

Gifts and Benefits Policy

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1. Purpose

The purpose of this policy is to outline Councils commitment to ensuring all Council officials conduct themselves in a manner to which the community expects and provides direction for managing the Gifts and Benefits disclosure process. It also outlines appropriate actions in relation to any offers of gifts or benefits, and ensures the appropriate mechanisms are in place to protect the integrity, security and reputation of Council.

2. Background

Council has committed to deliver 'good governance and administration' to the community as outlined in the Community Strategic Plan Objective 5.1.

This requires its staff and officials conduct themselves with the highest levels of integrity and in an open and transparent manner.

Section 440 of the LGA requires every council to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct and outlines the expected behaviour and principles of conduct for all Council officials.

Federation Council reviewed and adopted its Code of Conduct in August 2018 that includes a requirement for dealing with Gifts and Benefits.

Councillors and staff of Council should not accept gifts, benefits or hospitality in undertaking their Council duties, nor should their immediate family receive gifts or benefits that may give rise to the appearance of being an attempt to secure favourable treatment.

Receiving gifts and benefits can be seen to influence the decision making of Council, Councillors or staff person and it may be an offence under both the Common Law and NSW Legislation.

Council officials must not conduct themselves in carrying out their functions in a manner that is likely to bring the council or holders of civic office into disrepute or, in a manner that may be reasonably perceived to be dishonest or unethical. Specifically council officials must not act in a way that:

- a) contravenes the Act, associated regulations, councils relevant administrative requirements and policies
- b) is detrimental to the pursuit of the character of the council
- c) is improper or unethical
- d) is an abuse of power or otherwise amounts to misconduct
- e) causes, comprises or involves intimidation, harassment or verbal abuse
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- g) causes, comprises or involves prejudice in the provision of a service to the community (Schedule 6A)

3. Scope

This policy supersedes all other policies relating to Gifts and Benefits and supports the Federation Council Code of Conduct and applies to all Council staff members; Councillors; volunteers; Section 355 Committees; key stakeholders such as suppliers, contractors and consultants; customers; members of the Federation Council community; and relevant third parties with regard to functions and operations undertaken for or on behalf of Council.

4. Definitions

Benefits may include, but are not limited to, hospitality, preferential treatment, access to confidential information, free access to services which are normally charged at a fee, or access to a private spectator box at a sporting or entertainment event.

Bribes are gifts or benefits given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.

Cash-like may include a gift voucher or card (e.g. iTunes, Spotify, Bunnings or similar), credit card, debit card with credit on it, prepayment such as phone or internet credit, membership or an entitlement to discounted or free services.

Donor may be an individual or an organisation.

Gifts may include, but are not limited to, items such as cash or cash-like gift, alcohol, travel, accommodation, clothes, products or tickets to a sporting or entertainment event.

Hospitality means the provision of meals, refreshments or other forms of entertainment.

Non-Civic Function or Event means a function or event where the Council official does not have any formal role at the function or event to represent Council and the Council official is invited to attend at no cost or a discounted cost to Council. Examples include: sporting events; Christmas parties; conferences; or openings.

One year period means the financial year from 1 July of one year to 30 June of the next.

Register means the Gifts and Benefits register.

Token value means the monetary limit of the value of gifts or benefits that may be accepted and do not require declaration in the Gifts and Benefits Register. This value is set at one or more gifts or benefits received from a person over a 12-month period that do not exceed a **cumulative value of \$50**, in accordance with the Code of Conduct. The intent of the donor however, must also be considered when deciding whether to accept a token value gift or benefit.

5. Responsibility of Council Officials

A Council official must not seek nor accept any bribe or improper inducement. Improper inducements are not just limited to money but can include any gift or benefit, offered directly or indirectly.

A gift of value including cash and other benefits should be declined. For example, free tickets and corporate hospitality to a major sporting event, mobile devices, electronic equipment, conference tickets, subscriptions, memberships, vacation stays, artworks etc. are gifts of value and should not be accepted.

If it is not possible to decline, then a gift or benefit must be declared using the Gifts and Benefits Declaration Form.

Once completed the Gifts and Benefits Declaration Form must be submitted to either a Director, General Manager or the Mayor.

Once approved the form must be submitted to the Executive Assistant and the gift or benefit recorded in the Gifts Register.

All gifts of value should be disclosed and surrendered to Council .

Acceptance of gifts and benefits of a nominal or **token value** that do not create a sense of obligation on yours or Councils part may be accepted.

If a Council official becomes aware of another Council official soliciting gifts or benefits, he or she should report the circumstances immediately to the General Manager or the Code of Conduct Co-ordinator (Director Corporate and Community). The General Manager or DCC must also inform ICAC.

