



Policy Name: **Gifts & Benefits Policy**

1. INTRODUCTION

This policy sets out the Council's requirements and the conduct expected of all elected members and employees of the Council in relation to gifts and benefits.

This policy aims to ensure that elected members and employees are not compromised or perceived to be compromised in the performance of their duties through innocently or in good faith accepting gifts or benefits.

It is essential that elected members and employees avoid any real or perceived attempts to improperly influence them by being offered gifts and benefits.

2. POLICY

Elected members and employees must not seek or accept a bribe, or other improper inducement. A bribe is a gift or benefit offered to or solicited by an elected member or employee to influence that elected member or employee to act (or fail to act) in a particular way. Elected members and employees must never solicit a gift or benefit under any circumstances.

Elected members and employees must not accept a gift or benefit other than one of nominal value and which is not intended or likely to influence or be perceived as intended or likely to influence the elected member or employee to act (or fail to act) in a particular way or to otherwise act honestly and with integrity.

For the purposes of this Policy, a gift or benefit of nominal value is defined as one not exceeding a value of \$60.00. Gifts or benefits of nominal value that do not create a sense of obligation may be accepted. It is the responsibility of each individual elected member and employee to ensure that details of any gift or benefit given to them is recorded in Council's Gift Register in accordance with this policy.

3. REQUIREMENTS

1. Elected members and employees must not solicit gifts or benefits under any circumstances.
2. Offers of money or gift vouchers should never be accepted.
3. Elected members and employees who are offered or receive a gift or benefit of more than nominal value, even if the gift or benefit is refused, must enter the following details in the Gifts Register in relation to the gift or benefit within 10 days of the gift or benefit being offered or received:
 - Date, time and place of incident

- Who the gift/benefit was offered to
 - Who offered the gift or benefit and contact details (if known)
 - Description of gift/benefit
 - Response to the offer
 - Any action taken by management
 - Signature of Supervisor (in the case of employees) or the Chief Executive Officer
4. Gifts and benefits offered or received, which exceed the nominal value set out in this policy must be refused or returned and must be reported to the Chief Executive Officer immediately, unless the prior written approval of the Chief Executive Officer and Finance & Administration Manager has been obtained to accept the gift or benefit. The Chief Executive Officer must obtain the prior written approval of the Mayor and Finance & Administration Manager before accepting a gift or benefit of greater than nominal value.
 5. Where a gift or benefit of more than nominal value cannot reasonably be refused or returned (e.g. presentation in a public forum where refusal would cause embarrassment), the gift or benefit is to be regarded as the property of the Council and must be entered in the Gifts Register and reported to the Chief Executive Officer unless prior approval has been obtained to accept the gift or benefit in accordance with this policy.
 6. Gifts and benefits of nominal value can be accepted where the gift or benefit is not intended or likely to influence or be perceived as intended or likely to influence the elected member or employee receiving the gift in the performance and discharge of their functions and duties as an elected member or employee.
 7. Elected members and employees may accept gifts and benefits of greater than nominal value with the prior written permission of the Chief Executive Officer (or, in the case of the Chief Executive Officer, the Mayor) and Finance & Administration Manager, and only where the gift or benefit is not intended or likely to influence or be perceived as intended or likely to influence the elected member or employee in the performance and discharge of their functions and duties as elected members and employees of the Council.
 8. All gifts and benefits which are offered as a bribe or other improper inducement must be reported to the Chief Executive Officer and relevant authority in accordance with any mandatory reporting requirements on public officers and public authorities.
 9. Elected members and employees must take all reasonable steps to ensure that their immediate family members do not receive gifts or benefits intended or likely to influence or be perceived as intended or likely to influence the elected member or employee in the performance or discharge of their functions and duties as elected members and employees of the Council.

Elected members and designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$750 made by the same person

during a period of 12 months or less (pecuniary interest return form schedule 3 – Section 79 Local Government Act 1999).

10. A series of small gifts, which individually fall below the nominal value threshold, may have an aggregate value that exceeds the nominal value. For the purpose of this policy, gifts given by a particular person or organisation to the same elected member or employee within a twelve months period are considered to be a part of a series of gifts forming an aggregate value.

Therefore, at the point that the gifts or benefits cumulatively reach the nominal value they must be treated as one gift or benefit and dealt with in accordance with this policy.

11. Council shall maintain a Gifts and Benefits Register to record offers and receipts of gifts and benefits.
12. This policy is to be reviewed as required but at least within 12 months of an Ordinary Council Election.
13. The contents of this policy will be included in elected member and staff induction programs.
14. This policy is to be promoted externally and included in tender and expression of interest documents issued by the Council.

Examples of Various Gifts and Benefits:

Token Gifts (Nominal Value not exceeding \$60.00):

Generally speaking, token gifts and moderate acts of hospitality could include:

- Gifts of single bottles of reasonably priced alcohol to individual elected members and employees at end of year functions, public occasions or in recognition of work done (e.g. address at meeting).
- Free or subsidised meals, of a modest nature, and/or beverages provided infrequently that have been arranged primarily for, or in connection with, the discussion of official business.
- Free meals of a modest nature, and/or beverages provided to elected members and employees who formally represent their council at work related events.
- Refreshments, of a modest nature, provided at conferences.
- Ties, scarves, coasters, tie pins, pens, diaries, notepads, key rings, chocolates, flowers and small amounts of beverages.
- Invitations to appropriate out of hours “cocktail parties” or social functions organised by groups, such as community organisations.

Gifts of Value:

- Gifts and benefits that are likely to have more than a nominal value will include tickets to major sporting events, corporate hospitality at a corporate facility or at a sporting venue, discounted products for personal use, use of holiday homes, free or discounted travel and free training excursions.
- If you receive a gift or benefit of more than token value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose

this promptly to the Chief Executive Officer. You must also ensure that any gifts received are recorded in the Gifts Register as prescribed above.

- Situations should be avoided which could create a perception that gifts or benefits (including hospitality) are being given to influence the behaviour of a council official.

4. 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 influence that person to act contrary to the known rules of honesty and integrity.

Elected members, employees and other public officers must not offer or seek a bribe. Receiving or offering a bribe is an offence under the Criminal Law Consolidation Act 1935.

A person who believes that they have been offered a bribe should refuse it and report the matter immediately to the Chief Executive Officer and other relevant authority in accordance with any mandatory reporting requirements on public officers and public authorities. The Chief Executive Officer must also report the matter to the relevant authority.

Gifts that are Unable to be returned:

When a gift is received that exceeds the nominal value of \$60.00 or is not able to be accepted or retained by the elected member or employee and cannot be returned, the Council must make a decision as to how the gift is disposed of having regard to the nature of the gift and the circumstances in which it was received.

In some circumstances, such as the donation of a technical resource, the gift may be kept by Council for the ultimate benefit of the community. Other gifts may be donated to a suitable charity or auctioned and the proceeds donated. In the interest of transparency, the process utilised and the reasons for the decision be documented and publicly available.

Specific Examples include:

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 the 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 believe that they are in return for providing good service and are an accepted way of “doing business”. Again, this may be perceived to have compromised the impartiality of the staff concerned.

In these situations staff should, in the first instance, refuse the gift offered. If staff feel unable to return the gift, 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

An 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 the developer's interests. After the recommendation is made, the developer complains to the council about the employee accepting the 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 attempts 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 meetings arguably provide the manager's council with 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 attendance.

5. AVAILABILITY OF THE POLICY

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website <http://www.cooberpedy.sa.gov.au>. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges

Attachment 1- Gifts and Benefits Register