

Central Tablelands *Water*



Gifts and Benefits Policy

Policy Title:	Gifts and Benefits Policy	
Responsible Officer:	General Manager	
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Part 1: Introduction

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

Council recognises that gifts and benefits of nominal value are frequently offered and accepted and there is little risk of harm in permitting this to occur. However, this Policy also recognises that on occasions, gifts and benefits are offered to influence the attitudes or decisions of Council Officials in favour of the provider. In this case the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

1.1 Policy Objectives

The purpose of this policy is to establish guidelines for dealing with gifts and benefits and establish transparent processes so that the integrity and independence of the individual and the Council is not compromised.

The objectives of this policy are to:

- Explain gifts and benefits, including token gifts and benefits, and gifts and benefits of value;
- Provide clear guidelines on how to deal with gifts and benefits;
- Ensure that Council officials understand and meet their obligations under Council's *Code of Conduct Policy* so as not to be compromised or appear to be compromised because of a gift or benefit; and
- Demonstrate that Council has a fair, transparent and accountable mechanism for dealing with gifts and benefits.

1.2 Scope of Policy

This policy applies to all Council Officials as defined within this policy.

This policy operates in addition to all other obligations under the *Local Government Act 1993* (the Act), any other legislation, or relevant codes and policies regarding the disclosure of any interests.

1.3 Definitions

Benefit – a non-tangible item of value (e.g. a new job or promotion, preferential treatment or access to confidential information) that one person or organisation confers on another. Some examples include:

- Tickets to sporting events or other entertainment;
- Use of facilities such as a gymnasium or holiday home;
- Free or discounted travel, Frequent Flyer points.

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.

Council Official – An individual who carries out public official functions or acts in the capacity of a public official. These include Councillors, members of staff, members of Council committees, conduct reviewers and delegates of Council.

Corruption – the abuse of public office (i.e. public trust) for private or personal advantage.

Cumulative Gifts – a series of small gifts, each of which is of minimal value, may have an aggregate value that exceeds Council’s stipulated nominal value. Such circumstances need to be treated in the same way as gifts which exceed nominal value.

Delegate of Council – a person or body, and the individual members of that body, to whom a function of Council has been delegated.

Nominal Value - a value that usually does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties. For the purpose of this Policy, Council has determined that \$50 is the maximum nominal value of any gift or benefit.

Gift

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

Gift of Gratitude – a gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.

Token Gifts – Items of minimal value that are given in gratitude for services provided such as speaking at a conference or training seminar, end of year functions or local social or cultural events. Some examples of token gifts include:

- Modest bottle of wine
- Chocolates
- Ties/scarves
- Stationery – pens or diaries
- Coffee mugs, coasters – tie pins
- Clothing – caps, t-shirts, polo’s etc.

Gift Register – An official agency record that details gifts and benefits received by staff and how they were managed.

Official Duties – the work undertaken by a public official as defined by relevant or governing legislation (and regulations), the official’s position description or lawful directions given by a supervisor.

Staff – all employees of Central Tablelands Water (full-time, part-time, temporary or casual).

It also includes, for the purposes of this policy only, all volunteers and contractors (who principally provide their labour).

1.4 Legislative Context

Corruptly receiving a gift or benefit is an offence under both the common law and NSW legislation.

(1) Crimes Act 1900 (NSW)

Section 249B(1) of the Crimes Act 1900 (NSW) creates an offence if any employee corruptly 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. This also pertains to receiving benefits for showing favour or disfavour to any person in relation to their official duties.

(2) Local Government Act 1993

Section 440 of the Act requires that councils adopt a code of conduct. The section states that serious corrupt conduct, of which bribery is an example, may lead to the dismissal or temporary suspension from office of a Councillor or staff member.

(3) Independent Commission Against Corruption Act 1988 (ICAC Act)

Under Section 11 of the ICAC Act, the General Manager has a duty to inform ICAC regarding any matter that he or she suspects on reasonable grounds, concerns or may concern corrupt conduct.

1.5 Code of Conduct

Gifts and Benefits are dealt with under Part 5 of the *Code of Conduct (Personal Benefit)*. This policy expands on the provisions of the Code of Conduct and establishes a procedure for disclosing and, where necessary, surrendering certain gifts and benefits.

Part 2: Policy Content

2.1 General Provisions

- (1) Council generally discourages the acceptance of gifts or benefits by Councillors, Council staff or Council delegates (Council Officials) unless such gifts are made to the Council as a corporate body rather than to an individual.
- (2) No gifts of any value (including nominal value) are to be accepted by Councillors, Council staff or Council delegates (Council Officials) in any circumstances during the course of a contract tender period.
- (3) If a gift or benefit is received in the course of a Council Official's duties and relates to the work of Council, or has a public benefit, it may be accepted. All such gifts become the property of Council and must be recorded in Council's Gifts and Benefits

- Register. Such gifts may be disposed of as provided for by clause 2.2.10 of this Policy.
- (4) No gifts or benefits of more than nominal value may be accepted by Council Officials, except in the circumstances set out in paragraph 2.2.1.(3) below.
 - (5) Under no circumstances are offers of money, including items that can be redeemed for money such as gift vouchers, lotto/lottery/scratchie tickets, tickets to events, travel tickets, goods and/or services, to be accepted.
 - (6) You must always consider the purpose, intent and value of the gift or benefit being offered before making a decision to accept such gift or benefit.

