

GIFTS BENEFITS AND HOSPITALITY

ES40



NARRANDERA SHIRE COUNCIL POLICY

GIFTS, BENEFITS AND HOSPITALITY



Policy No:	ES40
Policy Title:	Gifts, Benefits and Hospitality
Section Responsible:	Executive Services
Minute No:	15/257
MagiQ No:	8363
Next Review Date:	As required

Introduction

The Narrandera Shire Council recognises that staff members and Councillors will on occasion receive offers of gifts, benefits and hospitality. Further instances may arise whereby; staff and Councillors may offer gifts, benefits and hospitality. This document aims to provide a policy on what is acceptable regarding the giving or receiving of gifts, benefits and hospitality. The procedures associated with this policy are included as annexure A and should be read in conjunction with this policy.

Policy Statement

This policy supports Council's Code of Conduct in regard to managing offers of gifts or benefits and is designed to appropriately guide whether an offer of a gift or benefit should be refused or accepted and if accepted how to manage that acceptance.

Fundamental to this policy is the "Gifts and Benefits Declaration Form" and the "Gifts and Benefits Register" for the declaration and recording of the management of offers of gifts or benefits.

As a general principle, 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 acceptance or refusal of gifts or benefits must be properly managed to ensure that they are not provided as a "gift of influence" where there is an intention by the donor to receive favourable treatment. Equally important is how gifts or benefits are perceived, 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 / gratitude)
- (c) Token gifts
- (d) Ceremonial gifts
- (e) Cultural gifts (Sister City or overseas delegations)

Purpose

The purpose of this policy is to:

- Ensure individuals covered by this policy are made aware of their obligations and responsibilities concerning the management of offers of gifts or benefits; and
- Provide guidance in identifying, assessing and managing offers of gifts or benefits to ensure that they do not constitute, or may be perceived to constitute, corrupt conduct.
- Provide a transparent and accountable process for gifts acceptance that promotes public confidence in Narrandera Shire Council.

Scope of the Policy

The Gifts and Benefits Policy supports Council's Code of Conduct and provides procedures and direction of managing Gifts and Benefits.

This policy is applicable to the Mayor and Councillors, staff of Narrandera Shire Council (permanent, temporary and casual employees), volunteers, work experience persons, delegates of Council, members of Council committees and contractors.

For the purposes 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.

Legislation

- Local Government Act 1993
- Crimes Act 1900(NSW)
- Independent Commission Against Corruption 1998

Related Documents

- Code of Conduct
- Conflict of Interest
- Statement of Business Ethics
- Protected Public Interest Disclosures Policy
- Fraud detection and management
- Gifts and benefits guidelines as annexed to this policy
- Managing Gifts and Benefits in the Public Sector Toolkit (ICAC)

Responsibilities

Staff and Councillors should not provide, demand or invite any gift, benefit or hospitality for themselves, for anyone else, or for the Council, in connection with their Council work or public duties. Hospitality and catering associated with Mayoral Receptions, meetings and official functions, and the like, are not subject to this policy.

Token or non-token gifts, benefits or hospitality must not be accepted or provided, if there is a perception or a fair observer might perceive that the gift is designed to influence the Councillor, Staff member or other person to act in a partial manner. Gifts, benefits and hospitality may only be provided or accepted if they are not likely to be perceived to be compromising Councillors, staff or the Council.

Councillors and staff should, in the first instance, decline or return any gift, benefit or hospitality of a non-token nature. If refusal of the gift, benefit or hospitality has the potential to damage Council's relationship with the provider, then it may be accepted. However, it must be reported immediately. In the case of staff it should be reported to the relevant Director/Manager. With regard to Councillors, it should be reported to the Chief Executive Officer, Director Corporate Services or Executive Officer. In such circumstances, the gift or benefit becomes the property of Council for use as is determined by the Mayor in consultation with the Chief Executive Officer.

Gifts, benefits or hospitality that may be considered non-token, whether they are given, accepted or declined must be recorded in the Gifts and Benefits Register. Failure to record the declaration in the register is a direct breach of this policy. (A value item of \$50 could be considered a guide in this instance).

Procurement, Contracts and Tendering – If staff are involved in corporate purchasing or procurement they must not accept any form of non token gift, benefit or hospitality from suppliers or potential suppliers. If any gift, benefit or hospitality is offered, it must be declared in writing to your Managers or Director and also in the Gifts and Benefits Register.

Policy Guidelines

1. Inappropriate offers (bribes)

1.1.1 Individuals covered by this policy must avoid situations giving rise to the appearance that a person or body, through the provision of gifts or 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 or likely to influence the carrying out your public duty;
- (d) accept any gift or benefit of more than token value;
- (e) accept an offer of cash or a cash-like gift, regardless of the amount.

