

# Gifts and Benefits Policy

## Policy Details

|                              |                             |
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| <b>Policy Category</b>       | Council Policy              |
| <b>Date Adopted</b>          | 15 January 2020             |
| <b>Resolution Number</b>     | 0120/020                    |
| <b>Approval Authority</b>    | Council                     |
| <b>Effective Date</b>        | 15 January 2020             |
| <b>Policy Version Number</b> | 2                           |
| <b>Policy Owner</b>          | Director Corporate Services |

## Supporting documentation

|                             |  |
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| <b>Legislation</b>          | <ul style="list-style-type: none"> <li>• <i>Industrial Relations Regulation 2018</i></li> <li>• <i>Local Government Act 2009</i></li> <li>• <i>Local Government Regulation 2012</i></li> <li>• <i>Public Services Ethics Act 1994</i></li> <li>• <i>Crime and Corruption Act 2001</i></li> </ul> |
| <b>Policies</b>             | <ul style="list-style-type: none"> <li>• Code of Conduct for Employees</li> <li>• Fraud and Corruption Prevention Policy</li> </ul>  |
| <b>Delegations</b>          | <ul style="list-style-type: none"> <li>• Nil</li> </ul>  |
| <b>Forms</b>                | <ul style="list-style-type: none"> <li>• Gifts and Benefits Declaration Form</li> <li>• Gifts and Benefits Register</li> </ul>   |
| <b>Supporting Documents</b> | <ul style="list-style-type: none"> <li>• Nil</li> </ul>  |

## Version History:

| Version | Adopted    | Comment                     | eDRMS # |
|---------|------------|-----------------------------|---------|
| 1       | 19/08/2015 | Council Resolution 0815/019 |         |
| 2       | 15/01/2020 | Council Resolution 0120/020 |         |

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## Intent

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The purpose of this policy is to enable a written record to be maintained of all gifts and benefits received or given by employees of Council in the interests of transparency, accountability and sound corporate governance.

## Scope

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This policy applies to all employees of Council as defined in this policy.

## Policy Statement

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Council employees hold positions of public trust and must carry out their duties impartially and with honesty to enhance public confidence in the integrity of Council administration.

They are not entitled to extra benefits from external parties and the provision of gifts or benefits to employees can create perceptions of a conflict of interest. Therefore, it is appropriate to question why they are offered and whether they should be accepted.

The Public Sector Ethics Act 1994, identifies the following four ethics principles as fundamental to good public administration:

- Integrity and impartiality;
- Promoting the public good;
- Commitment to the system of government; and
- Accountability and transparency.

In addition, the Local Government Act 2009 contains the local government principles which include:

- Transparent and effective processes, and decision-making in the public interest;
- Good governance of, and by, local government; and
- Ethical and legal behaviour of Councillors and local government employees.

This policy aims to minimise the risk of employees being exposed to an actual or perceived conflict of interest associated with gifts or benefits offered in the course of their official duties. In developing this policy, the following standards have been devised and considered essential in maintaining public trust:

- Gifts or benefits are not an entitlement, or a right and should not generally be accepted.
- Monetary gifts, including cash, vouchers or gift cards, of any value must never be accepted.
- Any gifts or benefits received – with a retail value in excess of \$150.00 or the aggregate value received from one donor/source in a financial year that exceeds \$150.00 – must be declared. This includes:
  - any prizes won while representing Council on official business (e.g. community events, conferences etc).
  - an individual award in recognition of work undertaken in an employee's official capacity, which includes components that could be deemed a gift or benefit.
  - tickets or invitations to an event, whether or not, Council is sponsoring that event.

- small tokens of gratitude which would normally be accepted as a matter of social convention.
- Any gifts or benefits offered with a retail value in excess of \$350 can only be retained if approval is given by the Chief Executive Officer with such approval only to be given in exceptional circumstances.
- Employees must not solicit, demand or request gifts or any personal benefit for themselves or any other person by virtue of their position.
- No gift may be accepted that could influence, or be perceived to influence an employee in the performance of their public or professional duties currently or in the future.
- Disclosures of conflicts of interests, gifts, benefits and other personal interests by employees is required.
- Applying disclosure requirements that enhance transparency, good decision making and public trust, is fundamental to great governance.

