

Policy Number: SVC-EXE-PO-009-01

Aim

To provide direction to Councillors, members of staff and delegates on the acceptance and registration of gifts and benefits offered in relation to Council's functions and/or an individual's role and responsibility with Council.

For the purpose of this policy, all gifts and benefits (other than token or nominal gifts and benefits) offered and/or received during the course of duty must be recorded in Council's Gifts and Benefits register.

Legislation

Crimes Act 1900 (NSW)

Section 249B(1) of the Crimes Act 1900 (NSW) 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 section 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.

Independent Commission against Corruption Act 1988 (ICAC Act)

Under s11 of the ICAC Act, the General Manager has a duty to inform the ICAC about any matter that he or she suspects on reasonable grounds concerns or may concern corrupt conduct.

Definitions

Gifts – may include, but are not limited to, items such as money, alcohol, vouchers, clothes, products or tickets to a sporting or entertainment event.

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.

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

Staff – means all persons employed by Council other than Councillors.

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 Register. This value is \$50 and therefore any gift or benefit valued at less than \$50 is considered to be of token value in accordance with this policy. The intent of the donor however, must also be considered when deciding whether to accept a token value gift or benefit.

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 the Council.

Council Official – means Councillors, Council staff, volunteers or delegated persons as defined the Local Government Act.

Scope

This policy applies to all employees of the Snowy Valleys Council.

This policy operates in addition to all other obligations under the Local Government Act 1993, and any other legislation, or relevant codes and polices regarding the disclosure of any interest.

Gifts and Benefits are dealt with under clause 8 of the Code of Conduct (Personal Benefit).

This policy expands on the provisions of the Code of Conduct and establishes a procedure for disclosing and, where necessary, surrendering certain gifts and benefits.

Overview

To provide clear guidelines for Councillors, staff members and delegates to enable them to deal with any offer of a gift or benefit.

To protect Councillors, staff members and delegates from being compromised and to avoid the public perception of bias.

To provide a safe working environment by removing situations which can cause undue stress and anxiety.

To demonstrate to suppliers, citizens and other agencies that Council will deal with all matters in an impartial, open and accountable manner.

A Councillor, member of staff or delegate must:-

- (a) Not seek or accept a bribe, or other improper inducement;
- (b) Not accept any Cash or cash-like gift of any value
- (c) Not take advantage of his or her official position to improperly influence other councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing a private benefit for himself or herself or for some other person;
- (d) Generally, not by virtue of his or her official position, accept or acquire a personal profit or advantage of a pecuniary value; however, they may:-
 - (i) Accept a token or nominal value (low value) gift or benefit.
 - (ii) Accept a more than token nominal value (high value) gift or benefit in special circumstances, e.g. an item left to you in someone's will, with the approval of Council.

You would need to contact your supervisor to arrange a formal report to Council.

As a general rule, representatives of Council should not accept gifts and benefits of more than nominal or token value, and gifts and benefits are not to be solicited under any circumstances.

Gifts and benefits of token or nominal value are classified as those that are inconsequential or Trivial and not offered on a regular basis. All gifts or benefits of more than token or nominal value must become the property of Council, and will be dispersed equitably.

You must never accept any gift or benefit:-

- If the person offering it, or a fair person, would expect you to be influenced in the way you do your job or carry out your duties;
- If you would feel a sense of obligation or debt to the person offering the gift or benefit; or
- If you or the Council are likely to be compromised.

You must never accept an offer of money, regardless of the amount.

All gifts, benefits and hospitality (other than of a token/nominal nature) must be declared and recorded on Council's publicly available Gifts and Benefits Register against the name of the recipient. The name of the person who offered the gift and their agency or organisation must also be included.

There must also be a record of the decision that was taken in relation to the gift or benefit, and the declaration form must be signed and dated by the recipient, and by the authorising Director, or General Manager (in the case of a Councillor and Directors), so that it can be shown that the Council was open and transparent in dealing with the gift or benefit.

Councillors and Designated Persons lodging pecuniary interest returns under Section 449 of the *Local Government Act, 1993 (NSW) 1993* are not required under Schedule 3 of the Act to disclose gifts or benefits under the value of \$500, unless they are among gifts totalling more than \$500 made by the same person over a twelve (12) month period. In the interests of openness and transparency, Designated Persons are also required to declare and record the offer and/or receipt of all gifts or benefits of more than token/nominal value in the Gifts and Benefits Register.

The value of the gift must be considered when determining whether a gift or benefit may be accepted. A gift of token value may be accepted i.e. a gift of less than \$50 in value. A token gift may include: inexpensive pen or stationery, key ring, coffee mug, promotional cap/hat, box of chocolates, flowers, modest value bottle of wine, food or drink.

Examples of gifts usually exceeding token value and which therefore must be declared through the Gifts and Benefits Register would include: tickets to sporting or entertainment events, electronic devices such as mobile phones, personal organisers and laptop computers, jewellery, works of art, discounted products for personal use, use of facilities such as gyms and holiday homes, free or discounted travel, items of clothing.

Even if the gift is determined to be of token value, the intent of the gift or benefit being offered must always be considered and where the intent is inappropriate the gift should not be accepted.

It may be difficult to determine the true value of a gift or benefit and whether it is above or below the token value of \$50. Council officials must adopt the approach of "if in doubt, complete the Gifts and Benefits Register".

Prizes and incentive schemes

On some occasions a Council official may receive a gift or prize as a result of entering a competition while engaged in official duties. For example, they may win a raffle or lucky door prize drawn at a conference or win a prize that was promoted as an incentive associated with their role as a Council official.

Gifts received as prizes must be considered on a case by case basis, taking into account the nature of Council's relationship with the prize donor. If Council has business dealings with the organisation that provided the prize or discretionary power that could be exercised in the prize donor's favour, accepting the prize may lead to perceptions of improper influence.

The Gifts and Benefits Register must be used to declare and manage gifts or benefits offered as a prize or incentive.

Responsibilities

Council – Elected members of Council

Elected members of Council are responsible for the adoption of this Council policy and the consideration of resources towards the implementation of this policy.

General Manager

The General Manager has the discretion to dispose of gifts or benefits, deemed to be those of the Council, in an appropriate manner.

Directors, Managers and Team Leaders

Are responsible for

- The implementation of the policy and procedures in their work area.
- The monitoring of implementation and compliance with the policy and associated Procedure.

Corporate Support Officer

The Corporate Support Officer, who will process the information into the Gifts and Benefits Register.

Human Resources Officer

Is responsible for presenting this policy to employees at induction.

Contact Officer: Corporate Support Officer

Associated Documents

External - Nil

Internal - Nil

Superseding Policy No. and Title:

Gifts & Benefits Policy – Gov.23 – Former Tumut Shire Council

Gifts & Benefits Policy – TSC-EXE-PO-059 – Former Tumbarumba Shire Council

Policy prepared by: Corporate Support Officer

History table:

Version Control No	Development /Amendment Date	Approval Date	Resolution Number	Activity log
0		30.03.2017		Presented to Policy Review Committee
		27.04.2017		Adopted Ordinary Council Meeting for Public Exhibition
		29.06.2017	M92/17	Adopted Extraordinary Council meeting