

# POLICY REGISTER

## GIFTS AND BENEFITS POLICY

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**DOCUMENT CONTROL**

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## **Policy Scope**

The Gifts and Benefits Policy supports Council's Code of Conduct and provides procedures and direction for the management of gifts and benefits.

This Policy is applicable to all Council Official (Councillors, Council staff, volunteers or delegated persons as defined in the Local Government Act 1993).

For the purpose of this Policy, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provision of the relevant election funding legislation.

## **Policy Objective**

The purpose of this Policy is to:

- Ensure that all persons covered by this Policy are aware of their obligations concerning the management of receiving and being offered gifts or benefits.
- Provide a transparent and accountable process for the acceptance of gifts or benefits.

## **Policy Statement**

This Policy supports (and is to be read in conjunction with) Council's Code of Conduct. The Policy provides guidance on whether an offer of a gift or benefit should be refused or accepted and what must be done if the gift or benefit is accepted.

Individuals covered by this Policy should not accept any gifts or benefits that give rise to a real or perceived influence in relation to their decision-making role. The refusal or receipt of gifts or benefits must be conducted in a manner to ensure that they are not provided as an intentional inducement by the donor to receive favourable treatment. It is equally important to consider the perception of what a gift or benefit may create, regardless of the type or value.

Gifts or benefits may be offered for a variety of reasons including:

- (a) Gifts of influence (inappropriate offers)
- (b) Gifts of gratitude (appreciation)
- (c) Token gifts
- (d) Ceremonial gifts.

## **Gifts and Benefits Register**

Council will maintain a register containing details of gifts and benefits and the decision and outcome relating to the gift.

All Council Officials will be made aware of where it is and in what circumstances information should be recorded in it; as prescribed by this Policy.

## **Policy Guidelines**

### **1. Inappropriate Offers (Bribes)**

- 1.1.1 Council Officials must avoid situations giving rise to the appearance that a person or body, through the provision of gifts and benefits (including hospitality) of any kind, is attempting to secure favourable treatment from Council or the individual acting on Council's behalf.

Individuals covered by this Policy 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 or may be perceived to be intended to or likely to influence the carrying out of your public duty;
- (d) accept any gift or benefit of more than token value;
- (e) accept any offer of cash or a cash like gift, regardless of the amount.

1.1.2 Council Officials must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to receive favourable treatment from the individual covered by this Policy. Immediate family members include parents, spouses, children and siblings.

1.1.3 Council Officials must not use their position to influence other Council Officials in the performance of their public or professional duties to obtain a private benefit for themselves or for somebody else. A Councillor will not be in breach of this clause if they are seeking to influence other Council Officials through the appropriate exercise of their representative functions.

1.1.4 Council Officials must not take advantage (or seek to take advantage) of status or position with, or functions performed for Council in order to obtain a private benefit.

1.1.5 Council Officials must never accept any offer of a gift or benefit which would be considered to be intended to influence behaviour or show favour (or not show favour) to any person in relation to official duties.

1.1.6 If offered a bribe, the matter should be reported immediately to Council's General Manager. The Independent Commission Against Corruption (ICAC) and where relevant, the Police, must be informed by the General Manager.

1.1.7 Soliciting personal gifts or benefits is strictly prohibited. Any individual covered by this Policy who becomes aware that another individual covered by this Policy is soliciting gifts or benefits must report the matter to the General Manager immediately.

## **1.2 Gifts of Appreciation**

### **1.2.1 Token Gifts (nominal value)**

- (a) Gifts of gratitude where the value is less than \$100.00 may be accepted or declined. The acceptance of such "token" gifts must be declared and recorded in the Gifts and Benefits Register.
- (b) A gift may be offered to an individual in appreciation of a specific task or for exemplary performance of duties. Gifts offered for speaking at official events would be an example of a gift of gratitude.
- (c) Council's Code of Conduct defines "token gifts and benefits" as:
  - (i) Free or subsidised meals, beverages or refreshments provided in conjunction with:
    - The discussion of official business.
    - Council work related events (training, workshops).
    - Conferences.
    - Council functions or events.
    - Social functions organised by groups (such as Council Committees and community organisations).

- (ii) Invitations to and attendance at social, cultural or sporting events.
- (iii) Gifts of a single bottle of reasonably priced alcoholic beverages at end of year functions, public occasions or recognition of work done/ assistance given (such as a lecture, presentation or training session).
- (iv) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers.
- (v) Prizes of token value.