2.2 Specific Provisions

2.2.1 Special Circumstances

- 1) Gifts to family members – Council staff must take all reasonable steps to ensure that their immediate family members are not the recipients of gifts and benefits that could be perceived to be an attempt to influence the behaviour of that Council Official.
- 2) Prizes and gifts – on occasions Council officials may receive a prize or gift as a result of entering a competition while engaging in official Council business. Any such gifts/prizes that are received shall be deemed to be the property of Council, not the individual, and may be disposed of as provided under clause 2.2.10 of this Policy.
- 3) Gifts that cannot be returned – There may be circumstances where a gift, unacceptable under Council’s policy, is inadvertently accepted by a Council Official or may not be easily returned or the value of such gift is unknown at the time of receipt. Such gifts shall be deemed to be the property of Council and disposed of appropriately as set out in clause 2.2.10 of this Policy.

2.2.2 Forms of Gifts

Gifts come in many forms and are given for a variety of reasons, some reasons being appropriate, whilst others inappropriate. Gifts may be categorised as ones of influence, gratitude, token or ceremonial – each providing a different perspective of its intent.

The intent of the gift giving provides some basis for decision making in determining whether a gift should be accepted or declined, and should be considered in consultation with the other parameters provided in this Policy.

2.2.3 Nominal Value

One factor in determining whether a particular gift or benefit may be accepted is its value. The value of a gift or benefit will determine how it is dealt with. Council has a nominal value of \$50. Examples of gifts and benefits of nominal value would be:

- Inexpensive pen or stationery
- Box of chocolates
- Modest bottle of wine

By contrast, the following gifts and benefits would be likely to have more than the stated nominal value of \$50:

- Tickets to sporting events or other entertainment e.g. football matches, concerts
- Jewellery
- Free or discounted travel

2.2.4 Token Gifts

Token gifts and moderate acts of hospitality include:

- Free or subsidised meals and/or beverages provided infrequently (and/or reciprocally) by representatives of other public sector agencies or at corporate training or conferences
- Free meals and/or beverages provided to public officials who formally represent Council at government-related functions or events.

If a Council Official attends any business meeting or a meeting with community members at which food and/or beverages are purchased, any costs incurred for that Council Official should be borne by Council so as to avoid a perception of indebtedness, even though such amount may not exceed the nominal value.

2.2.5 The Giving of Gifts by Council

There may be occasions when it is appropriate for Council to give gifts or benefits to individuals from other public or private agencies. Such a gift or benefit is to be of a value appropriate to the circumstances and with endorsement from the General Manager. Appropriate caution should be exercised when the proposed recipient or organisation has a continuing business relationship with Council.

2.2.6 Reporting of Offering of Gifts or Benefits

Council Officials who receive a gift or benefit relating to their position, apart from gifts of a token value, must complete the Gifts and Benefits Register Form as soon as practical after receiving the gift or benefit. This declaration must also be made if the Council Official knows of a family member receiving a similar gift. Such gift or benefit is not to be used, consumed or disposed of prior to finalisation of the approval process including the General Manager's authorisation.

2.2.7 The Offering of a Gift or Benefit During a Tender Contract Period

Under no circumstances are gifts or benefits of any value (including nominal value) offered by a tenderer (or any related entity or individual) during the course of a tender period, to be accepted by a Councillor, Council staff or Council delegates (Council Officials).

If a gift or benefit is offered during a tender contract period the General Manager must be notified immediately.

2.2.8 Inappropriate Offering of a Bribe

If a Council Official is offered a bribe, corrupt inducement or reward, such matter must be reported to the General Manager immediately. The offer must not be accepted under any circumstances.

Any Council Official who believes they have been offered a bribe must:

- Immediately reject the offer
- Terminate the interaction with the person
- Keep a record of the events
- Inform their supervisor/manager (or in the case of a Councillor, the General Manager)
- The supervisor/manager must inform the General Manager immediately
- The General Manager must inform ICAC and the Police

The General Manager has a duty under Section 11 of the Independent Commission Against Corruption (ICAC) Act 1988 to notify ICAC of any possible corrupt conduct.

2.2.9 Conflicts of Interest

Consideration should also be given by Council Officials as to whether or not acceptance of a gift or benefit is, or could be perceived to be, a conflict of interest. Council's Code of Conduct should be applied in these circumstances.

2.2.10 Gifts or benefits that become the property of Council

The General Manager has the discretion to dispose of gifts or benefits, deemed to be those of the Council, in an appropriate manner. Such disposal may be by way of:

- Holding an auction with all proceeds going to a charity which provides services to the local community;
- Donating such goods to a charity that provides services to the local community;
- Sharing the gift or benefit amongst all staff for the purposes of performing Council operations (e.g. a computer printer that could be networked);
- Holding a fundraiser with gifts or benefits as prizes, or
- In the case of tickets to local functions of a token value, offer the tickets to staff and where responses exceed the number of tickets, conduct a draw.