

TEMORA SHIRE COUNCIL



GIFTS AND BENEFITS POLICY

ACTIVE

Review Details**ABOUT THIS RELEASE**

DOCUMENT NAME: Gifts and Benefits Policy
CODE NUMBER: G33
AUTHOR: Temora Shire Council
ENDORSEMENT DATE: September 2024

REVIEW

Revision Date	Revision Description		Date approved by Council	General Managers Endorsement
September 2024	New Policy			MKB

PLANNED REVIEW

Planned Review Date	Revision Description	Review by
September 2028	General Review	General Manager

Contents

1.	Background.....	4
1.1	Purpose of the Policy.....	4
2.	Objective	4
2.1	Objectives and Coverage of the Policy.....	4
3.	Application	4
3.1	Application of this Policy	4
4.	Definitions	4
5.	Principles/Body.....	5
5.1	Bribes.....	5
5.1.1	What to do if you receive an offer of a bribe	5
5.2	Improper and undue influence.....	6
5.3	Personal Benefit	6
5.4	Gifts and Benefits	6
5.4.1	Gifts and Benefits of Token Value	6
5.4.2	Gifts and Benefits of more than token value	7
5.4.3	Exemptions	7
5.4.4	How are offers of gifts and benefits to be dealt with?	8
5.4.5	Disposal of Gifts.....	8
5.5	Gifts and Benefits Register	8
5.6	Provision of gifts and benefits to others	9
5.7	Alternatives to gifts and benefits and recognition of Council Staff	9
6.	Relevant Legislation	9
7.	Breaches and Sanctions.....	10

1. Background

1.1 Purpose of the Policy

This policy aims to provide guidance to Council officials in identifying, assessing and managing the provision or offer of any gift, benefit or bribe in accordance with Council's Code of Conduct and statutory requirements, and to enhance the reputation of Council as an organisation with the highest standards of ethical governance. This can only be achieved and maintained if the community is confident that Council officials are not influenced by gifts, benefits and bribery.

2. Objective

2.1 Objectives and Coverage of the Policy

This policy states the Council's requirements regarding the management of gifts and benefits, which protects Council officials and their reputation and minimises potential negative consequences for both Council and Council officials.

Council officials must not give or accept gifts or benefits that may compromise, or appear to compromise, their integrity and objectivity in performing their duties, or cause, or appear to cause a conflict of interest. The giving or acceptance of gifts and benefits may affect the public perception of the integrity and independence of Council. Council officials must be able to demonstrate that they cannot be improperly influenced in the performance of their duties by offers of gifts and benefits.

This policy outlines what gifts and benefits may and may not be accepted and alternatives to offering gifts and benefits to Council officials.

This policy complies with the Model Code of Conduct for Local Councils in NSW and guidelines issued by the Independent Commission Against Corruption (ICAC).

3. Application

3.1 Application of this Policy

This policy applies to people covered by the Code of Conduct including Councillors and members of Council staff.

The term "you" used in this policy refers to Council officials.

4. Definitions

For the purpose of this policy

Term	Meaning
Gift or Benefit	Something offered to or received by a Council official, or someone personally associated with them for their personal use and enjoyment.

Bribe	A gift or benefit offered to or solicited by a Council official to influence that person to act in a particular way.
Corruption	The abuse of public office for private or personal advantage.
Gifts & 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.
Cash-like Gifts	For the purposes of clause 5.4.4.1(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.

5. Principles/Body

5.1 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. Council will take steps to report the matter to ICAC and the NSW Police immediately.

Receiving a bribe is an offence under both 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

5.1.1 What to do if you receive an offer of a bribe

If you think you have been offered a bribe, your supervisor (or appropriate senior officer) must inform a Director or the General Manager. If your supervisor (or appropriate senior officer) does not do this, you should inform your Director or the General Manager yourself.

If you have been offered a bribe, the ICAC and the NSW Police must be notified immediately. This will ordinarily be done by Council. However, if this action is not taken expeditiously the Council official may do so themselves.

Temora Shire Council is committed to promoting ethical behaviour. Reports of unethical behaviour, fraud, corruption, maladministration or waste can be made to your supervisor, Director or the General Manager

External reporting can also be made to:

- Independent Commission Against Corruption
- NSW Ombudsman
- NSW Office of Local Government

Public officials reporting corrupt conduct, maladministration or waste can be protected by the *Public Interest Disclosures Act, 2022*. This Act protects public officials who are disclosing corrupt conduct from

reprisal or detrimental action and ensures disclosures are properly investigated. Temora Shire Council has an adopted Public Interest Disclosures Policy under the *Public Interest Disclosures Act, 2022*.

5.2 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 Local Government Act, 1993.

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

5.3 Personal Benefit

Council officials, at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently in good faith or could be an attempt to influence. Feelings of obligation can arise if council officials accept a gift or benefit. Once such a gift is accepted, a council official can be compromised.

Individuals attempting to corrupt council officials often start with small inducements that appear to have no improper motive behind them.

