

Policy

Gifts and Benefits 2022



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Related Policies	Code of Conduct Policy Fraud and Corruption Prevention Policy Councillor Induction and Professional Development Policy Statement of Business Ethics
Related Documents	

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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1. PURPOSE

A gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use or enjoyment.

The purpose of this policy is to

- 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.
- 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 purposes of this policy the word "you" includes Councillors, members of staff, delegates, committee members and other persons bound by Liverpool Plains Shire Council's Code of Conduct.

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

2. BACKGROUND

In carrying out their role as Councillors, staff members and delegates of a local government body, individuals and/or groups will, 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 his/her impartiality. It 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 policy and procedures on the acceptance of gifts and benefits, and that all gifts and benefits (other than those of token value) are declared and recorded in a Gifts and Benefits Register.

This policy has been produced to guide Councillors, staff members and delegates who may be offered gifts and benefits during 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.

2.1 For the purposes of this policy, reference to a gift or benefit does not include:

- a) items with a value of \$10 or less
- b) a political donation for the purposes of the Electoral Funding Act 2018
- c) a gift provided to the Council as part of a cultural exchange or Sister City relationship that is not converted for the personal use or enjoyment of any individual Council Official or someone personally associated with them
- d) a benefit or facility provided by the Council to an employee or Councillor
- e) attendance by a Council Official at a work-related event or function for the purposes of performing their official duties, or
- f) free or subsidised meals, beverages or refreshments provided to Council Officials in conjunction with the performance of their official duties such as, but not limited to:
 - i) the discussion of official business
 - ii) work-related events such as Council-sponsored or community events, training, education sessions or workshops
 - iii) conferences
 - iv) Council functions or events
 - v) social functions organised by groups, such as Council Committees and community organisations.

3 DEFINITIONS

TERM	MEANING
Benefit	A non-tangible item of value that one person or organisation confers on another.
Bribe	A gift or benefit offered to or solicited by a Council official to influence that person to act in a particular way.
Cash-like gift	Included but not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone and internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.
Council Officer	A member of Council staff
Council Official	Councillors, Council officers, Council Committee or Reference Group members, volunteers or delegated persons as defined in the Local Government Act 1993.
Corruption	The abuse of public office for private or personal advantage.

Gift	An item of value which one person or organisation presents to another.
Gifts and Benefits Register	An official record that details gifts and benefits that have been offered to and/or received by Council Officials and how they are managed.
Hospitality	The provision of meals, refreshment or other forms of entertainment at events and activities involving workers and external organisations or individuals, during or in relation to work activities. This includes hospitality provided outside normal working hours in relation to work activities.
ICAC	Independent Commission of Corruption
LGA	Local Government Act 1993
Pecuniary Interests Return	A return completed by Councillors and designated staff as required by the Local Government Act 1993 which includes disclosure, inter alia, of gifts as required under the Local Government (General) Regulation 2021.
Token Value	Goods or services received from a person or organisation over a 12-month period that, when aggregated, the amount as defined in the Model Code of Conduct as enacted by Council.
Value	The monetary value of a gift or benefit, inclusive of GST.

4. POLICY STATEMENT

A Councillor, member of staff or delegate must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit of more than token value
- e) accept an offer of cash or a cash-like gift as defined by Clause 4.5, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the Council.

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

4.1 Gifts and Benefits

Gifts and benefits of token value are classified as those that are inconsequential or trivial and not offered on a regular basis (Clause 4.3). All gifts or benefits of more than token value (Clause 4.4) must become the property of Council and will be dispersed equitably.

You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.

A gift or benefit is deemed to have been accepted by you where it is received by you or someone personally associated with you.

4.2 How are offers of gifts and benefits dealt with?

You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) subject to Clause 4.2.2, accept any gift or benefit of more than token value as defined by Clause 4.4
- e) accept an offer of cash or a cash-like gift as defined by clause 4.5, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the Council.

4.2.1 Where you receive a gift or benefit of any value other than one referred to in Clause 2.1, you must disclose this promptly to your manager or the General Manager in writing. The recipient, manager, or General Manager must ensure that, at a minimum, the following details are recorded in the Council's gift register:

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

4.2.2 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Council, unless the nature of the gift or benefit makes this impractical.

4.3 Gifts and benefits of token value

You may accept gifts and benefits of token value. Gifts and benefits of token value are 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 \$100. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- b) gifts of alcohol that do not exceed a value of \$100
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$100 in value.

Token gifts and benefits usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties.

Examples of token gifts and benefits that could be regarded as having a nominal value include:

- (a) Gifts of single bottles of reasonably priced alcohol to individuals at end of year functions, public occasions or in recognition of work done;
- (b) 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;
- (c) Free or subsidised 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 etc, or provided at conferences where they are a speaker;
- (d) Cheap marketing trinkets or corporate mementos (such as key rings, notepads, inexpensive pens and pencils) and ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverage;
- (e) Invitations to appropriate "cocktail/Christmas parties" or social functions organised by groups, such as Council committees and community organisations.

4.4 Gifts and benefits of more than token value

Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of Clause 4.2(d) and, subject to Clause 4.2.2, must not be accepted.

Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation 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 organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

The value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

4.5 “Cash-like gifts”

For the purposes of clause 4.2(e), “cash-like gifts” include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

4.6 Improper and undue influence

You must not use your position to influence other Council Officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council Officials through the proper exercise of their role as prescribed under the LGA.

