

85. GIFTS, BENEFITS AND PRIZES POLICY

Purpose

This Policy outlines the disclosure requirements for Councillors and Council employees when responding to offers of benefits, gifts and prizes, including tangible (of lasting value) and intangible (of no lasting value), items in accordance with legislative requirements.

This policy has been developed to mitigate some of the risks of potential corrupt conduct by Councillors and/or employees in relation to accepting gifts or benefits in return for favourable decision-making. The policy aims to improve Council's processes around transparency in relation to the declaration of all gifts, benefits and prizes offered or obtained within the course of fulfilling duties. Through effective implementation of this policy, Council reduces its risk exposure in relation to reputation damage, corrupt conduct and poor decision-making.

Scope

This Policy applies to benefits, gifts and prizes offered to or received by Councillors and Council employees in the course of their duties. The related persons of council representatives may be required to consider gifts and benefits in view of this policy and the possible impact on council.

This policy does not apply to: -

- Electoral gifts or donations to Councillors as defined in the *Local Government Electoral Act 2011*, or
- Gifts, benefits or hospitality offered to Councillors or Council employees as a result of Council Policies or management directives, such as recognition of service awards.

Policy Statement

Gifts or benefits are not an entitlement, or a right and should not generally be accepted. Monetary gifts, including cash, vouchers or gift cards, of any value must never be accepted.

Any gifts or benefits received must be declared. This includes:

- any prizes won while representing Council on official business (e.g. community events, conferences etc.)
- an individual award in recognition of work undertaken in an employee's official capacity, which includes components that could be deemed a gift or benefit.
- tickets or invitations to an event, whether or not Council is sponsoring that event.
- tokens of gratitude which would normally be accepted as a matter of social convention.

Council employees must not solicit, demand or request gifts or any personal benefit for themselves or any other person by virtue of their position.

Offers of Gifts, Benefits or Prizes

As a general guide, if a Councillor or Council employee is offered a gift or benefit, they should put themselves in the position of the person offering the gift or benefit and consider why the gift is being given and whether acceptance is appropriate. Each type of gift or benefit carries a level of risk that should be considered when deciding whether it should be accepted or declined. In determining whether acceptance of a gift is appropriate, the two major considerations are:

- the intent in which the benefit/gift is given; and
- the public perception of acceptance of the benefit/gift.

A Councillor or employee must not accept any gift or benefit, personal or otherwise, where there may be a real or potential conflict of interest or risk of compromise which may bring the Council's reputation, integrity or impartiality into question.

Any offers of gifts or benefits from a supplier or tenderer must be reported to the Chief Executive Officer (CEO).

Councillors and Council employees may enter competitions that offer prizes awarded on merit or by chance, where there is no cost to Council for entering the competition or prize draw (e.g. lucky door prize). Council employees are not permitted to utilise Council funds to purchase tickets in raffles or other kinds of random prize draws.

Declaring and reporting of benefits, gifts and prizes

Where a benefit, gift or prize has been given to a Councillor or a Council employee, a Record of Benefits including Gifts form (GV04) must be completed and submitted to the CEO.

The form details the description of the benefit, estimated value, supplier of benefit, reason for benefit and declare any relevant circumstances.

Council maintains a Benefits, Gifts and Prizes Register which is centrally maintained by Council's Governance Team. The completed form is to be provided to the Governance Team so the details can be added to the register.

Councillors and Council employees should consider both the value, frequency and the purpose of a gift and/or benefit which is being offered and must also consider the range of perceptions that might apply to a situation regarding acceptance of the gift or benefit.

Should a related person of a council representative receive a gift that could be perceived to be because of their relationship with the council representative, the council representative should complete the Record of Benefits including Gifts form (GV04)

Benefits, Gifts and Prizes of Nominal Value (less than \$50)

Council accepts that people will sometimes wish to express appreciation for service or assistance given by a Councillor or employee, or demonstrate courtesy, hospitality and /or good faith in a business relationship by giving some form of gift or benefit.

Appropriate gifts offered to councillors and employees can only be accepted and utilised by the individual councillor or employee if it is not contrary to the public interest. In the case of councillors, the receipt of the gift is to be approved by the CEO. In the case of an employee, the receipt of the gift is to be approved by their respective Department General Manager or Chief Engineer.

Other available options for recipients to consider, include surrendering the gift for disposal (donation to a charity) or for the use of the wider organisation.

The Record of Benefits including Gifts form (GV04) can be used to record this approval.

Nominal gifts include (but not limited to) items such as pens, caps, keychains, card holders, mousepads, USB sticks, calendars, lanyards, desk clocks, stress balls and snow domes.

Benefits, Gifts and Prizes of Value (\$50-\$500)

Any gift and/or benefit received by a Councillor or Council employee with a value between \$50 - \$500 will become the property of Douglas Shire Council in the first instance. The Record of Benefits including Gifts form (GV04) must be completed by the person in receipt of the gift, benefit or prize. Retention of a gift and/or benefit by the recipient will be at the discretion of the CEO. The CEO must not approve the gift, benefit or prize if acceptance would cause a conflict of interest or is outside of the following criteria.

