

## GIFTS AND BENEFITS POLICY

### 1. SCOPE

- 1.1 This policy applies to the Mayors, Councillors, Council staff (including staff engaged through an employment agency), Council Committee members, volunteers and contractors.

### 2. PURPOSE

- 2.1 Gifts and benefits may be offered to individuals in the course of business relationships, often for commercial purposes, to create a feeling of obligation in the receiver.
- 2.2 Council officials at all times must be seen to be fair, impartial and unbiased and should actively discourage offers of Gifts and benefits and avoid situations that suggest that a person or organisation is attempting to secure favourable treatment from Council.
- 2.3 People doing business with the Council should be encouraged to understand that they do not need to give Gifts or benefits to Council officials to get high quality service.
- 2.4 This policy defines the obligations and responsibilities of Council's officials when dealing with offers of Gifts or benefits.

### 3. POLICY STATEMENT

- 3.1 Accepting Gifts of money is prohibited.
- 3.2 Council officials should not accept Gifts or benefits that appear to be non-token in nature.
- 3.3 Gifts or benefits of a token nature at or of a value below \$100 may be accepted by Council officials without the need to disclose the Gift to a supervisor, the General Manager or Mayor (in the case of Councillors).
- 3.4 Council officials who receive a multiple number of token Gifts, from the same person or organisation, in a twelve-month period, that cumulatively exceed the nominal value of \$100 must disclose that fact in a Gifts and Benefits Declaration Form.
- 3.5 Council officials must not offer or seek a bribe. 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).
- 3.6 If a non-token Gift or benefit is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the Gift or benefit must be declared in a Gifts and Benefits Declaration Form. A Gift is not to be personally retained without the express consent of the General Manager (staff) or Mayor (Councillors) within 14 days.
- 3.7 If a Council official refuses a Gift or benefit because they, or a reasonable person, may believe that the Gift was a deliberate attempt to receive "special treatment", that instance is to be reported to a supervisor, the General Manager or Mayor.
- 3.8 At times a Gift of a non-token nature may be given by one organisation to another. Such Gifts are often provided to a host organisation. These Gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to

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the work of several people in the organisation and therefore the Gift is for the organisation, not a particular individual.

- 3.9 All Gifts and benefits disclosed are to be included in a Council Gifts and Benefits Register, which will be monitored by the General Manager and available for public inspection.

**Legislative Requirements**

*Local Government Act 1993:*

Part 5A – Gifts and Donations

- Section 339A – Misuse of office - Specifies penalties in relation to the misuse of office by councillors and employees;
- Section 28E - Deals with the Code of Conduct for Councillors;
- Section 62 - Identifies the functions and powers of the General Manager

*Local Government (General) Regulations 2015)*

- Part 3A – Gifts and Donations

**Related Procedures/Guidelines:**

Gifts and Benefits Guidelines

Gifts and Benefits Register

Gifts and Benefits Declaration Form

Procurement Policy & Associated Procedures

Flow Chart

## GIFTS AND BENEFITS GUIDELINES

### 1. PURPOSE

The purpose of this guideline is to assist Council officials to make appropriate judgements in relation to gifts and benefits and therefore avoid being placed in a situation where they may become vulnerable to undue influence or threaten community confidence in the fairness, impartiality and integrity of the Council.

### 2. DEFINITIONS

**Benefit** – Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs. The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.

**Bribe** – a gift or benefit 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** – money or vouchers which are readily convertible;

**Conflict of interest** – any situation in which an individual or corporation (either private or government) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit;

**Council official** – Mayor, Councillors, Council staff (including staff engaged through an employment agency), Council Committee members, volunteers and contractors;

**Cumulative gift** – a series of gifts, individually below the nominal value, from the same person or organisation, over a specified period of time that have an aggregate value that exceeds the nominal value;

**Gift** – is usually a tangible item provided at no charge. Gifts may include, but are not limited to items such as cash, property (real or otherwise), goods and services made available at heavily discounted prices, alcohol, clothes, products, invitations to social functions and tickets to sporting, theatrical or music events;

