



## **Policy No. 2015- 40**

### **Gifts, Benefits and Donations Policy**

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## PURPOSE

The purpose of this policy is to:

- Outline the obligations and responsibilities of Council's officials when dealing with offers of gifts, benefits or donations.
- Assist Council officials make appropriate judgements in relation to gifts, benefits, donations and therefore avoid being placed in a situation where they may become vulnerable to undue influence or threaten community confidence in the fairness, impartiality and integrity of the Council.
- Council officials are defined as Mayors, Councilors, Council staff (including staff engaged through an employment agency), Council committee members, volunteers and contractors.

## SCOPE

The policy applies to all gifts, benefits and donations offered to or received by all Council officials in their role as officers of the Council.

## LEGISLATION

The particular legislation relevant to this policy is the *Tasmanian Local Government Act 1993 and the Tasmanian Local Government (General) Regulations 2015*.

This policy should be read in conjunction with any other relevant State and Federal legislation.

## APPLICATION

In a private context gifts and benefits are usually unsolicited and meant to convey a feeling on behalf of the giver such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.

Gifts, benefits and donations may also be offered to individuals in the course of business relationships. Such gifts, benefits and donations are often given for commercial purposes and serve to create a feeling of obligation in the receiver. Gifts, benefits and donations given in the course of business relationships is the focus of this policy.

The policy is to be applied in conjunction with provisions in the Councils Codes of Conduct, Staff Code of conduct and other relevant Council policies and procedures.

These policies and procedures include, but are not limited to:

- 2013-03 Fraud Control Policy.
- 2014-22 Customer Service Charter.
- 2016-42 Code of Conduct.
- 2017-51 Staff Code of Conduct Policy
- 2018-55 Code of Conduct for Members of the Audit Panel

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## **POLICY STATEMENT**

### **1. General**

Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased.

Council officials should actively discourage offers of gifts, benefits, donations and must not solicit gifts, benefits or donations.

Council officials must not take advantage of their official position to secure an unreasonable personal profit or advantage.

People doing business with the Council should be encouraged to understand that they do not need to give gifts, benefits or donations to Council officials to get high quality service.

From time to time Council officials may be offered gifts, benefits or donations. In some limited circumstances gifts, benefits or donations may be accepted. Token gifts of nominal value may generally be received. Non – token gifts of significant value should not generally be accepted.

Council officials should at all times be aware of the wider situation in which an offer of a gift, benefit or donation is being made. For example, Council officials should consider whether the donor is in or may be seeking to enter into a business relationship with Council or may be applying to Council in relation to the exercise of Councils functions.

Council officials must avoid situations that suggest that a person or body, through the provision of gifts, benefits or donations is attempting to secure favourable treatment from Council.

When deciding whether to accept or decline a gift, benefit, donation consideration should be given to both the value of the gift, benefit or donation and also the intent of the gift, benefit or donation being offered.

### **2. Acceptable gifts, benefits and donations**

Gifts, benefits and donations of a token nature at or below nominal value may generally be accepted by Council officials without disclosing details to the General Manager or Mayor and without recording the details of the gift or benefit on the Gifts, Benefits and Donations Declaration Form or Register (attachment 1 and 2).

That said, Council officials who receive more than the specified number of token gifts of a nominal value from the same person or organisation, in a specified period must disclose that fact in the gifts, benefits and donations register. For example, a \$6.00 coffee bought for a Council official each week over a period of time.

If a Council official has any doubt if a gift, benefit or donation is a token or of nominal value they should discuss it with the Deputy General Manager, General Manager or Mayor.

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### **2.1.1. Token gifts, benefits and donations**

Gifts, benefits and donations of a token nature do not create the appearance of a conflict of interest and include:

- Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers.
- Books given to individuals at functions, public occasions or in recognition of exceptional work done.
- Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done.
- Free or subsidised meals of a modest nature and/or beverages provided infrequently (and or reciprocally) that have been arranged for or in connection with the discussion of official business.
- Free meals of a modest nature and or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops.
- Invitations to approved social functions organised by groups such as Council Committees and community organisations.

