


## COUNCIL POLICY

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| <b>Gifts, Benefits &amp; Hospitality</b> | <b>Adopted By Council:</b>               | 18/10/11                |  |
|  | <b>Date/s Revised:</b>                   | --/--/--                |   |
|  | <b>Next Review Date:</b>                 | 03/15*                  |   |
|  | *(may be subject to legislative changes) |                         |   |
|  | <b>Document No:</b>                      | CP009                   |   |
|  | <b>Directorate:</b>                      | Executive               |   |
|  | <b>Responsible Officer:</b>              | Chief Executive Officer |   |

### CONTEXT

The purpose of this policy is to address the offer or acceptance of gifts or hospitality by Councillors and Council officers by ensuring that

- a high standard of probity and accountability is maintained;
- legislative requirements and community expectations are met;
- Council activities are not influenced, or perceived to be influenced, by the receipt of gifts, benefits or hospitality; and
- gifts that are accepted are properly disclosed and managed.

Receipt of a gift can result in a conflict of interest, or a perceived conflict of interest, in a matter. The Local Government Act 1989 sets out legislative requirements in relation to conflict of interest and each Councillor and Council officer is responsible to familiarise themselves with the provisions contained in the Act. Nothing in this policy shall be construed to override the provisions of the Local Government Act 1989. In the event of any apparent inconsistency, the provisions of the Act will prevail.

### DEFINITIONS

**Applicable Gift:** An 'applicable gift' will be as defined in the Local Government Act 1989 from time to time.

At the date of writing this policy 'applicable gift' is defined in s78C of the Act as 'one or more gifts with a total value of \$500 or more, received from a person who has a direct interest in the matter; or (b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or (c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter'.

**Benefit:** Something which is believed to be of value to the receiver, such as a service i.e. access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, pleasure or vacation trips.

**Bribe:** A corrupt inducement to reward.

**Gift:** A 'gift' will be as defined in the Local Government Act 1989 from time to time.

At the date of writing this policy 'gift' is defined in s3 of the Local Government Act 1989 as 'any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including— (a) the provision of a service (other than volunteer labour); and (b) the payment of an amount in respect of a guarantee; and (c) the making of a payment or contribution at a fundraising function;

**Gift of appreciation:** Refers to a gift that is presented to an individual to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment. These gifts are generally a one-off occurrence.

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| <b>Hospitality</b>    | Where a meal or service is offered which has a more than nominal value and is not viewed as being connected to official Council business or part of the accepted meal at a conference or seminar.   |
| <b>Monetary gift:</b> | Defined as cash, cheques, money orders, travellers' cheques and direct deposits.  |
| <b>Official gift</b>  | A gift received by Councillors or Council officers as representatives of the City or the Council. These gifts may be received from a Sister City, organisations or corporations that are bestowing a corporate gift (i.e. plaques, plates, vases, trophies, art work) or souvenir to the City, or as a token of appreciation for a contribution to a conference or industry event.  |
| <b>Token gift:</b>    | Is of such a nature and value that it could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter. The gift also does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of their official duties. In the event that a gift might reasonably be perceived to influence, or appear to influence, the recipient, it cannot be defined as a token gift. |
| <b>Value:</b>         | Value means the face value or estimated retail value.   |

## **POLICY**

### **1. Gifts must never be sought**

Councillors and Council officers must not solicit, demand or request gifts or any personal benefit for themselves or another person by virtue of their position.

### **2. No sense of obligation**

No gift may be accepted that could influence, or be perceived to influence, a Councillor or Council officer in the performance of their public or professional duties.

### **3. Prohibited Gifts**

In addition to other limitations imposed by this policy, monetary gifts (of any value) must never be accepted.

### **4. Token Gifts**

Gifts of token value may be accepted by Councillors or Council officers provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for Councillors or Council officers in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- the gift does not have a significant monetary value (as a guide, less than \$5);
- the gift is not offered on a regular basis.

