

POLICY:-	
Policy Title:	Bribes Gifts and Benefits Policy
File Reference:	F13/77-011
Date Policy was adopted by Council initially:	24 March 2005
Resolution Number:	86/05
Other Review Dates:	24 January 2008, 19 May, 2011, 20 March 2014 and 19 April 2018
Resolution Number:	36/08, 180/11, 66/14 and 112/18
Current Policy adopted by Council:	15 July 2021
Resolution Number:	117/21
Next Policy Review Date:	2024

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	
Procedure/guideline reference number:	

RESPONSIBILITY:-	
Draft Policy developed by:	Director of Finance and Administration
Committee/s (if any) consulted in the development of this policy:	Nil
Responsibility for implementation:	General Manager
Responsibility for review of Policy:	Director of Finance and Administration

OBJECTIVE

The objective of this policy is to:-

1. Clearly define the behaviour required of Council officials in relation to gifts and benefits; and
2. Provide a transparent and accountable process with regard to gifts and benefits that promotes public confidence in the Council.

Any gift or benefit offered or accepted shall be subject to the provisions of this policy. The policy is intended to complement the Council's Code of Conduct, specifically Part 6 Personal Benefit.

POLICY STATEMENT

This policy applies to all council officials. A council official includes; Councillors, members of staff of a Council, Administrators, Council Section 355 committee members, delegates of Council and council advisors.

This policy extends its application to also include non-council officials including; volunteers, contractors and members of Council advisory committees.

A person must not:-

- Seek or accept a bribe, or other improper inducement;
- Seek or accept gifts or benefits of any kind;
- 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;
- Accept any gift or benefit of more than token value; subject to Part 6.7, of the Council Code of Conduct;
- Accept an offer of cash or a cash-like gift as defined by Part 6.13, of the Council Code of Conduct, regardless of the amount;
- 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;
- Personally benefit from reward points programs when purchasing on behalf of the Council;
- Use their position to improperly influence other council officials in the performance of their official functions to obtain a private benefit for

yourself or for somebody else.

BRIBES

Bribes should never be accepted. A council official and/or Non-council official offered a bribe should refuse it and report the incident as soon as possible to their Supervisor or Department Director or General Manager. Council will take steps to report the matter to ICAC and the NSW Police immediately.

Council officials 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, creates an offence if any council official 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 a council official to corruptly receive or solicit (or corruptly agree to receive or solicit) any benefit that would in any way tend to influence that council official to show favour or disfavour to any person in relation to their official duties.

Any council official who breaches Section 249B (1), of the Crimes Act 1900, is liable to imprisonment for 7 years.

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.

GIFTS AND BENEFITS REGISTER

Council will maintain a Gifts and Benefits Register. The register will contain the following information:-

- The name of the recipient.
- The name of the person who offered the gift and their organisation.
- The decision taken in relation to the gift.
- The signature of the recipient's supervisor, General Manager or the Mayor.

It will be used to record all gifts and benefits that are received that are above a nominal value. The form to be utilised is the *Declaration of Gifts, Benefits or Hospitality*

How to report /inform the Independent Commission against Corruption (ICAC)

ICAC may investigate allegations of corrupt conduct against council officials and non-council officials. ICAC may be contacted on (02) 8281 5999 or by writing to:-

ICAC
GPO Box 500
Sydney NSW 2001

RELEVANT LEGISLATION AND RELATED POLICIES

The Policy should be read in conjunction with:-

- *Local Government Act 1993*
- *Local Government (General Regulation) 2005*
- *Government Information (Public Access) Act 2009*
- *State Records Act 1998*
- *Public Interest Disclosures Act 1994*
- *Independent Commission Against Corruption Act 1998*
- *Crimes Act 1900*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Disciplinary Policy*
- *Records Management Policy*
- *Fraud and Corruption Prevention Policy*
- *Government Information (Public Access) Policy*
- *Interaction between Councillors and Staff Policy*
- *Complaints Management Policy*
- *Public Interest Disclosures Policy*
- *Local Government (State) Award 2020*
- *ICAC publication "No Excuse for Misuse, preventing the misuse of council resources".*

VARIATION

Council reserves the right to vary or revoke this policy in accordance with changes to Legislation and/or Council Policies and Procedures.



Declaration of Gifts, Benefits or Hospitality

I _____ herewith advise that on _____
(name) (date)

I was given

(item)

By

(person and/or company)

The estimated value of this gift is \$

The circumstances in respect to my receipt of the gift were: (detail)

I have taken / propose the following action:

(please tick)

- ☐ accepted the gift and retained it for my personal use
- ☐ accepted the gift and give it to (another) _____
- ☐ returned the item
- ☐ other (details) _____

(Signature) (Date)

General Manager's comments

(Signature) (Date)