### **2.1.2. Nominal value**

For the purpose of this policy the current nominal value limit is identified in section 11.

## **3. Non acceptable gifts, benefits and donations**

Council officials should generally not accept gifts or benefits that appear to be non-token in nature or more than of a nominal value.

If a gift or benefit of a non-token nature or above nominal value is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the gift or benefit must be declared via completion of a Gifts, Benefits and Donations Declaration Form (at Attachment 1) and the details must be recorded on the Register (at Attachment 2).

If a Council official refuses a gift or benefit because they believe that the gift was a deliberate attempt to receive “special treatment”, then such instances are to be reported to the Deputy General Manager, the General Manager or Mayor.

### **3.1.1. Non token gifts, benefits and donations**

Gifts or benefits of a non-token nature include:

- A service.

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- A loan of money.
- A loan of property.
- Free or discounted travel.
- Use of holiday homes.
- Tickets to major sporting events.
- Corporate hospitality at a corporate facility or sporting venue.
- Free training excursions.
- Access to confidential information.
- Discounted products for personal use.
- Goods and services provided via a determination in a Will.

At times a gift of a non-token nature may be given from one authority to another. Such gifts are often provided to a host authority. These gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to the work of several people in the authority and therefore the gift is considered to be for the authority, not a particular individual.

### **3.1.2. Significant value**

For the purpose of this policy a gift, benefit or donation with significant value has a value above the specified nominal value limit.

## **4. Actual or perceived effect of the gift, benefit or donation**

Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift, benefit or donation is prohibited. (gift of influence).

Where it is suspected that a gift, benefit or donation has been offered for the purpose of influencing the behaviour of someone acting in their official capacity, the gift, benefit or donation must be declined and the matter should be reported immediately to the Deputy General Manager, General Manager or Mayor.

## **5. Bribes**

Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident as soon as possible to the Deputy General Manager, General Manager or Mayor (in the case of Councilors). Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under both the common law and Tasmanian Legislation.

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## 6. Family members

Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts, benefits or donations of a non-token nature or gifts, benefits or donations above the nominal value. Immediate family members include parents, spouses, children and siblings.

## 7. Records – Gifts, Benefits and Donations Registers

Council officials, who receive more than the specified number of token gifts or benefits near the nominal value limit from the same person or organisation, (cumulative gift) must disclose that fact on the Gifts, Benefits and Donations Declaration Form and Register (Attachment 1 and 2).

If an official of the Council receives a non-token gift, benefit or donation in circumstances where it cannot reasonably be refused or returned, the receipt of the gift, benefit or donation should be disclosed and the details recorded on a Gifts, Benefits and Donations Declaration Form (at Attachment 1) and in the Gifts, Benefits and Donations Register (At attachment 2).

The Gifts, Benefits and Donations Register will be available for public inspection.

The content of the Registers will be monitored by the Deputy General Manager, General Manager or Mayor on a regular basis (at least annually).

## 8. Disposal of gifts

The Deputy General Manager, General Manager or Mayor will determine whether a gift or benefit of a non-token nature should be disposed of.

There are options for the disposal of gifts that have been accepted because they could not reasonably be refused, but should not be retained by an individual. Examples of such circumstances where gifts or benefits may be received include:

- Gifts accepted for protocol or other reasons, where returning it would be inappropriate.
- Anonymous gifts (received through the mail or left without a return address)
- A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.
- A gift or benefit of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a council related business relationship.

Options for disposal include:

- Surrendering the gift to Council for retention.

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- Distributing the gift or benefit amongst a selection of Council’s officials - where a reasonable person would agree that the allocation was appropriate, (public perception).
- Donating the gift to an appropriate charity.

## 9. Breaches of Policy

All Council officials are obliged to comply with this policy and sanctions may be applied if the policy is breached.

Any person may report an alleged breach of this policy by an official of the Council to the General Manager or Mayor as appropriate who shall investigate any report received and take such action as is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

## 10. Review process and endorsement

This policy, including the amounts and frequencies specified, may be varied by changes to the Local Government Act. When varied, the amounts and frequencies that apply to the policy must be updated and included in section 11. This policy should be reviewed as required, but at least every four years following the conduct of Local Government elections.

