



SHIRE COUNCIL
Blayney

Gifts & Benefits Policy

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| Policy | 2E |
| Officer Responsible | Director Corporate Services |
| Last Review Date | 19/09/2022 |

Strategic Policy

Purpose of the Gifts and Benefits Policy

- To provide clear guidelines for Councillors, staff members and other representatives of Council to enable them to deal with any offer of a gift or benefit;
- To protect Councillors, staff members and other representatives of Council from being compromised or to avoid the public perception of bias;
- To provide a safe working environment by reducing situations which can cause undue stress and anxiety; and
- To demonstrate to suppliers, citizens and other agencies that Council will deal with all matters in an impartial, transparent and accountable manner.

Background

In carrying out their role as Councillor, staff member and other representative of Council of a local government body, individuals and/or groups may from time to time, be offered gifts to establish an amicable initial business relationship, to display appreciation or demonstrate good faith in an ongoing business relationship.

The acceptance of gifts and other benefits has the potential to compromise a Councillor's and Council employee's position by creating a sense of obligation in the receiver and so undermining their impartiality. The acceptance of a gift can also affect the public's perception of the integrity and independence of the Council and its employees.

To ensure propriety in all such dealings, it is essential that Council adopt a policy and procedure for the acceptance of gifts and benefits, so that all gifts and benefits are declared and recorded in a Gifts and Benefits Register.

This policy has been produced to guide to assist in guiding Councillors, staff members and other representatives of Council during the course of their official duties upon being offered a gift or benefit. The acceptance of gifts and benefits is a potential problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts or benefits can be difficult.

For the purposes of this policy, reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Blayney Shire Council has a zero tolerance rule with respect to compliance with this policy.

Policy Statement

Council officials will act with integrity at all times. Acceptance of gifts and benefits has real and perceived opportunities for undermining integrity.

This Policy sets out the basis on which Blayney Shire Council will manage offers of gifts or benefits in accordance with the obligations set out in Council's Code of Conduct.

You must not:

- seek or accept a bribe or other improper inducement
- by virtue of your position acquire a personal profit or advantage, real or perceived, which has a monetary value.

You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- act in a particular way (including making a particular decision);
- fail to act in a particular circumstance;
- otherwise deviate from the proper exercise of your official duties.

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members include parents, spouses or de facto partners, children and siblings.

Responsibilities

Councillors, Staff Members and Other representatives of Council

The obligation to disclose instances relating to this policy rests with Councillors, members of staff and other representatives of Council and should be in accordance with the gifts and benefits procedures.

Councillors, staff members and other representatives of Blayney Shire Council must comply at all times with this policy and Council's Code of Conduct.

Council staff members and other representatives of Council must complete, the electronic declaration form or the hardcopy declaration form (for those staff members who do not have computer access), for all offers of a gift or benefit and submit the declaration form to their Supervisor, or General Manager (in the case of a Councillor or Director), within two (2) weeks of receiving the offer.

Councillors, members of staff and other representatives of Council, who have prior notice of the receipt of a benefit or hospitality, such as attendance at a sporting event, should receive prior written approval to attend. The recipient is to ensure their declaration is submitted and authorised by the Supervisor or General Manager.

Management

The General Manager, or their delegate, will establish and maintain a Gifts and Benefits Register.

The Supervisor, or General Manager (in case of a Councillor and Directors), must authorise electronically, or sign/date paper copy declaration forms, scan and register the completed document in to Data works, and task to the Director of Corporate Services (as the General Manager's delegate), who will process the information into the Gifts and Benefits Register.

Procurement, Contracts and Tendering

All procurement activities are to be conducted in an ethical manner and in accordance with:-

- Policy 1B Code of Conduct for Councillors
- Policy 1C Code of Conduct for Staff
- Policy 1B Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers Councillors
- Policy 3G Purchases of Goods and Services
- Policy 13A Tender Procedures

Council representatives involved in corporate purchasing or procurement must not accept any form of gift, benefit or from suppliers or potential suppliers.

Council representatives involved in evaluating contracts, expressions of interest, tenders or other proposals must not accept any form of gift, benefit or hospitality from contractors, potential contractors, tenderers or associated parties. Any offer of gifts must be declared in writing as part of the evaluation process.

The recipient of any gift, benefit or hospitality offered and/or received must complete the electronic gift register form and submit it to the Director (or General Manager) for authorisation.

Circumstances where gifts or benefits may be acceptable

Gifts or other benefits not essentially token or inconsequential in kind (including moderate acts of hospitality) should only be accepted:

- where they are not obtained by virtue of a public official's office or position
- where a gift is given to a public official in a public forum in appreciation for the work, assistance or involvement of the public official or an

agency, and refusal to accept the gift would cause embarrassment or affront

- if there is no possibility that the recipient might be, or might appear to be, compromised in the process, or
- in circumstances generally approved by the principal officer of the agency, or on any other occasion with the formal written approval of the General Manager, preferably obtained beforehand.

Approval of the General Manager should only be given where the acceptance of the gift is unlikely to be seen by a reasonable 'impartial observer' to create a conflict of interest, or influence the performance of duties or functions.

Gifts Benefits and Bribes

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.

Such examples of gifts may include (but are not limited to):-

- Money
- Alcohol
- Clothes
- Products
- Tickets

A councillor or employee should not accept an offer of cash or a cash-like gift, regardless of the amount. "Cash-like gifts" include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

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 may include:-

- a. Tickets to major sporting events or other entertainment.
- b. Corporate hospitality at a corporate facility or sporting venue.
- c. A new job or promotion.
- d. Preferential treatment, such as queue jumping.
- e. Access to confidential or sensitive information.
- f. Discounted products for personal use.
- g. Frequent use of facilities such as a gymnasium or holiday home.
- h. Free or discounted travel, Frequent Flyer points and free training sessions.
- i. Free or subsidised lavish meals or hospitality etc.

