

<b>POLICY No:</b>	<b>53</b>
<b>POLICY TITLE:</b>	<b>BRIBES, GIFTS AND BENEFITS POLICY</b>
<b>SECTION RESPONSIBLE:</b>	<b>GOVERNANCE</b>
<b>MINUTE NO:</b>	<b>1124</b>
<b>REVIEW DATE:</b>	<b>30TH JUNE 2008</b>

**OBJECTIVE:**

This policy has been produced to guide Councillors and staff who may be offered gifts, benefits or bribes in the course of their official duties. The acceptance of gifts and benefits is a problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts and benefits can be difficult.

**POLICY STATEMENT**

A Councillor, member of staff or delegate must:

1. not seek or accept a bribe, or other improper inducement;
2. 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;
3. 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:
  - a. accept a nominal value (low value) gift or benefit.
  - b. accept a more than nominal value (high value) gift or benefit in special circumstances, eg. 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.

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### **Bribes**

Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will take steps to report the matter to ICAC and the police immediately.

### **Gifts and Benefits**

In a private context, gifts are usually unsolicited and meant to convey a feeling on behalf of the giver, such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.

Gifts are also offered to individuals in the course of business relationships. Such gifts are usually given for commercial purposes; for example, to create a feeling of obligation in the receiver.

It is Council's preferred position that:

- gifts and benefits not be offered to Councillors, staff and delegates.
- gifts and benefits are not to be solicited.
- gifts and benefits should be actively discouraged by Councillors, staff and delegates.
- people doing business with Council should understand that they do not need to give gifts or benefits to Councillors, staff and delegates to get high quality service.

Gifts and benefits fall into two categories, those that are more than nominal value and those of nominal value (see definitions below).

Gifts below nominal value (token) can be accepted without disclosing details to a supervisor, the General Manager or the Mayor (in the case of Councillors).

For the purposes of this policy "nominal value" is described as goods and/or services which have nominal value (ie less than \$150.00).

Generally speaking, nominal (token) gifts and benefits may include:

- Gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- 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.
- Free meals, of a modest nature, and/or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops.
- Refreshments of a modest nature, provided at conferences where you are a speaker.

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- Ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages.
- Invitations to appropriate out of hours “cocktail parties” or social functions organized by groups, such as, Council Committees and community organisations.

Nominal value gifts and benefits may only be accepted if the gift is not likely to be seen as compromising Councillors or employees. If you have any doubt if the gift/benefit is nominal (token) or not you should discuss it with your Director or the General Manager.

On the rare occasion that gifts, with more than a nominal value value, are accepted, the details of the gift must be disclosed and recorded in the publicly available gifts and benefits register held by Council. These gifts become the property of Council and should be disposed of accordingly.

More than nominal (non token) gifts and benefits are those with a significant value.

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

Generally speaking, more than nominal (token) gifts and benefits may include:

- Tickets to major sporting events
- Corporate hospitality at a corporate facility at a sporting venue
- Discounted products for personal use
- The frequent use of facilities such as gyms
- Use of holiday homes
- Free or discounted travel
- Free training excursions
- A new job or a promotion
- Preferential treatment, such as queue jumping
- Access to confidential information
- Goods and items donated to Council and employee functions.

If you receive a gift of more than nominal (token) value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to your supervisor, the Mayor or the General Manager. The supervisor, Mayor or General Manager will ensure that the gifts received are recorded in a Gifts Register.

You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

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Councillors, staff and delegates who receive more than two nominal gifts from one source must disclose that fact in the gifts and benefits register.

### **BRIBES**

***Councillors, Staff and Delegates must not offer or seek a bribe.***

Receiving a bribe is an offence under both the common law and NSW legislation. The common law offence of bribery is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity.

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. Similarly, it is an offence for an employee to corruptly receive or solicit (or corruptly agree to receive or solicit) any benefit that would in any way tend to influence that employee to show favour or disfavour to any person in relation to their official duties.

**Section 249J of the Crimes Act also provides that custom is not a defence to the receiving, soliciting, giving or offering of any benefit. This means that a person cannot rely on the fact that it is customary to offer and receive gifts and benefits in his or her trade, business, profession or calling, as a defence.**

Comment: Any Councillor, Staff or Delegate offered a bribe should immediately report to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will then refer the matter to the ICAC and the Police.