There is no requirement to record token gifts in the Council Gifts Register.

### **5. Official Gifts**

From time to time individuals, or organisations may offer gifts of goodwill to the Council organisation. The Chief Executive Officer or relevant General Manager will ensure that any such official gift is recorded in the Council Gifts Register as a gift to the Council.

Individuals may be involved in conferences or social, cultural, community, industry events where official gifts are presented or exchanged. Where it would appear not to be polite or inappropriate to decline the offer, it is reasonable for official representatives of the Council to accept official gifts on behalf of the Council. Unless otherwise determined as set out below, such gifts shall be considered to be the property of the Council and may be displayed in an appropriate and secure location for public viewing.

In some circumstances, including where the item may not be suitable for public display or the gift is of a personal nature to the recipient, the Chief Executive Officer will use his/her discretion as to the appropriate use of the official gift.

A record will be made in the Council Gifts Register in the event that the gift is used for other than Council purposes.

## **6. Gifts of Appreciation**

Demonstrating appreciation for services received from the Council or Council officers from external organisations or individuals should not involve the presentation of a gift or benefit. Acceptable alternatives may include a letter of thanks or a thank you card as these are considered less likely to result in a situation that may compromise or be perceived to compromise either party.

No individual is to accept a gift of appreciation that has significant monetary value (as a guide, more than \$20) for personal effort. Where such gifts are offered, the individual should politely refuse the offer explaining that it is against the Council's policy to accept such a gift.

Multiple gifts from the same person/organisation are considered inappropriate and should not be accepted.

All gifts of appreciation, whether accepted or declined, are to be recorded in the Council Gifts Register.

## **7. Hospitality**

Councillors and Council officers, in an official capacity, will from time to time receive invitations of hospitality to attend various functions and events.

Where hospitality is only modest in nature and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations. Such incidental refreshments at meetings, working lunches, or similar, are not considered to be a gift and need not be recorded unless they occur at a frequency that may give rise to the perception of a conflict of interest under the Local Government Act 1989.

In some circumstances a Councillor or Council officer may attend the event if the Council either fully reimburses the organisation for the full cost of the hospitality or if the Councillor or Council officer personally pays for their own attendance.

If acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Councillor or Council officer, or could be perceived as a conflict of interest, the offer of hospitality should be politely declined.

## **8. Remote or Insignificant Interest**

If the acceptance of a gift, benefit or hospitality relates to an interest that is remote or insignificant in accordance with s77A(4) of the Local Government Act 1989, the Councillor or Council officer will not be considered to have a conflict of interest.

## **9. Reporting**

All gifts or benefits received by Councillors or Council employees (regardless of their value) must be declared by completing the Gift Declaration form and returned to the Governance & Communications Officer for inclusion in the Council Gifts Register. The Chief Executive Officer must also be advised immediately.

Gifts or benefits that are declined must also be recorded in the Council Gifts Register, however any gift that is declined shall not be treated as an 'Official Gift' under s78C of the Local Government Act 1989.

The Council Gifts Register will contain the following information:

- Date the gift or benefit was received or declined
- Description of the gift or benefit
- Recipient of the gift or benefit
- Name of gift/benefit provider
- Estimated value of the gift or benefit

The Council Gifts Register will be made available for public inspection and a report will be provided to the Audit Committee and Chief Executive Officer annually.

Particulars of any gift of or above the value of \$500 received by a Councillor or nominated officer will also be declared on the Register of Interests Ordinary Return which is available for public inspection.

## **10. Improper Behaviour**

If a Councillor or staff member believes they have been offered a bribe it is important that they immediately act to minimise any potential for negative consequences by following the 'Reporting and Investigation of Fraud' process outlined in Council's CP008 Fraud Prevention policy.

## **OTHER REFERENCES**

Local Government Act 1989

Council Policy - CP005 Councillor Code of Conduct

Council Policy - CP008 Fraud Prevention

Standard Operating Procedure – SOP Staff Code of Conduct

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