You must not take advantage (or seek to take advantage) of your status or position with Council, or of functions you perform for Council, in order to obtain a private benefit for yourself or for any other person or body

4.7 Bribes

“Bribery” is defined as 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 to incline that person to act contrary to the known rules of honesty and integrity.

Councillors, members of staff and delegates must not offer or seek a bribe. Receiving or offering a bribe is an offence under both the common law and NSW legislation.

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

5. RESPONSIBILITIES

5.1 Councillors, Staff Members and Delegates

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

Councillors, staff members and delegates of Liverpool Plains Shire Council must comply at all times with this policy and Council's Code of Conduct.

Councillors, staff members and delegates must complete, sign/date a declaration form for all offers of a gift or benefit (other than token gifts and benefits) and submit the declaration form to their Director, or General Manager (in the case of a Councillor and Directors), within two (2) weeks of receiving the offer.

Councillors, members of staff and delegates who have prior notice of the receipt of a benefit or hospitality (other than token hospitality and benefits), 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 Director or General Manager.

5.2 Management

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

The Director, or General Manager (in the case of a Councillor and Directors), must authorise, sign/date declaration forms, scan and register the completed document into Content Manager, and task to the General Manager's Executive Assistant who will process the information into the Gifts and Benefits Register. The Director may also wish to inform the General Manager.

The Director Corporate and Community Services will audit the gifts and benefits declaration forms and register every six (6) months and will report this audit to Council and any issues identified will be acted upon.

6. PROCUREMENT, CONTRACTS AND TENDERING

All procurement activities are to be conducted in an ethical manner.

Council representatives involved in corporate purchasing or procurement must not accept any form of gift, benefit or hospitality (of more than a token value) 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 (of more than a token) from contractors, potential contractors, tenderers or associated parties, and it must be declared in writing as part of the evaluation process.

The recipient of any gift, benefit or hospitality offered and/or received (other than token gifts and benefits) must submit a declaration form to the Director (or General Manager) for authorisation and recording in the Gifts and Benefits Register.

7. GIFTS AND BENEFITS REGISTER

All gifts, benefits and hospitality 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.

8. PROCEDURES

1. If you receive a gift, benefit, hospitality and you are unsure of the value, or have a doubt whether to accept it, you are to discuss this with your immediate Supervisor or Manager who will advise if it is a token gift or that approval of disposal is required by Director or General Manager.
2. If you are unable to discuss receipt of gift or benefit with your Manager and unable to refuse or return gift (other than a token gift) then you must complete and sign the Gifts and Benefits Declaration Form and forward to your Manager/Supervisor for comment and recommendation, and Director or General Manager for approval of disposal within two (2) weeks of receiving gift or benefit.
3. Gifts or benefits received that are not of token value as referred to in Clause 4.4 of the policy become the property of the Council and will be recorded in the register and disposed of equitably.
4. Should you receive a gift or benefit, it is recommended that you make 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.
5. Obtain a copy of the Declaration Form, which is attached to this Policy or available from the Governance and Corporate Performance Officer.
6. Complete the Declaration Form and forward to your Manager/Supervisor for comment and signing.
7. The Director, or General Manager (in the case of a Councillor and Directors), must authorise by a notation on the completed form. The Director should ensure that details are noted regarding what action has been taken in relation to disposal. For example - recipient to retain, dispersed among staff members/team, donate to social club or charity.
8. On completion of the Declaration Form forward to the Governance and Corporate Performance Officer who will process the information and record it in the Gifts and Benefits Register.
9. All gifts and benefits that become the property of Council should be delivered to the General Manager's office (or their delegate) for appropriate storage and disposal.
10. Council's Director Corporate and Community Services will audit the gifts and benefits declaration forms and register every six (6) months and will report their audit findings to Council and any issues identified will be appropriately acted upon.
11. 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.

9. DELEGATION

The General Manager is authorised, pursuant to Section 377 of the Local Government Act 1993, to allow a matter that does not conform with a policy to proceed, if the General Manager is of the opinion that the variation from the Policy is of a minor nature.

Significant variations from the Policy should be referred to Council for determination.

10. OTHER SITUATIONS

Employees who have regulatory relationships with Council's customers (such as inspection and certification roles) and also employees involved in procurement and disposal need to exercise greater care when considering accepting gifts or benefits. In these circumstances there is a greater likelihood that a gift or benefit may appear to have been offered in order to achieve a particular outcome, even if this is not the intention of the person who offered it.

DRAFT

GIFTS AND BENEFITS DECLARATION FORM

To:	
Cc:	
From:	
Date:	
Subject:	GIFTS AND BENEFITS DECLARATION

In accordance with the provisions of Council's Gifts and Benefits Policy, I wish to declare receipt of the following gifts/benefits:

Name of person offering gift or benefit	
Name of Organisation (Please include contact details if known)	
Date gift/benefit received	
Place where gift/benefit was received or offered	
Detailed description of gift/benefit	
Estimated value of gift/benefit	
Was the gift/benefit kept or surrendered?	
Other relevant details, explanations or comments	
Recipients Name and Signature	
Date	
Manager/Supervisor Comment	
Manager/Supervisor Name and Signature	
Date	