



Policy Document

GIFTS, BENEFITS AND BRIBES POLICY

CCS050

BACKGROUND

Council recognises that gifts and benefits of nominal value, as prescribed in this policy, are frequently offered and accepted. This policy recognises that on occasions, gifts and benefits of more than a nominal value may be specifically offered to influence the attitudes or decisions of Councillors, Employees and Volunteers in favour of the giver. In this case, the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

SCOPE

This policy aims to provide guidelines for Councillors, Employees and Volunteers in dealing with offers of gifts, benefits and bribes.

OBJECTIVE

The policy is designed to provide guidance to Councillors, Employees and Volunteers on the issue of gifts, benefits and bribery.

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

DEFINITIONS

Gifts

For the purpose of this policy, “gifts” made to individuals in the course of a business relationship are usually given for commercial purposes, such as to create a feeling of obligation in the receiver. Some examples of gifts include:

- a) money;
- b) alcohol;
- c) clothes;
- d) products;
- e) caps and hats;
- f) tickets.

Benefits

For the purpose of this policy, the term “benefit” is used to refer to something which is believed to be of value to the receiver, such as a service. Some examples include:

- a) tickets to sporting events or other entertainment;
- b) use of facilities such as a gymnasium or holiday home;
- c) free or discounted travel, Frequent Flyer points;
- d) free meals, etc.

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Bribery

“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.

Nominal Value

Gifts and benefits of nominal value usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties. Under the policy the nominal value is set at \$50 for Council Employees or Volunteers and \$100 for Councillors.

Examples of gifts and benefits that could be regarded as having a nominal value include cheap marketing trinkets or corporate mementos that are not targeted specifically at the business of Council, such as:

- a) inexpensive pens and pencils;
- b) notepads and calendars;
- c) key rings and confectionary;
- d) modest hospitality, such as tea or coffee, but not three course meals or alcohol; and
- e) caps and hats.

RESPONSIBILITIES

Corruptly receiving a gift, benefit or bribe is an offence under both the common law and legislation.

Crimes Act 1900

Section 249B of the *Crimes Act 1900* creates an offence if any employee corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person any benefit as an inducement to do, or not do, something in relation to their official duties. This also pertains to receiving benefits for showing favour or disfavour to any person in relation to their official duties.

Local Government Act 1993

Section 440 of the Act requires that councils adopt a code of conduct. The code states that serious corrupt conduct, of which bribery is an example, may lead to the dismissal or temporary suspension from office of a Councillor or of a staff member.

Local Government (General) Regulation 1999 - Sections 40E and 40F

This regulation requires a person making a return under Section 449(3) of the *Local Government Act 1993* to disclose any gifts received (exceeding \$500.00) or contribution towards travel (exceeding \$250.00) received since the previous return.

GENERAL RULES

Council’s general advice to staff is that gifts of any kind (including those less than nominal value) should be declined wherever possible. You must not:

- a) seek or accept a bribe;
- b) seek gifts or benefits of any kind;
- c) accept any gift of more than nominal value;
- d) accept an offer of money, regardless of the amount;
- e) accept any gift that may create a sense of obligation on your part or may be; or perceived to be intended or likely to influence you in carrying out your public duty.

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The recipient is responsible for completing a Gift and Benefits form for inclusion in Council's Gifts and Benefits Register. The General Manager's Executive Assistant is responsible for maintaining and updating the Gifts and Benefits Register.

Gifts and Benefits – Councillors

A reference to a gift or benefit for Councillors under this policy does not include the below as per *Part 6 of the Code of Conduct for Councillors*:

- a) items with a value of \$10 or less;
- b) a political donation for the purposes of the *Electoral Funding Act 2018*;
- c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them;
- d) a benefit or facility provided by the council to an employee or councillor;
- e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
- f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i) the discussion of official business
 - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations.

REPORTING OF OFFERING OF GIFTS OR BENEFITS

If a Councillor, Employee or Volunteer is offered a gift or benefit that is more than of nominal value, the following procedure must be followed:

- a) politely decline to accept the gift or benefit;
- b) make notes immediately after the approach has been made setting out as clearly as possible what occurred, including:
 - 1) date, time and place of the incident;
 - 2) to whom the offer was made;
 - 3) who offered the possible bribe;
 - 4) the response to the offer;
 - 5) any other relevant details of the offer, and;
 - 6) sign and date the notes. The informant should keep a copy of the notes for their own records.
- c) inform either the Mayor (in the case of Councillors) or the relevant manager (in the case of employees and volunteers). Ultimately, the General Manager must be informed of the offer.

REPORTING OF OFFERING OF BRIBES

Any Councillor, employee or volunteer who believes that they have been offered a bribe must:

- a) refuse the bribe;
- b) make notes immediately after the approach has been made setting out as clearly as possible what occurred, including:
 - 1) date, time and place of the incident

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- 2) to whom the offer was made;
 - 3) who offered the possible bribe;
 - 4) the response to the offer;
 - 5) any other relevant details of the offer, and;
 - 6) sign and date the notes. The informant should keep a copy of the notes for their own records.
- c) inform either the Mayor (in the case of Councillors) or the relevant manager (in the case of employees and volunteers). If the manager is involved in the offer, contact an appropriate senior officer or the General Manager. The General Manager must be informed of the offer.

The General Manager must inform the:

- a) The Independent Commission Against Corruption (ICAC);
- b) NSW Police.

Once the matter has been reported and it is apparent that an extended investigation is not likely, the following will occur:

- a) Council will make the person who offered the bribe aware that bribery is a serious offence and that such behaviour will not be tolerated by Council;
- b) if any further contact with the person who offered the bribe is required, a supervisor or colleague will accompany the employee who was subject of the offer;
- c) if any threats are made towards the employee concerned, every effort will be made to ensure their safety, including informing the NSW Police and the ICAC.

REPORTING OF TAKING OF BRIBES

Council recognises that it may not always be successful in its efforts to prevent bribery. Council encourages employees and members of the public to report incidences where they believe that bribery has occurred.

INTERNAL REPORTING

In general, the process of reporting bribery is the same as for other corrupt or fraudulent conduct, as per Councils Internal Reporting Policy.

EXTERNAL COMPLAINT

Complaints regarding bribery received from the general public should be referred to the General Manager. Should the complaint concern the General Manager, then it should be referred to the Mayor.

NON-COMPLIANCE WITH THIS POLICY

Failure to comply with the terms of this policy may result in one or more of the following:

- a) disciplinary action;
- b) dismissal;
- c) criminal prosecution;
- d) investigation by ICAC.

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REVIEW

This policy shall be reviewed annually to ensure it meets the requirements of legislation and the needs of Council.

RELATED LEGISLATION AND DOCUMENTS

Code of Conduct for Councillors
Code of Conduct for employees
Gifts and Benefits Register and form
Internal Reporting Policy
Crimes Act 1900
Local Government Act 1993

Greg Tory
GENERAL MANAGER

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