**1.2.2 Non-token gifts (gifts and benefits)**

- (a) Gifts or gratitude where the value exceeds \$100.00 should NOT be accepted. Refer to paragraph 1.7 of this Policy for possible exceptions.
- (b) Council's Code of Conduct defines gifts and benefits of value as having more than a token value to include, but not limited to:
  - Tickets to major sporting events (such as international cricket, NRL, AFL, FFA, NBA, V8 supercars).
  - Corporate hospitality as 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.

These types of gifts **ARE TO BE REFUSED**

1.2.3 Gifts of money and cash-like gifts (e.g. Gift Vouchers – regardless of the amount) **MUST NEVER** be accepted.

1.2.4 All offers (refused or accepted) of non-token gifts or benefits **MUST BE** disclosed by completing the Gifts and Benefits Declaration Form (appendix 1) and be recorded in the Gifts and Benefits Register.

**1.3 Cumulative Gifts**

1.3.1 A series of small gifts, which individually fall under the nominal value of \$100.00, may have an aggregate value which exceeds the nominal value in any six-month period. Such gifts, while seemingly modest, may pose a risk or apparent compromise, in the same way as accepting one gift or benefit which exceeds the nominal value.

1.3.2 Where a series of gifts is received, as described in paragraph 1.2.1, in any six-month period, the gifts must be declared. Where the gift giving continues, the acceptance of gifts must be declined. Such gifts should be declared and the matter raised with your Manager or Divisional Manager and, in the case of Councillors or other Council officials, with the General Manager.

**1.4 Hospitality and Work-related Functions**

1.4.1 Hospitality often forms part of a work-related function, such as morning/afternoon tea at a meeting, a modest lunch offered to a working group, a networking function etc. Such hospitality is acceptable. A useful guide of what would be acceptable hospitality is the type of hospitality which Council would provide to its business associates. Refer to paragraph 1.2.1 (c)(i) for guidance.

1.4.2 Hospitality that extends beyond that described in paragraph 1.2.1 (c)(i) needs to be carefully considered before accepting. The following should be considered:

- (a) Is it likely that, by accepting the hospitality, the Council official may be perceived to show favouritism to the host in some way in the future (e.g. procurement or development applications)?
- (b) Is there a business rationale for attending the function/accepting the hospitality?

- (c) Is the value of the hospitality at a reasonable level?
- (d) Will there be a number of other clients/representatives from other councils attending the function?
- (e) Is the hospitality being offered by a service provider where a tender/or other contract is due for renewal in the next six months or during the tender or contract negotiation process?

### **1.5 Hospitality Should Only be Accepted Where**

- 1.5.1 There is a strong business case for attending the function/accepting the hospitality.
- 1.5.2 The estimated value of the hospitality is at a reasonable level, not for example a “silver service” restaurant.
- 1.5.3 Other clients will be attending the function, e.g. an end of year event hosted by a contractor for a range of clients.
- 1.5.4 Where there is a business reason for accepting the hospitality that is considered more than a token value, then Council should pay the expenses rather than have the event organisers cover the expense.

### **1.6 Prizes**

- 1.6.1 A Council Officer may receive a prize whilst at a work or Council duty related activity through the completion of a survey or a purchase incentive scheme. As the Council official is working or attending the relevant event or activity in their official capacity, the receipt of such gifts or prizes is captured by this Policy.
- 1.6.2 Prizes that are won under such circumstances that are not “token gifts” will become the property of Council. In such cases the gift/prize should be declared using the Gifts and Benefits Declaration and the item handed to the General Manager to become the property of Council.

### **1.7 Accepting Gifts**

- 1.7.1 A gift or benefit offered that is more than of a token nature **SHOULD NOT** be accepted. It is acknowledged that it is not always possible to decline a gift. The following points should be considered in relation to accepting or declining a gift.
- 1.7.2 Consideration should be given to not only the value of the gift but also the intent of the gift or benefit being offered.
- 1.7.3 Christmas, culture or tradition should never be used as an excuse to accept inappropriate gifts and benefits.
- 1.7.4 There may be circumstances where a gift that falls outside of what is acceptable under this Policy is accepted. Such circumstances may include:
  - (a) A wrapped gift that the recipient does not open in the presence of the gift giver.
  - (b) Gifts accepted for cultural, protocol or other reasons where returning it would be inappropriate.
  - (c) Anonymous gifts received through mail or left without a return address.
  - (d) A gift received in a public forum where attempts to refuse it would cause significant embarrassment.

These gifts become the property of Council and must be declared using the Gifts and Benefits Declaration Form and surrendered to the General Manager.

- 1.7.5 Frequent user points accrued because of Council purchases will remain the property of Council.
- 1.7.6 Frequent Flyer points received as part of staff using the staff members privately purchased airline membership that allows a second staff member or councillor to benefit from free food, refreshment or work space to a value no greater than \$100.00 is exempt.