## 11. Detail of amounts and frequencies specified in the policy

For the purpose of this policy the current nominal value limit is (\$50.00).

This includes a series of gifts, benefits or donations received by the same Council official from the same donor where the total value in a financial year is \$50 or more.

## 12. Definitions

**Council official** – Mayors, Councillors, Council staff (including staff engaged through an employment agency), Council Committee members, volunteers and contractors.

**Gift** – is usually a tangible item provided at no charge. Gifts may include, but are not limited to items such as cash, property (real or otherwise), goods and services made available at heavily discounted prices, alcohol, clothes, products, invitations to social functions and tickets to sporting, theatrical or music events.

**Cumulative gift** – a series of gifts of nominal value from the same person or organisation over a specified period which may have an aggregate value that is significant.

**Donation** - a one off or reoccurring contribution, can be financial or in-kind support. The contribution doesn’t seek benefits for Council in exchange.

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**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 department in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude.

**Benefit** – a non-tangible item which is believed to be of value to the receiver (i.e. preferential treatment such as queue jumping, access to confidential information and hospitality).

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

**Bribe** – a gift or benefit given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.

**Cash** – money or vouchers which are readily convertible.

**Nominal value** – is the monetary limit of the value of gifts or benefits that may be accepted (i.e. total value of gift or benefit received). A gift or benefit is of nominal value when it has no significant or lasting value.

**Significant value** – a gift or benefit that has a value above the nominal value limit.

**Token** - often mass produced (i.e. pens, calendars, ties or items with a company logo on them), offered in business situations to individuals. Usually have a value under the nominal value limit.

**Non token** – items that are of a more individual nature, with a value above the nominal value limit. Items may include, free or discounted travel; use of holiday homes; corporate hospitality at major sporting events; free training excursions; tickets to major events and access to confidential information.

**Conflict of interest** – any situation in which an individual or corporation (either private or government) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.

**Public perception** – the perception of a fair-minded person in possession of the facts.

**Gifts, Benefits and Donations Declaration Form** – a form to be completed (Attachment 1), when an individual receives a gift, benefit or donation of a non-token nature above the nominal limit or receives a series of token gifts, benefits or donations in a specified time that may have significant aggregate value (Cumulative Gift).

**Gifts, Benefits and Donations Register** – a register maintained by Council of all declared gifts, benefits and donations (Attachment 2).

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**Attachment 1**

**GIFTS, BENEFITS AND DONATIONS DECLARATION FORM**

Name.	
Department.	
Date gift, benefit or donation offered.	
What is the gift, benefit or donation?	
What is the dollar value (approximate) of the gift, benefit or donation?	
Who is the gift, benefit or donation from?	
Individual (provide name).	
Organisation (provide name).	
Where was the gift, benefit or donation offered? (i.e. at a function, over the counter, through the mail, at a meeting.....)?	
Recipients relationship to the donor.	
Should the gift, benefit or donation be accepted or declined .	
If the gift, benefit or donation was accepted, should it be retained by the councillor, employee or organisation?	
If the gift was retained by the organisation should it be disposed?	
Council Official's signature.	
Date.	
Responsible Officer (Deputy General Manager, General Manager, Mayor) comments.	
Responsible Officer's name and signature.	
Office Use	
Date details recorded on Gifts, Benefits and Donations Register.	
Signature of Deputy General Manager who entered the details in the Gifts, Benefits and Donations Register.	

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**Attachment 2**

**GIFT, BENEFITS AND DONATIONS REGISTER**

This register shows reportable gifts, benefits and donations that have been offered to and received by Council Officials.

The register includes instances where Council Officials have received more than the specified number of token gifts of a nominal value from the same person or organisation, in a specified period.

<b>Date received</b>	<b>Description of gift, benefit or donation</b>	<b>Value (\$)</b>	<b>Name of donor and organisation</b>	<b>Name of recipient</b>	<b>Reasons for accepting</b>	<b>Disposal (Yes/No)</b>	<b>Name and signature of accountable officer</b>

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