6. Cash in hand

A Council official must never seek a gift of cash for the performance of their official duties. Any gift of cash offered to you as a Council official must not, under any circumstances, be accepted.

7. Token value gifts

Token gifts and moderate acts of hospitality could include:

1. Gifts of single bottles of reasonably priced alcohol to Council officials at end of year functions.
2. Free or subsidised meals of a modest nature and/or beverages provided infrequently that have been arranged primarily for or in connection with discussion of official business.
3. Free meals of modest nature and/or beverages provided to Councillors or staff who formally represent their Council at work related events such as training, education sessions, workshops.
4. Refreshments of a modest nature provided at conferences where the Councillor or staff may be a speaker.
5. Ties, scarves, caps, coasters, pins, tiepins, diaries, chocolates, flowers and small amounts of beverages.
6. Any items with a monetary value of \$50 or less.

8. Preferential treatment and Personal dealings

As a Council official you must never seek, nor be given, preferential treatment in your personal dealings with Council. This also applies to immediate family members including parents, spouses or de facto partners, children and siblings as well as friends.

Preferential treatment may include but not be limited to:

- A competition being run by council or its volunteers in which a family member or close friend is a prize recipient and where the draw is not conducted in a public forum.
- A supplier whose wife teaches your son at school is engaged regularly without adherence to Council procurement practices.
- A business operated by your brother's spouse is selected to appear in a council tourism guide.

9. Improper and undue influence

A Council official must not take advantage of their position to improperly influence another Council official in the carrying out of their duties. The influence does not have to confer a benefit directly on the person seeking to exercise the influence. It can be for the benefit of a third party; for example a relative or close friend. Examples of improper and undue influence may include but not be limited to:

- Rangers are expressly requested not to enforce camping prohibition laws at a particular recreation spot over a weekend when the Mayors family will be visiting.
- A development application is determined to be complying despite incomplete paperwork being provided. The development happens to be for a hairdressing salon in a friends garage.

10. Disclosures by Councillors and Designated Persons

Councillors must also consider their disclosure obligations when completing their Disclosures by Councillors and Designated Persons Return required under *S449(3) of the Local Government Act*. If the value or cumulative value of gifts or benefits, from one donor exceeds the amount of \$500 in the return year, the Gifts Section (Part C) of the Disclosures Return Form must be completed by the recipient, in addition to the recipient making the declaration of such gifts or benefits in Council's Gifts and Benefits Register. - *S184 Local Government (General) Regulation*.

11. Gifts register

If a gift is accepted of more than token value in circumstances where it cannot be refused or returned it should be accepted and disclosed promptly in writing to your supervisor, the Administrator/Mayor or the General Manager using the Gifts and Benefits Declaration Form.

Once approved the form must be submitted to the Executive Assistant and the gift or benefit recorded in the Gifts Register.

12. References and Associated Documents

12.1 Relevant legislation

s.112, Independent Commission Against Corruption Act (ICAC Act) 1988

ss.249B and 249H of the Crimes Act 1900

Local Government Act 1993

Local Government (General) Regulation 2005

12.2 Relevant Council policies and documents

Federation Council Code of Conduct

Federation Council Fraud and Corruption Control Policy and Procedures

Federation Council Procurement Policy and Guidelines

Federation Council Privacy Management Plan

Federation Council Public Interest Disclosures Policy

Federation Council Gifts and Benefits Declaration Form

12.3 Further Information

[Good Conduct and Administrative Practice—Guidelines for state and local government, NSW Ombudsman, August 2003,](#)

[OLG – Model Code of Conduct Draft 2017](#)

ICAC “Managing Gifts and Benefits in the Public Sector Toolkit” (2006)

ICAC Brochure “Bribery, corrupt commissions and rewards” (2009)

ICAC Publication “Providing Advice on Corruption Issues. A Guide for Community Leaders (2012)

NSW Ombudsman “Public Sector Agencies Fact Sheet No 7: Gifts and Benefits” (2012)

ICAC website: www.icac.nsw.gov.au

ICAC Telephone Advice Line: (02) 8281 5999 or toll free 1800 463 909 Appendices:

13. Policy History

Version	Date	Changes / Amendments
1.0	16/08/2016	Document developed for Federation Council
	17/09/2017	New template applied
2.0	08/08/2018	Addition of council policies (Fraud and Corruption Control Policy and Control Plan Procedures, Procurement Policy, PID Policy, Gifts and Benefits Declaration Form Addition of examples of preferential dealings and improper and undue influence. Addition of Disclosures by Councillors and Designated Persons section 10 Reduction of Token Value from \$500 for 12 month cumulative to \$50 12 month cumulative Addition of reference to CSP

14. Reviews

This policy will be reviewed annually or sooner as required.

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