Bribes

“Bribery” is defined as an inducement by offering any undue reward by, or to any person in public office in order to influence his or her behaviour in that office, and incline that person to act contrary to the known rules of honesty and integrity.

Councillors, members of staff and other representatives of Council must not offer or seek a bribe. Receiving or offering a bribe is an offence under both Common law and NSW legislation.

A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, or the General Manager. Council will take steps to report the matter to ICAC and the police immediately.

Token Gifts

Token gifts and benefits of a nominal value usually do not create a sense of obligation on the receiver and are unlikely to influence, or appear to influence, in the exercise of his or her official duties.

Compliance and Exemptions

This policy applies to all staff and Councillors of Blayney Shire Council. Failure to comply with this policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions, including dismissal.

Blayney Shire Council has a zero tolerance rule with respect to compliance with this policy. Any applications for exemptions from the requirements of this policy are to be in writing to the General Manager. Exemptions are entirely at the General Manager’s discretion and will be determined in writing with reasons given for any specific exemptions. In determining an exemption, the General Manager will also determine whether the gift in question is able to be kept by a particular staff member or whether it should be shared at the workplace.

The following are considered exempt:

1. Invitations to appropriate out of hours social functions organised by groups, such as, Council committees and community organisations
2. Free meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops
3. Free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business
4. Ceremonial gifts – from visiting delegations
5. Ceremonial gifts – from sister cities

6. Industry networking functions hosted by Industry Group at a major event e.g. NSW Tourism group function at Bathurst race event.

Examples of the circumstances where exemptions MAY be approved by the General Manager, include:

- Learn to swim staff of the CentrePoint Sport & Leisure Centre – for gifts of token value children who attend learn to swim classes as a Christmas gift or gift of thanks associated with their role.
- Ceremonial gifts – presented to staff members as thanks for presenting at conferences/seminars
- Ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages

Any gifts approved through the General Manager exemption process will still be subject to the following requirements:

For the purpose of this policy token value is defined as one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50.

Any gifts with an estimated value of more than token value should be rejected or returned.

The following gifts and benefits would normally fall below the token value:

- inexpensive pens or stationery
- chocolates
- flowers
- modest bottle of wine
- cup of coffee.

By contrast, the following gifts and benefits would be likely to be more than the token value:

- tickets to sporting events
- jewellery
- works of art
- discounted products for personal use
- use of facilities such as gyms.

Ceremonial gifts – an official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation or country. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the organisation, and therefore the gift is considered to be for the organisation, not a particular individual.

Where you have accepted a token gift or benefit from a person, you must not accept a further gift or benefit from the same person or another person associated with that person within a single 12-month period where the value

of the gift, added to the value of earlier gifts received from the same person or a person associated with that person, during the same 12-month period would exceed \$50 in value.

Gifts and Benefits Register

All gifts, benefits and hospitality must be declared and recorded in 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 by the authorising Supervisor, or General Manager (in the case of a Councillor or Director), 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) are not required under Schedule 3 of the Act to disclose gifts and 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.

Procedures

- 1 Should you receive a gift or benefit, you must notes immediately after the incident has occurred, detailing the date, time, location, discussion and any other comments that could assist you with your later recollections of the incident.
- 2 Obtain a copy of the Declaration Form, which is available through the Councillor Portal or Council Intranet.
- 3 With regards to the paper copy,
 - They are to be scanned into Council's Corporate Records System.
 - The authorising Supervisor (If they have access) is to record the entry into Council's electronic register.
 - In the event that the Supervisor does not have access, then the authorising director is required to electronically record.
- 4 All gifts and benefits that become the property of Council should be delivered to the General Manager's Office (or his delegate) for appropriate storage or disposal.
- 5 If you have been offered a bribe, you must inform your Director or the General Manager immediately and the General Manager must inform ICAC and the Police.

Related Legislation, Policies and Guidelines

Crimes Act 1900 (NSW) Section 249 of the Crimes Act 1900 (NSW) creates an offence if a Councillor or 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, 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 2005, clauses 184 & 185 – relating to gifts and contributions to travel pecuniary interests to be disclosed in Section 449 returns.

Blayney Shire Council Codes of Conduct

Gifts and Benefits – Public Agencies Fact Sheet (NSW Ombudsman's Office), March 2012.



GIFTS AND BENEFITS DECLARATION FORM

DEPARTMENT

(Please tick)

- | | |
|---|--|
| <input type="checkbox"/> Corporate Services | <input type="checkbox"/> Infrastructure Services |
| <input type="checkbox"/> Environmental Services | <input type="checkbox"/> Executive Services |

YOUR DETAILS

Name: _____

Title: _____

Office
Location: _____

Phone No (w): _____

DETAILS OF GIFT OR BENEFIT

Person who offered gift or
benefit: _____

Company/Organisation: _____

Date gift or benefit offered: _____ / _____ / _____

Description of gift or
benefit: _____

Estimated value of the gift or benefit: _____ \$

What did you do with the Gift or Benefit?

Signed: _____ Date: _____ / _____ / _____

Signed: _____ Date: _____ / _____ / _____
(General Manager / Director)

**PLEASE FORWARD COMPLETED FORM TO YOUR SUPERVISOR FOR RECORDING INTO
COUNCIL'S ELECTRONIC GIFTS REGISTER.**

This form is to be only used when the staff member does not have
access to the electronic gift register.

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