**Gift of gratitude** – a gift offered to an individual or department in appreciation of performing specific tasks. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude;

**Gift of influence** – a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future;

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**Gifts and Benefits Declaration Form** – a form to be completed when an individual receives a gift or benefit of a non-token nature above the nominal limit or receives a series of token gifts or benefits in a specified time that exceeds the nominal value (Cumulative Gift);

**Gifts and Benefits Register** – a register maintained by Council of all declared gifts and benefits

**Hospitality** – the provision of accommodation, meals, refreshments or other forms of entertainment;

**Nominal value** – is the monetary limit of the value of gifts or benefits that may be accepted (i.e. total value of gift or benefit received). A gift or benefit is of nominal value when it has no significant or lasting value (gifts under the value of \$100).

**Non-token** – Non-token gifts include personal benefits and/or valuable objects (with a value of above \$100).

**Public perception** – the perception of a fair-minded person in possession of the facts;

**Significant value** – a gift or benefit that has a value above \$100; and

**Token Gift** -A gift given, or granted item of value, only to the recipient with no other appreciable economic value. Examples are trophies, certificates or other customised symbols of appreciation, recognition or courtesy; free promotional items such as advertisers' calendars, pens, notepads, etc.

### 3. SCOPE

The policy applies to all gifts and benefits offered to or received by all Council officials in their role as officers of the Council.

### 4. APPLICATION

- 4.1 In a private context gifts and benefits 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 Council's policy or this guideline.
- 4.2 Gifts and benefits may also be offered to individuals in the course of business relationships. Such gifts and benefits are often given for commercial purposes and serve to create a feeling of obligation in the receiver. Gifts and benefits given in the course of business relationships are the focus of Council's policy and this guideline.
- 4.3 The policy guideline is to be applied in conjunction with provisions in the Councils Codes of Conduct and other relevant Council policies and procedures.

## 5. GUIDELINE STATEMENT

### 5.1 Token gifts and benefits

- 5.1.1 Gifts or benefits of a token nature do not create the appearance of a conflict of interest and include:
- a) Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers;
  - b) Books given to individuals at functions, public occasions or in recognition of exceptional work done;
  - c) Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done;
  - d) Free or subsidised meals of a modest nature and/or beverages provided infrequently (and/or reciprocally) that have been arranged for or in connection with the discussion of official business;
  - e) 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; and
  - f) Invitations to approved social functions organised by groups such as Council committees and community organisations.
- 5.1.2 If a Council official has any doubt if a gift or benefit is token or of nominal value they should discuss it with a supervisor, General Manager or Mayor.

### 5.2 Nominal value

- 5.2.1 For the purpose of this guideline the current nominal value limit is **\$100**.

### 5.3 Non-token gifts and benefits

- 5.3.1 Gifts or benefits of a non-token nature include:
- a) Free or discounted travel;
  - b) Use of holiday homes;
  - c) Tickets to major sporting events;
  - d) Corporate hospitality at a corporate facility or sporting venue;
  - e) Free training excursions;
  - f) Access to confidential information;
  - g) Discounted products for personal use; and
  - h) Goods and services provided via a determination in a Will.

### 5.4 Actual or perceived effect of the gift or benefit

- 5.4.1 Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift or benefit is prohibited. (gift of influence).

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### 5.5 Bribes

- 5.5.1 Council officials must not offer or seek a bribe. 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 is to take steps to report the matter to Police immediately.
- 5.5.2 Receiving a bribe is an offence under both the common law and Tasmanian Legislation.

### 5.6 Family members

- 5.6.1 Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits of a non-token nature or gifts or benefits above the nominal value. Immediate family members include parents, spouses, children and siblings.