- Does not influence, or have the potential to influence, the recipient in such a way as to compromise or appear to compromise the recipient's integrity and impartiality or to create a conflict of interest or perception of conflict of interest
- Is not a bribe and/or cannot be perceived to be a bribe
- Is not related to advice or decisions about (but not limited to) granting licences, inspecting and regulating businesses or giving approvals for such things as tenders and contracts
- Presents no obligation or implied obligation to reciprocate in any way, or
- Would provide a benefit to the community or it is normal in the gift giver's culture and not accepting a gift or benefit could cause offence.

Where the acceptance of a gift, benefit or prize with a retail value between \$50 and \$500 would cause a conflict of interest, the gift, benefit or prize must be respectfully declined. For complete transparency, if a gift, benefit or prize is declined because of a real or potential conflict of interest, the Record of Benefits including Gifts form (GV04) must be completed, detailing that the gift, benefit or prize was offered and declined.

Benefits, Gifts and Prizes valued at more than \$500

Councillors, the CEO and senior executives are required to record any gift over \$500 or multiple gifts which together total more than \$500 on their Individual Register of Interests in accordance with s291 of the *Local Government Regulation 2012*.

Official Gifts

Official gifts are sometimes presented at business, cultural or community events or functions to Councillors or Council employees. Gifts that would generally be considered official might include dedicated plaques, vases, trophies, clocks, flags, banners or books.

Official gifts can be accepted where no conflict of interest is present. A declaration form should be completed for each official gift including an estimate of what the gift may be worth. Official gifts are the property of Council and may be displayed appropriately in the Council administration building, the Mayor's office, the CEO's office, or any other Council building.

Surrender, Disposal and Utilisation of Gifts and Prizes

Disposal of all gifts and prizes must be in the public interest and pay due respect to the wishes and expectations of the donor (if known). Gifts or prizes over the value of \$50 that have been accepted by a

Councillor or Council employee are the property of Council. The CEO will have the discretion as to how gifts and prizes are disposed of or utilised. The following options may be considered:

- Donate to a local charity, hospital, school, community or non-profit organisation
- Donate to social club to be raffled to all staff or given away through random name draw to any Council employee
- Approval granted for gift to be retained by relevant officer where it would represent a benefit to the organisation and not the individual
- Disposal of gifts to individuals is not preferred unless there is a demonstrable overall benefit to the organisation
- Gift or prize redistributed to an appropriate area of Council (e.g. prize is a computer monitor – distribute the prize to ICT to be used where needed).

The disposal or utilisation of a gift, benefit or prize must be documented on the approved declaration form.

Definitions

TERM	DEFINITION
Benefit	Benefits include, but are not limited to, hospitality and other advantages such as ticket upgrades, premium or priority seating and complimentary subscriptions. Benefits might also include complimentary drinks packages, meals, flights and accommodation provided at no cost. Benefits also covers free use of facilities or equipment such as gyms, holiday homes and vehicles.
Electoral gifts	Gifts offered to candidates relating to an election and separately governed by the <i>Local Government Electoral Act 2011</i> .
Gift	A gift is something given voluntarily without payment in return. For the purpose of this policy, gifts also include those required under the <i>Local Government Regulation 2012</i> to be disclosed in a register of interest. Gifts also include bonus items (such as promotional items) or cash-back received during the procurement process.
Intangible gifts	Personal services, free or subsidised travel or accommodation, entertainment, preferential treatment, privileged access, promise of a special favour or advantage (e.g. a special type of loan), discounts on goods and services (including discounted interest rates).
Prize	Prizes include items won in random draws and prizes awarded based on merit. Prizes include lucky door prizes.
Related Persons	Means relevant to the Registers of Interest, a related person is defined by s289 of the <i>Local Government Regulation 2012</i> as: (a) The person is the primary party's spouse; or (b) The person is totally or substantially dependent on the primary party and – 1) The person is the primary party's child; or The person's affairs are so closely connected with the affairs of the primary party that a benefit derived by the person, or a substantial part of it, could pass to the primary party.
Tangible gifts	Cash, goods, hospitality (e.g. meals or drinks), or promotional materials (e.g. free pens, diaries)

Related Legislation

Local Government Act 2009

Local Government Regulation 2012

Local Government Electoral Act 2011

Crime and Corruption Act 2001

Related Documents (Local Laws, Policies, Forms)

Code of Conduct for Employees

Councillor Code of Conduct

Record of Benefit Form

Benefits, Gifts and Prizes Register

Policy Review

This policy is to be reviewed whenever legislation changes, or every four years if no changes have been required to be enacted, at the direction of the Chief Executive Officer.

Policy Details

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Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

This policy is to remain in force until otherwise determined by Council.