1.1.2 Individuals covered by this policy 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 secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

- 1.1.3 Individuals covered by this policy 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 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.
- 1.1.4 Individuals covered by this policy 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 Individuals covered by this policy must never accept any offer of a gift or benefit which could 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 incident must be immediately reported to the Chief Executive Officer /or Executive Officer, and where appropriate, to the Deputy General Manager. The Independent Commission Against Corruption (ICAC) and, where relevant, the police, must be informed immediately by the Chief Executive Officer.
- 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 Chief Executive Officer and/or Executive Officer who will take appropriate steps to investigate the matter and will notify the ICAC.

1.2 Gifts of appreciation/gratitude

1.2.1 **Token gifts (nominal value)**

- (a) Gifts of gratitude where the value is less than \$50 may be accepted or declined. The acceptance or refusal of 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 functions would be considered gifts of gratitude. These are generally of a token nature.
- (c) Council's Code of Conduct – Part 5 - Personal Benefit, point 5.3 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 such as training, education sessions, workshops;
 - conferences;
 - council functions or events; or

- social functions organised by groups, such as Council committees and community organisations.
- (ii) Invitations to and attendance at local social, cultural or sporting events;
- (iii) 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);
- (iv) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers;
- (v) Prizes of token value.

It may be difficult to determine the true value of a gift or benefit and whether it is above or below the token value of \$50. Individuals covered by this policy must complete the Gifts and Benefits Declaration Form, whenever a gift is offered, regardless of whether it is of token value or not.

1.2.2 Non-token gifts (gifts and benefits of value)

- (a) Gifts of gratitude where the value exceeds \$50 SHOULD NOT be accepted. Refer to 1.7 for possible exceptions
- (b) Council's Code of Conduct – Part 5 - Personal Benefit, point 5.4 defines gifts and benefits of value as having more than a token value to include, but not being 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] (Where Council is the host and has a sponsorship Agreement for the event this situation may be exempt) ;
 - Corporate hospitality as a corporate facility at major sporting events (Where Council is the host and has a sponsorship Agreement for the event this situation may be exempt);
 - 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 and 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 \$50, may have an aggregate 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 vein as accepting one gift or benefit which alone exceeds the nominal value.

- 1.3.2 Where a series of gifts is received as described in Section 1.2.1, in any six month period, the gifts must be declared. Where the gift giving continues, gifts must be declined. Such gifts should be declared and the matter raised with your Manager/Director and the Manager Executive Services 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 Section 1.2.1 (c)(i).

- 1.4.2 Hospitality that extends beyond that described in Section 1.2.1(c)(i) needs to be given careful consideration 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 process, development application)?
- (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 the tender is due for renewal in the next six months or during the tender process?

1.5 Hospitality should only be accepted where:

- 1.5.1 There is a strong business reason for attending the function/accepting the hospitality.
- 1.5.2 The estimated value of the hospitality is at a reasonable level, i.e. not at a “silver service” restaurant or similar.
- 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 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 official may receive a prize through the completion of a survey or a purchase incentive scheme. As the Council official is working in their official capacity in these circumstances, the receipt of such gifts or prizes also falls within this policy.
- 1.6.2 Prizes that are won as a result of a purchase incentive scheme or the completion of a survey will become the property of Council.
- 1.6.3 The gift/prize should be declared using the Gifts and Benefits Declaration Form and the item handed to the Chief Executive Officer or Executive Officer 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. These guidelines acknowledge that it is not always possible and set out points of consideration with regard to gifts and benefits.
- 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 the mail or left without a return address;
 - (d) A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.

These gifts become the property of Narrandera Shire Council and must be declared using the Gifts and Benefits Declaration Form and surrendered to the Chief Executive Officer or Executive Officer.

- 1.7.5 Any frequent user points accrued as a result of Council purchases will remain the property of Council and may be used to reduce future costs to Council.

1.8 Disposal of gifts

- 1.8.1 When a gift is received which is above the token limit, the recipient must complete a Gifts and Benefits Declaration Form and present the item to the Chief Executive Officer or Executive Officer who will determine the appropriate means of disposing of the gift. The disposal of gifts will be dictated by the nature of the gift.

Some options include:

- (a) Returning the gift to the giver with an explanation.
- (b) Gifts received from visiting delegations or gifts personalised to Narrandera Shire Council will be kept at the Council office and displayed or stored appropriately.
- (c) Perishable gifts such as flowers can be displayed in public areas such as customer service front counter, in the Library etc.
- (d) Perishable food items may be shared amongst staff in the work location.
- (e) Gifts that can be used for work purposes may be shared amongst all staff or a group of staff to use in the workplace. Such items will become an asset for Council.
- (f) Gifts may be donated to an appropriate charity or community group determined by the Chief Executive Officer;
- (g) The Chief Executive Officer can auction or raffle the item with proceeds being donated to a charity nominated by the Chief executive Officer.

1.9 Giving of gifts

- 1.9.1 In circumstances where it is appropriate for Council officials to give a gift or benefit (for example when receiving overseas visitors), these gifts and benefits should be of token value in accordance with this policy.