### 5.7 Records – Gifts and Benefits Registers

- 5.7.1 Council officials, who receive a multiple number of token gifts or benefits from the same person or organisation (cumulative gift) over a twelve-month period that exceeds the nominal value must disclose that fact on the Gifts and Benefits Declaration Form and Register (attachment 1 and 2).
- 5.7.2 Where more than one Council official receives a token gift from the same person or organisation, within a twelve-month period, then the cumulative value of those gifts must be disclosed on the Gifts and Benefits Declaration Form and Register, by the senior officer of those staff who received the token gifts.
- 5.7.3 If an official of the Council receives a non-token gift or benefit in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or benefit should be disclosed, and the details recorded on a Gifts and Benefits Declaration Form and in the Gifts and Benefits Register.
- 5.7.4 Benefits inclusive of scholarships or payment of training by external sources should be disclosed and the details recorded on a Gifts and Benefits Declaration Form and in the Gifts and Benefits Register.
- 5.7.5 The Register will be available for public inspection.
- 5.7.6 The content of the Registers will be monitored by the General Manager on a monthly basis.

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**5.8 Disposal of gifts**

- 5.8.1 A supervisor, General Manager or Mayor is to determine whether a gift or benefit of a non-token nature should be disposed.
- 5.8.2 There are options for the disposal of gifts that have been accepted because they could not reasonably be refused, but they should not be retained by an individual. Examples of such circumstances where gifts or benefits may be received include:
- a) Gifts accepted for protocol or other reasons, where returning it would be inappropriate;
  - b) Anonymous gifts (received through the mail or left without a return address);
  - c) A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment; and
  - d) A gift or benefit of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a council related business relationship.
- 5.8.3 Options for disposal include:
- a) Surrendering the gift to Council for retention;
  - b) Distributing the gift or benefit amongst a selection of Council's officials - where a reasonable person would agree that the allocation was appropriate, (public perception); and
  - c) Donating the gift to an appropriate charity.

**5.9 Breaches of Policy**

- 5.9.1 All Council officials are obliged to comply with the Gifts and Benefits Policy and sanctions may be applied if the policy is breached.
- 5.9.2 Any person may report an alleged breach of the policy by an official of the Council to the General Manager or Mayor as appropriate who is to investigate any report received and take such action as is considered necessary.
- 5.9.3 If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

*Amendment Schedule:*

Amended 15 April 2016 – new clause 5.7.4

**SECTION ONE**

Name:	
Department:	
Date gift offered:	
What is the gift?	
What is the dollar value (approximate) of the gift?	
Who is the gift from?	
Individual (provide name):	
Organisation (provide name):	
Where was the gift offered? (ie at a function, over the counter, through the mail, at a meeting)?	
Recipients relationship to the donor:	
Should the gift or benefit accepted or declined:	
If the gift was accepted, should it be retained by the employee or organisation?	
If the gift was retained by the organisation should it be disposed?	
Council Official's signature:	
Date:	

**SECTION TWO– APPROVAL PROCESS**

Approved by General Manager (Staff)/Mayor (Councillors):	
Date:	

**SECTION THREE– OFFICE USE**

Date details recorded on Gifts and Benefits Register:	
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# WARATAH-WYNYARD COUNCIL

## GIFTS AND BENEFITS POLICY DECLARATION FORM ELECTED MEMBERS

### SECTION ONE

Name:	
Position:	
Date gift offered:	
What is the gift?	
What is the dollar value (approximate) of the gift?	
Who is the gift from?	
Individual (provide name):	
Organisation (provide name):	
Where was the gift offered? (ie at a function, over the counter, through the mail, at a meeting)?	
Recipients relationship to the donor:	
Should the gift or benefit be accepted or declined:	
If the gift was accepted, should it be retained by the employee or organisation?	
If the gift was retained by the organisation should it be disposed?	
Councillor's signature:	
Date:	

### SECTION TWO – APPROVAL PROCESS

Mayor / General Manager comments	
Mayor/ General Manager name and signature	

### SECTION THREE – OFFICE USE

Date details recorded on Gifts and Benefits Register:	
General Manager's signature:	

## GIFTS AND BENEFITS FLOW CHART

Waratah-Wynyard Council employees should not expect to receive gifts or benefits for doing a job they are paid by the public to do. In most situations, staff should refuse gifts and benefits if offered.

However, in limited circumstances, it may be appropriate to consider acceptance of a gift or benefit or a modest refreshment, if offered. In these cases, follow the guidance below:

