

Warringah Council Policy

Policy No. STR-PL 005

Gifts and Benefit

1 Purpose of Policy

The purpose of this policy is to provide guidance to Councillors and staff regarding the issue of receiving or being offered gifts or benefits and to ensure that in dealing with any gifts, benefits or the offer of gifts or benefits, Councillors and staff are not influenced in the performance of their duties and that there is no perception of undue influence due to these offers.

2 Policy Statement

A councillor or staff member must not:

- seek or accept a bribe or other improper inducement
- by virtue of his or her position, acquire a personal profit or advantage which has a monetary value, other than one of a token value.

A councillor or staff member must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence a Councillor or staff member to:

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise deviate from the proper exercise of his or her official duties.

A Councillor or staff member may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on his or her part or that may not be perceived to be intended or likely to influence him or her in carrying out their public duty.

A councillor or staff member must never accept an offer of money, regardless of the amount.

3 Token gifts and benefits

3.1 Generally speaking, token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - the discussion of official business
 - council work related events such as training, education sessions, workshops
 - conferences
 - council functions or events
 - social functions organised by groups, such as council committees and community organisations.
 - invitations to and attendance at local social, cultural or sporting events

- gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

b) gifts or benefits with a value of less than \$50

Gifts and benefits of value

3.2 Notwithstanding clause 3.1 (a) and(b) above, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

Gifts and benefits

3.3 You must not:

seek or accept a bribe or other improper inducement

seek 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 ie less than \$50

accept an offer of money, regardless of the amount.

Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register by filling out a Gifts Register Form. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical. If you are offered a gift and refuse the offer of the gift you must also have this recorded in the Gift Register.

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Improper and undue influence

You must not use your position to influence other council officials in the performance of their public or professional duties 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 appropriate exercise of their representative functions.

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

It should be noted that political donations are dealt with in Council's Code of Conduct and Conflict Of Interest Policy.

Examples

Example 1 – Gifts, benefits and hospitality

A regular supplier offers the council's purchasing officer a free weekend for two at a beach resort. The officer's impartiality when dealing with a supplier would be compromised if he or she accepts the offer.

Planning and building staff are regularly offered alcohol, food, tickets to major sporting events and free lunches by developers, builders, project managers and suppliers. Staff sometimes accept these gifts without declaring them and argue that they are in return for providing good service and are an accepted way of "doing business". Again, this will be perceived to have compromised the impartiality of the staff concerned.

In this situation staff should, in the first instance, refuse any gift offered. If staff feel obliged to accept gifts, then they should declare the gift and have it recorded in council's gift register. Council may then determine how these gifts are dealt with and could, for example, donate specific items to charity.

Example 2 – Acceptance of gifts and bribery

A local council employee is involved in a series of inspections on a building site. During the inspections, the developer offers the employee numerous gifts including alcohol and a present for the employee's new born child. The employee accepts the gifts as he feels they are offered as unconditional and genuine tokens of appreciation for his work, especially as the inspection involved a number of lengthy tasks.

The employee believes he is not compromised by the gifts and eventually makes a recommendation that is not in the developer's interests. After the recommendation is made, the developer complains to the council about the employee accepting gifts.

Although the employee accepts the gifts in good faith, he nevertheless places himself in a vulnerable position. While each of the gifts is of modest value, when viewed in total, the value of the gifts seems quite substantial. The developer is able to manipulate the situation to allege the employee has accepted bribes.

The employee's acceptance of the gifts could also be used as circumstantial evidence of bribery. The employee could not rely on the fact that he made a decision he would have made, regardless of the gifts, as a defence to bribery.

Example 3 – Acceptance of gifts and influence

A council's Information Technology Manager attends two meetings with potential suppliers. During the first meeting the suppliers serve tea, coffee and biscuits. The second meeting is held at a restaurant and the suppliers pay for the manager's three course meal.

Both of the meetings arguably provide the manager's council with a benefit, namely the opportunity to discuss the supplier's products. Despite this, a contrast can be drawn between the meetings.

In the first, the refreshments are only modest in nature and consequently do not create the impression that an attempt is being made to gain the manager's favour.

In the second, the nature of the lunch creates the impression that an attempt is being made to compromise the manager's impartiality. The damage of this perception far outweighs any benefit associated with the manager's absence.

This Policy was adopted by Council on 9 September 2008.

It is effective from 9 September 2008.

It is due for review on 9 September 2010.

Amendments – Code of Conduct Review June 2008.

Code of Conduct Review September 2008.

4 Who is responsible for implementing this Policy?

Team Leader Governance

5 Document owner

Director Strategy and Policy

6 Related Council Policies

- c) Code Of Conduct
- d) Conflicts of Interest

7 Legislation and references

Local Government Act 1993.