Corruptly receiving a gift or benefit is an offence under both common law and NSW legislation. The offence extends to the offering or seeking of a gift or benefit.

5.4 Gifts and Benefits

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 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 for the purposes of this policy, where it is received by you or someone personally associated with you

5.4.1 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:

- Invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- Gifts of alcohol that do not exceed a value of \$100.
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like.
- Prizes or awards that do not exceed \$100 in value.

5.4.2 Gifts and Benefits of more than token value

5.4.2.1 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 5.4.4.1(d) and, subject to clause 5.4.4.3, must not be accepted.

5.4.2.2 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.

5.4.2.3 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.

5.4.2.4 For the purposes of this policy, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

5.4.3 Exemptions

A reference to a gift or benefit in this policy does not include:

- Items with a value of \$10 or less.
- A political donation for the purposes of the *Electoral Funding Act, 2018*.
- 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.
- A benefit or facility provided by the council to an employee or Councillor.
- Attendance by a Council official at a work-related event or function for the purposes of performing their official duties.
- 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:
 - The discussion of official business
 - Work-related events such as Council-sponsored or community events, training, education sessions or workshops
 - Conferences
 - Council functions or events
 - Social functions organised by groups, such as Council committees and community organisations

5.4.4 How are offers of gifts and benefits to be dealt with?

5.4.4.1 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 5.4.4.3, accept any gift or benefit of more than token value as defined by clause 5.4.2.1.
- e) Accept an offer of cash or a cash-like gift, regardless of the amount.
- f) Participate in competitions for prizes where eligibility is based on the Council being in or entering a customer-supplier relationship with the competition organiser.
- g) Personally benefit from reward points programs when purchasing on behalf of the Council.

5.4.4.2 Where you receive a gift or benefit of any value other than one referred to in clause 5.4.3, this must be disclosed promptly to your supervisor, Director or General Manager and must ensure that any gifts or benefits that are received are recorded in the Gifts and Benefits Register.

5.4.4.3 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, to be disposed of in accordance with clause 5.4.5, unless the nature of the gift or benefit makes this impractical.

5.4.5 Disposal of Gifts

Gifts which have been surrendered to Council will be disposed of using one of the following methods:

- donated to a charity within the Temora Shire Local Government Area
- shared amongst all staff
- retained and used as part of Council's operations
- returned to the giver

The disposal method will be recorded in the Gifts and Benefits Register.

5.5 Gifts and Benefits Register

The Gifts and Benefits Register is an official Council record that details gifts and/or benefits offered to Council officials and how these items were managed by Council. At a minimum, the following details are recorded in Council's Register:

- The nature of the gift or benefit;
- The estimated monetary value of the gift or benefit;
- The name of the person who provided the gift or benefit; and
- The date on which the gift or benefit was received.

The Gifts and Benefits Register will be reviewed every six months by the General Manager to identify and manage any potential emerging risks.

Councillors must consider their disclosure obligations when completing their Disclosures by Councillors and Designated Persons Return required under part 4 of the Code of Conduct.

Gifts or benefits which appear to be associated with a Council officer's official role and which are offered to immediate family members of the official are also subject to this policy and must be declared in the Gifts and Benefits Register.

5.6 Provision of gifts and benefits to others

It is acceptable practice for Council officials to:

- Offer modest hospitality to individuals and representatives of other agencies who visit the organisation for work-related activities
- Give tokens of appreciation to individuals who have given non-paid presentations to Council
- Give ceremonial gifts to visiting delegations from overseas and other agencies.

Such gifts must be arranged through the Executive Assistant to ensure consistency and suitability for purpose.

The same provisions apply for the giving of gifts as for their acceptance, including considering how the offer of the gift may be perceived. Council officials should exercise particular caution when the proposed recipient or organisation has a continuing business relationship with Council.

5.7 Alternatives to gifts and benefits and recognition of Council Staff

The council is committed to ensuring our staff are remunerated appropriately and receive recognition and reward for exceptional performance.

At all times Council welcomes feedback and members of the public are encouraged to express their gratitude and appreciation of staff in one of the following ways rather than by offering gifts or benefits:

- In person
- A card or letter to the staff member
- An email or letter to the General Manager to ensure that staff members receive appropriate recognition.

It is far more appropriate that staff performance be recognised through Council's Employee Incentive Scheme Program. This awards program celebrates positive behaviour and innovative ideas which assist Council in achieving its objectives.

6. Relevant Legislation

Crimes Act, 1900 (NSW)

Independent Commission Against Corruption Act, 1998 (NSW)

Local Government Act, 1993 (NSW)

Local Government (General) Regulation, 2021 (NSW)

Public Interest Disclosures Act, 2022 (NSW)

7. Breaches and Sanctions

Failure to comply with this policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions, including dismissal. Any breaches of this Policy will be referred to the General Manager for appropriate action.

Public officials should not solicit or accept any gifts, benefits or hospitality that could be perceived as intended to influence them, or if they are of more than token value. Offers of money in any form should never be accepted.