2. Responsibility / Accountability

- 2.1.1 All Council officials are responsible for complying with this policy.
- 2.1.2 All Managers/Directors are responsible for providing advice to staff on the provisions of this policy.
- 2.1.3 Council's Chief executive Officer, Executive Officer and Deputy General Managers are responsible for advising Council officials on the provisions of this policy.
- 2.1.3 Council's Executive Officer is responsible for maintaining the Gifts and Benefits Register.
- 2.1.4 Council's Public Officer is responsible for facilitating public access to the Gifts and Benefits Register.

Annexure 'A'

Gifts, Benefits and Hospitality Procedures

Councillors and staff must declare gifts, benefits or hospitality of a token or non-token nature, whether provided, accepted or declined.

A gifts and benefits declaration form must be completed and forwarded by staff member or Councillor to the Chief Executive Officer's Office for recording in the Gift Register File.

The gift and benefits declaration form will incorporate the following information in relation to the gift, benefit or hospitality:

- Name;
- Position;
- Department;
- Date Gift/Benefit received on;
- Gift/Benefit received from;
- Description of the Gift/Benefit;
- Estimated value;
- Gift/Benefit accept yes or no;
- How was gift dealt with?
- If surrendered, who was gift/benefit surrendered to?
- Declaration.

If a Councillor or staff member is uncertain about whether a gift, benefit or hospitality is non-token, they should discuss it with the Chief Executive Officer or Mayor (in the case of Councillors). Councillors and staff should err on the side of caution and if in doubt complete a declaration.

Definitions:

Benefit	A non-tangible item of value (for example, preferential treatment or access to information etc.) that a person or organisation confers on another. Examples include: <ul style="list-style-type: none"> • Free or discounted travel • Use of facilities such as a holiday home or gymnasium • Tickets to events
Bribery	Receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behavior in that office, and to incline that person to act contrary to the known rules of honesty and integrity.
Council	Means Narrandera Shire Council
Council Official	An individual who carries out public official functions or acts in the capacity of a public official. These include Councillors, members of staff, members of Council committees, <i>volunteers</i> , conduct reviewers and delegates of Council.
Corruption	The abuse of public office for private or personal advantage.
Cumulative Gifts	A series of small gifts, each of which is minimal value, may have an aggregate value that exceeds Council's stipulated nominal value. Such circumstances need to be treated in the same way as gifts which exceed nominal value.
Delegate of Council	A person or body, and the individual members of that body, to whom a function of Council has been delegated.
Relative(s)	Shall mean, but not be limited to a partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece or an adopted child of the person.
Gift	Means an item of value (e.g. hospitality, travel, commodity, property etc.) which one person or organisation presents to another
Cash – like gift	Includes, but is not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
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 agency in appreciation of performing specific tasks or for exemplary performance of duties.

Token Gifts	<p>Items of minimal value that are given in gratitude for services provided such as speaking at a conference or training seminar. Examples include:</p> <ul style="list-style-type: none"> • Modest bottle of wine • Chocolates • Ties/scarves • Stationery – pens or diaries • Coffee mugs, coasters, cuff links –tie pins • Clothing – caps T –shirts, Polos etc.
Token Value	<p>Means the monetary limit of the value of gifts or benefits that may be accepted. This value is \$50 and therefore any gift or benefit valued at \$50 and less is considered to be of token value in accordance with this policy. The intent of the donor however, must also be considered when deciding whether to accept a token value gift or benefit.</p>
Ceremonial Gift	<p>An official gift from one agency to another agency e.g. commemorative plaque from an overseas delegation. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation.</p>
Gifts and Benefits	<p>In accordance with the Model Code of Conduct for Local Councils in NSW (March 2013) there are two types of gifts and benefits, these include:</p> <ul style="list-style-type: none"> (a) Token Gifts and Benefits (b) Gifts and Benefits of value <p>Benefit means a non-tangible item of value (eg. preferential treatment or access to confidential information) that one person or organisation confers on another.</p>
Gifts and Benefits Register	<p>An official agency record that details gifts and benefits received by staff and how they were managed.</p>
Hospitality	<p>Means the provision of meals, refreshments or other forms of entertainment.</p>
ICAC	<p>Means Independent Commission Against Corruption.</p>
Staff	<p>Means all persons employed by Council other than Councillors.</p>

Policy Implementation Guidelines Flow Chart

This policy will be implemented using Council's Gifts and Benefits Procedure. Guidance on decision-making is provided below:

Gift Receipt Decision Making Guide



Council reserves the right to review, vary or revoke this policy

Policy History

Adopted	17 January 2006
Reviewed	15 July 2008
Amended	9 December 2008
Reviewed & Amended	18 February 2014
Reviewed & Adopted	17 November 2015



Signed: Chief Executive Officer

Date: 18 November 2015