



## LIVERPOOL PLAINS SHIRE COUNCIL GIFTS AND BENEFITS POLICY

Version	Date	Resolution No.	Details
1	25 July 2007	11120	New Policy
2	28 Feb 2018	2773	Revised Policy

### POLICY OBJECTIVE

The purpose of this policy is to provide direction to Councillors, members of staff and delegates on the acceptance and registration of gifts and benefits offered in relation to Council's functions and/or an individual's role and responsibility with Council.

For the purposes of this policy the word "you" includes Councillors, members of staff, delegates, committee members and other persons bound by Liverpool Plains Shire Council's Code of Conduct.

For the purpose of this policy, all gifts and benefits (other than token or nominal gifts and benefits) offered and/or received during the course of duty must be recorded in Council's Gifts and Benefits Register.

### RELEVANT LEGISLATION

**Crimes Act 1900 (NSW)** - Section 249 of the Crimes Act 1900 (NSW) creates an offence if a Councillor or 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.

**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 of a staff member.

**Local Government (General) Regulation 2005**, clauses 184 and 185 - relating to gifts and contributions to travel pecuniary interests to be disclosed in section 449 returns.

**Liverpool Plains Shire Council's Code of Conduct** - Part 7, Personal Benefit

Independent Commission Against Corruption (ICAC). *Managing Gifts and Benefits in the Public Sector*

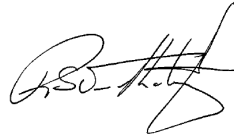
– *Toolkit*. ICAC. Sydney. 26 June

**Fact Sheet No 7 - Gifts and Benefits** - published by the NSW Ombudsman's Office for Public Sector Agencies, March 2004. This publication is available on their website [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

#### EFFECTIVE DATE AND POLICY REVIEW

The policy shall be reviewed every four years or earlier if required by legislation, Council resolution or recommendation of the General Manager. If the policy is not reviewed within this timeframe, it remains active until such time as it is reviewed or revoked by Council.

This policy comes into effect on 14 March 2018.



Signed by General Manager:

---

R S (Ron) van Katwyk

Date Approved: 28 February 2018

## POLICY

### 1 PURPOSE

- ▶ To provide clear guidelines for Councillors, staff members and delegates to enable them to deal with any offer of a gift or benefit.
- ▶ To protect Councillors, staff members and delegates from being compromised and to avoid the public perception of bias.
- ▶ To provide a safe working environment by removing situations which can cause undue stress and anxiety.
- ▶ To demonstrate to suppliers, citizens and other agencies that Council will deal with all matters in an impartial, open and accountable manner.

### 2 BACKGROUND

In carrying out their role as Councillors, staff members and delegates of a local government body, individuals and/or groups will, from time to time, be offered gifts to establish an amicable initial business relationship, to display appreciation or demonstrate good faith in an ongoing business relationship.

The acceptance of gifts and other benefits has the potential to compromise a Councillor's and Council employee's position by creating a sense of obligation in the receiver and so undermining his/her impartiality. It can also affect the public's perception of the integrity and independence of the Council and its employees.

To ensure propriety in all such dealings, it is essential that Council adopt policy and procedures on the acceptance of gifts and benefits, and that all gifts and benefits (other than token or nominal gifts and benefits) are declared and recorded in a Gifts and Benefits Register.

This policy has been produced to guide Councillors, staff members and delegates who may be offered gifts and benefits during the course of their official duties. The acceptance of gifts and benefits is a problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts and benefits can be difficult.

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

### 3 POLICY STATEMENT

A Councillor, member of staff or delegate must:-

- (a) not seek or accept a bribe, or other improper inducement
- (b) not take advantage of his or her official position to improperly influence other councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing a private benefit for himself or herself or for some other person

- (c) generally, not by virtue of his or her official position, accept or acquire a personal profit or advantage of a pecuniary value; however, they may:-
  - (i) accept a token or nominal value (low value) gift or benefit.
  - (ii) accept a more than token nominal value (high value) gift or benefit in special circumstances, eg an item left to you in someone's will, with the approval of Council. You would need to contact your supervisor to arrange a formal report to Council.

As a general rule, representatives of Council should not accept gifts and benefits of more than nominal or token value, and gifts and benefits are not to be solicited under any circumstances.

Gifts and benefits of token or nominal value are classified as those that are inconsequential or trivial and not offered on a regular basis. All gifts or benefits of more than token or nominal value must become the property of Council, and will be dispersed equitably.

You must never accept any gift or benefit:-

- ▶ If the person offering it, or a fair person, would expect you to be influenced in the way you do your job or carry out your duties;
- ▶ If you would feel a sense of obligation or debt to the person offering the gift or benefit; or
- ▶ If you or the Council are likely to be compromised you must never accept an offer of money, regardless of the amount.

## 4 RESPONSIBILITIES

### 4.1 Councillors, Staff Members and Delegates

The obligation to disclose instances relating to this policy rests with Councillors, members of staff and delegates and should be in accordance with gifts and benefits procedures.

