form, and Register	Barry Smith
11.11.2013	1.2	367/13	Policy update	Barry Smith



## APPENDIX 1

### Gifts and Benefits Policy Declaration Form

This form should be used to record gifts and benefits received, or offers of gifts and benefits, of a monetary value of over \$30.00.

#### **EVENT DETAILS**

Date: .....

Location: .....

Nature of the Gift/Benefit:

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.....

#### **PERSON(S) INVOLVED**

Name of Councillor / Staff member / Council Delegate to whom the gift was offered:

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#### **DETAILS OF THE PERSON(S) WHO OFFERED THE GIFT:**

Name .....

Company / Organisation Name

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Contact Details .....

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Relationship between Gift Giver/Recipient

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Disclosure of Conflict of Interest

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**NATURE OF THE GIFT**

Describe the nature of the gift or benefit offered:

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Estimated Value of Gift/Benefit

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Reason for the Gift

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**DECISION MADE**

Was the gift accepted? (Please circle)                      Yes    No

Record the decision that was taken in relation to the gift and the reason for the decision:

*(Decisions may include donating the gift to the General Manager to become property of the Council, returning the gift or keeping the gift).*

Decision

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Reason for Decision

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