## **Accepting Gifts or Benefits**

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As a general guide, if an employee is offered a gift or benefit, they should put themselves in the position of the person offering the gift or benefit and consider why the gift is being given and whether acceptance is appropriate. Each type of gift or benefit carries a level of risk that should be considered when deciding whether it should be accepted or declined. In determining whether acceptance of a gift is appropriate, the two major considerations are:

- the intent in which the gift or benefit is given; and
- the public perception of acceptance of the gift or benefit.

As gifts and benefits can create obligations and expectations, if it can be considered in any way, perceived or actual, that the gift is given with the intention of influencing a decision or action of the recipient, it must be declined.

The offer of any gift or benefit, which can be of either monetary or non-monetary nature, that is to influence a decision or outcome is a bribe and is prohibited under legislation and this policy. Any such instances are to be immediately referred to the Chief Executive Officer who has the responsibility to refer to the Crime and Corruption Commission.

If the employee, who is the proposed recipient of a gift or benefit, is unsure of the impacts or liabilities incurred if they accept the gift or benefit, they should refer the matter to their Director prior to acceptance.

## **Declaring and Reporting of Gifts or Benefits**

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Upon the determination to accept a gift or benefit and the real value of this gift or benefit exceeds \$150.00, the recipient employee must complete the “Benefits and Gifts Declaration Form” and provide the form to their Director for countersigning. This should be completed within 5 working days of acceptance of the gift or benefit.

Similarly, if over the course of a financial year the aggregate value of gifts or benefits received from the same donor or source exceeds \$150, the recipient employee must complete the “Benefits and Gifts Declaration Form” as detailed above.

Depending on the individual circumstances and merits surrounding the acceptance of the gift or benefit, the Director may refer form to the Chief Executive Officer for countersigning.

The completed and signed form is to be registered in Council's electronic document management system (EDMS). Upon EDMS registration of the declaration form, the details are to be recorded into Council's Gifts and Benefits Register. The details recorded in the register are:

- the EDMS reference number for Benefit and Gift Declaration Form
- recipient employee name and position
- date of benefit/gift receipt
- description of benefit/gift received
- estimated value
- provider of benefit/gift
- classification of benefit/gift
- relevant person countersigning declaration (Director, CEO or Mayor)
- whether matter referred to CEO

## **Review and Monitoring of Gifts or Benefits**

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The Gifts and Benefits Register must be submitted to an Executive Leadership Team meeting on a quarterly basis to enable senior management to review the effectiveness of this policy and the appropriateness of gifts or benefits being received by employees.

## Definitions

| TERM   | DEFINITION  |
|--|---|
| <b>Disclosure</b>                            | Making a declaration about a gift or benefit by completing and submitting an appropriate form.  |
| <b>Employee</b>                              | Any person who has been an employee of Council (permanent, part-time and/or casual), volunteers, work experience, contractors or consultants either current or past.  |
| <b>Gift or benefit</b>                       | Means an item or service offered, with a real value in excess of \$150.00 or the aggregate value from the same donor/source over a financial year exceeds \$150, to an employee or related person of the employee, where the item offered is free of charge or for a charge substantially less than the full value. |
| <b>Perceptions of a conflict of interest</b> | Occurs where it could be perceived by others that a public official's private interests could improperly influence the performance of their public duties – whether or not this is in fact the case.  |
| <b>Public Perception</b>                     | Means the perception of a fair-minded, reasonable person in possession of all facts and full knowledge of the context.  |
| <b>Retail Value</b>                          | Is the value of the gift or benefit that you would expect to pay if that item was purchased from a retail supplier.   |

Adopted by Council 15 January 2020 by Resolution 0120/020

**Mark Crawley**  
Chief Executive Officer