Councillors, staff members and delegates of Liverpool Plains Shire Council must comply at all times with this policy and Council's Code of Conduct.

Councillors, staff members and delegates must complete, sign/date a declaration form for all offers of a gift or benefit (other than token or nominal gifts and benefits) and submit the declaration form to their Director, or General Manager (in the case of a Councillor and Directors), within two (2) weeks of receiving the offer.

Councillors, members of staff and delegates who have prior notice of the receipt of a benefit or hospitality (other than token or nominal hospitality and benefits), such as attendance at a sporting event, should receive prior written approval to attend. The recipient is to ensure their declaration is submitted and authorised by the Director or General Manager.

## 4.2 Management

The General Manager, or his delegate, will establish and maintain a Gifts and Benefits Register.

The Director, or General Manager (in the case of a Councillor and Directors), must authorise, sign/date declaration forms, scan and register the completed document into Content Manager, and task to the General Manager's Executive Assistant who will process the information into the Gifts and Benefits Register. The Director may also wish to inform the General Manager.

The Chief Financial Officer will audit the gifts and benefits declaration forms and register every six (6) months and will report this audit to Council and any issues identified will be acted upon.

## 5 PROCUREMENT, CONTRACTS AND TENDERING

All procurement activities are to be conducted in an ethical manner.

Council representatives involved in corporate purchasing or procurement must not accept any form of gift, benefit or hospitality (of more than a token or nominal value) from suppliers or potential suppliers.

Council representatives involved in evaluating contracts, expressions of interest, tenders or other proposals must not accept any form of gift, benefit or hospitality (of more than a token or nominal value) from contractors, potential contractors, tenderers or associated parties, and it must be declared in writing as part of the evaluation process.

The recipient of any gift, benefit or hospitality offered and/or received (other than token or nominal gifts and benefits) must submit a declaration form to the Director (or General Manager) for authorisation and recording in the Gifts and Benefits Register.

## 6 GIFTS, BENEFITS AND BRIBES

### 6.1 Gifts

For the purpose of this policy, "gifts" made to individuals in the course of a business relationship are usually given for commercial purposes, such as to create a feeling of obligation in the receiver. Some examples of gifts include:-

- (a) Money
- (b) Alcohol
- (c) Clothes
- (d) Products
- (e) Tickets.

## 6.2 Benefits

For the purpose of this policy, the term “benefit” is used to refer to something which is believed to be of value to the receiver, such as a service. Some examples include:-

- (a) Tickets to major sporting events or other entertainment
- (b) Corporate hospitality at a corporate facility or sporting venue
- (c) A new job or promotion
- (d) Preferential treatment, such as queue jumping
- (e) Access to confidential or sensitive information
- (f) Discounted products for personal use
- (g) Frequent use of facilities such as a gymnasium or holiday home
- (h) Free or discounted travel, Frequent Flyer points and free training sessions
- (i) Free or subsidised lavish meals or hospitality, etc.

## 6.3 Bribes

“Bribery” is defined as inducement by 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.

Councillors, members of staff and delegates must not offer or seek a bribe. Receiving or offering a bribe is an offence under both the common law and NSW legislation.

A person offered a bribe should refuse it and report the incident as soon as possible to their Director, or the General Manager. Council will take steps to report the matter to ICAC and the police immediately.

## 6.4 Token/Nominal Value

Token gifts and benefits of a nominal value usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties.

Examples of token gifts and benefits that could be regarded as having a nominal value include:

- (a) Gifts of single bottles of reasonably priced alcohol to individuals at end of year functions, public occasions or in recognition of work done;
- (b) Free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business;
- (c) Free or subsidised meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops etc, or provided at conferences where they are a speaker;

- (d) Cheap marketing trinkets or corporate mementos (such as key rings, notepads, inexpensive pens and pencils) and ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverage;
- (e) Invitations to appropriate "cocktail/Christmas parties" or social functions organised by groups, such as Council committees and community organisations.

## 7 GIFTS AND BENEFITS REGISTER

All gifts, benefits and hospitality (other than of a token/nominal nature) must be declared and recorded on Council's publicly available Gifts and Benefits Register against the name of the recipient. The name of the person who offered the gift and their agency or organisation must also be included.

There must also be a record of the decision that was taken in relation to the gift or benefit, and the declaration form must be signed and dated by the recipient, and by the authorising Director, or General Manager (in the case of a Councillor and Directors), so that it can be shown that the Council was open and transparent in dealing with the gift or benefit.

Councillors and Designated Persons lodging pecuniary interest returns under Section 449 of the *Local Government Act, 1993 (NSW) 1993* are not required under Schedule 3 of the Act to disclose gifts or benefits under the value of \$500, unless they are among gifts totalling more than \$500 made by the same person over a twelve (12) month period. In the interests of openness and transparency, Designated Persons are also required to declare and record the offer and/or receipt of all gifts or benefits of more than token/nominal value in the Gifts and Benefits Register.