## **1.8 Disposal of Gifts**

- 1.8.1 When a gift is received that is above the token limit, the recipient must complete a Gifts and Benefits Declaration Form and present the item in question to the General Manager. The General Manager will determine the most appropriate means of disposing of the gift.
- 1.8.2 Disposal options include:
  - (a) Gifts received from visiting delegations or gifts personalised to Warren Council will be kept at the Council offices.
  - (b) Perishable food items may be shared amongst staff in the workplace.
  - (c) Gifts that can be used for work purposes will become a Council asset and utilised within the appropriate areas of Council.
  - (d) Gifts may be donated to an appropriate charity or community group as determined by the General Manager.
  - (e) The General Manager may raffle or auction the goods in question and donate the proceeds to a charity nominated by the General Manager.
  - (f) Complimentary tickets to local races and events can be placed in a lucky draw for all staff members.

## **1.9 Giving of Gifts**

- 1.9.1 In circumstances where it is appropriate for Council officials to give a gift or benefit these gifts and benefits should be of token value as defined under this Policy.

## **2. Responsibility**

- 2.1.1 All individuals covered by this Policy must comply with the provisions of this Policy.
- 2.1.2 Managers/Divisional Managers are responsible for providing advice as required to staff in relation to the provisions of this Policy.
- 2.1.3 Council's General Manager is responsible for providing advice to individuals other than staff in relation to the provisions of this Policy.
- 2.1.4 The General Managers' Executive Assistant is responsible for maintaining the Gifts and Benefits Register.
- 2.1.5 Council's Public Officer is responsible for facilitating public access to the Gifts and Benefits Register.

## **3. Training**

- 3.1.1 All Council Officers should receive training on induction (and bi-annual refreshers) in relation to the requirements prescribed by this Policy. Any amendments to this Policy should be conveyed as soon as possible to all Council Officials.

## **Definitions**

**Council** means Warren Shire Council.

**Gifts and Benefits** in accordance with the Model Code of Conduct for Local Councils in NSW (2020) there are two types of gifts and benefits, these are:

- (a) Token Gifts and Benefits
- (b) Gifts and Benefits of Value.

**Benefit** means a non-tangible item of value (e.g. preferential treatment, use of facility) that a person or organisation confers on another.

**Gift** means an item of value (e.g. hospitality, travel, commodity, property etc.) that is presented by an organisation or person to another.

**Cash-like Gift** includes but it not limited to gift vouchers, credit cards, debit cards, prepayments on phones or internal credit at an organisation, memberships or entitlements to discounts.

**Bribes** are gifts or benefits given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council Official to benefit someone or something.

**Hospitality** means the provision of meals, refreshments or other forms of entertainment.

**Staff** means all persons employed by Council.

**Token Value** means the monetary limit of value of gifts or benefits (GST exclusive) that may be accepted and does not require declaration in the Gifts and Benefits Register. This value is \$100.00.

**Council official** means Councillors, Council staff, volunteers or delegated persons as defined in the Local Government Act 1993.

**Gifts and Benefits Register** – a register that details gifts and benefits received by Council officials and how the gifts are managed. This register is made available to the public.

## **Exceptions**

For the purpose of this Policy gifts and benefits do not include a political donation or contributions to an election fund that is subject to the provisions of the relevant funding legislation.

## **Related Documents and Legislation**

- Council's Adopted Code of Conduct
- Local Government Act 1993

## **Review**

This Policy should be reviewed every 4 years or within 12 months following an election of Council. The Policy may be reviewed and amended at any time at Council's discretion (or if legislative changes occur).



**APPENDIX 1 – GIFTS & BENEFITS FORM**  
**WARREN SHIRE COUNCIL**

<b>Gifts &amp; Benefits Declaration Form</b>	
<b>1. Details of the Gift, Benefit or Hospitality</b> (Please complete all white sections)	
Date Gift offered or received	Description of the Gift, Benefit or Hospitality
Estimated Value	
\$	
<b>2. Who received or was offered the gift?</b>	
Recipient	Position
Organisation offering gift	Reason the gift was offered or given
<b>3. What action was taken?</b>	
<input type="checkbox"/> Gift refused	Note:
<input type="checkbox"/> Gift accepted	For gifts or value which are accepted: Why could the gift or benefit not be reasonably refused or returned?
<b>4. What is the intended use for the gift or benefit?</b>	
<b>5. Declaration made by:</b>	
Name	Signature
Position	
<b>6. Manager Authorisation</b>	
Name	Signature
Position	
Office Use Only	Notes