## 8 PROCEDURES

- 1 If you receive a gift, benefit, hospitality and you are unsure of the value, or have a doubt whether to accept it, you are to discuss this with your immediate Supervisor or Manager who will advise if it is a token gift or that approval of disposal is required by Director or General Manager.
- 2 If you are unable to discuss receipt of gift or benefit with your Manager and unable to refuse or return gift (other than a token or nominal gift) then you must complete and sign the Gifts and Benefits Declaration Form and forward to your Manager for comment and recommendation, and Director or General Manager for approval of disposal within two (2) weeks of receiving gift or benefit. (Attachment A - Declaration Form)
- 3 Gifts or benefits received that are not of token/nominal value as referred to in 6.4 of the policy become the property of the Council and will be recorded in the register and disposed of equitably.
- 4 Should you receive a gift or benefit, it is recommended that you make notes immediately after the incident has occurred, detailing the date, time, location, discussion and any other comments that could assist you with your later recollections of the incident.
- 5 Obtain a copy of the Declaration Form, which is available from the General Manager's Executive Assistant.

- 6 The Declaration Form can be completed and scanned into Content Manager. Registration and tasking of document is to be followed as per directions on the Declaration Form. The immediate supervisor/manager is to provide comment and recommendation for decision of gift or benefits.
- 7 The Director, or General Manager (in the case of a Councillor and Directors), must authorise by a notation in on the completed form. The Director should ensure that details are noted regarding what action has been taken in relation to disposal. For example - recipient to retain, dispersed among staff members/team, donate to social club or charity.
- 8 The General Manager's Executive Assistant will process the information and record it in the Gifts and Benefits Register.
- 9 All gifts and benefits that become the property of Council should be delivered to the General Manager's office (or his delegate) for appropriate storage and disposal.
- 10 Council's Director Corporate Services will audit the gifts and benefits declaration forms and register every six (6) months and will report his audit findings to Council and any issues identified will be appropriately acted upon.
- 11 If you have been offered a bribe, you must inform your Director or the General Manager immediately and the General Manager must inform ICAC and the Police.

## 9 RELATED LEGISLATION, POLICIES AND GUIDELINES

**Crimes Act 1900 (NSW)** - Section 249 of the Crimes Act 1900 (NSW) creates an offence if a Councillor or 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.

**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 of a staff member.

**Local Government (General) Regulation 2005**, clauses 184 and 185 - relating to gifts and contributions to travel pecuniary interests to be disclosed in section 449 returns.

**Liverpool Plains Shire Council's Code of Conduct** - Part 7, Personal Benefit

Independent Commission Against Corruption (ICAC). *Managing Gifts and Benefits in the Public Sector*

– *Toolkit*. ICAC. Sydney. 26 June

**Fact Sheet No 7 - Gifts and Benefits** - published by the NSW Ombudsman's Office for Public Sector Agencies, March 2004. This publication is available on their website

[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)



**10 DELEGATION**

The General Manager is authorised, pursuant to Section 377 of the Local Government Act 1993, to allow a matter that does not conform with a policy to proceed, if the General Manager is of the opinion that the variation from the Policy is of a minor nature.

Significant variations from the Policy should be referred to Council for determination.

**11 OTHER SITUATIONS**

Employees who have regulatory relationships with Council's customers (such as inspection and certification roles) and also employees involved in procurement and disposal need to exercise greater care when considering accepting gifts or benefits.

In these circumstances there is a greater likelihood that a gift or benefit may appear to have been offered in order to achieve a particular outcome, even if this is not the intention of the person who offered it.

## ATTACHMENT A

## GIFTS AND BENEFITS DECLARATION FORM

<b>To:</b>	Director (own Directorate)
<b>Cc:</b>	Manager's name/title /General Managers Executive Assistant
<b>From:</b>	Your name Your position/title Pay number
<b>Date:</b>	
<b>Subject:</b>	GIFTS AND BENEFITS DECLARATION FOR REGISTRATION

In accordance with the provisions of Council's Gifts and Benefits Policy, I wish to declare receipt of the following gifts/benefits:

<b>Name of person offering gift or benefit</b>	
<b>Name of Organisation</b> (Represented by the person making the gift or offer - please include contact details if known)	
<b>Date gift/benefit received</b>	
<b>Place where gift benefit received or offered</b>	
<b>Detailed description of gift or benefit</b>	
<b>Estimated value of gift or benefit</b>	
<b>Your response when gift or benefit was received or offered</b> (eg declined, accepted, rejected)	
<b>Other relevant details, explanations or comments</b>	
<b>Completing form manually</b>	<ol style="list-style-type: none"> <li>1 Sign Declaration</li> <li>2 Arrange scanning of Declaration into Content Manager by the General Manager's Executive Assistant and tasking as per registration instructions.</li> </ol>