



Title	Receipt of Gifts and Benefits Policy
Council Resolution	Item 11 (28 07 2020) as per Council Minutes
Responsible Directorate	Corporate Governance
Due for Review	four (4) years from Council Resolution Date
Strategic Plan Reference	Leading our Community 4.1 Govern in the best interests of our community 4.1.1 Manage Council for maximum efficiency, accountability and transparency 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes.
ECM	Council Policy

PURPOSE

This policy is to:

- (a) outline of the obligations and responsibilities of Council officials when dealing with offers of gifts or benefits, and
- (b) assist Council officials to make appropriate judgements in relation to gifts and benefits.

The policy intends to prevent Council officials from becoming vulnerable to undue influence and to minimise any threats to the community's confidence in the fairness, impartiality and integrity of the Council.

SCOPE

The policy applies to all Council officials.

STATUTORY REQUIREMENTS

Acts	<i>Local Government Act 1993</i>
Regulations	<i>Local Government (General) Regulations 2015</i>
Australian/International Standards	Not applicable

DEFINITIONS

Benefit	Non-tangible item which is believed to be of value to the receiver (e.g. preferential treatment such as queue jumping, access to confidential information and hospitality)
Bribe	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 into money
Collective Gifts	A Non-token gift given by an authority or organisation to Council, such as protocol gifts, not intended to reward a particular individual. Such 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 Council.
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.
Contract Management staff	Means staff who; (a) procure contracts for goods and services; (b) have ongoing interaction with contractors performing those services; (c) a manager or senior executive or any other employee or officer that is responsible for making a purchasing decision or exercising a financial or legal delegation in relation to a purchasing decision; or (d) a member of a purchasing panel or committee that is able to influence or assists in making a purchasing recommendation.
Council official	Includes the Mayor, Deputy Mayor, Aldermen, council staff (including staff engaged through an employment agency), council committee members, Audit Panel members, volunteers and contractors.
Gift	Usually a tangible item provided at no charge or a discounted price. 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.
Hospitality	The provision of accommodation, meals, refreshments or other forms of entertainment, whether free or subsidised. To avoid doubt, 'Hospitality' does not include a Council official's attendance at functions or events which is required as part of the performance their duties or which is recognised part of the Council official's normal work functions, duties, and responsibilities.
Modest Refreshment	Food or refreshment which generally is not in conjunction with a sit-down meal, such as coffee, biscuits, sandwiches, cake, hors d'oeuvres, fruit, or any other snack.
Nominal Value	The amount set in the <i>Local Government (General) Regulations 2015 Regulation 29A</i> (currently a value of \$50 or above - measured by adding together the gifts and benefits from any one source received in a financial year)
Non-token	Items that are above the Nominal value or of a character that is not minor or trivial. Non-Token gifts could include, free or discounted travel, the use of holiday homes, corporate hospitality at major sporting events, free training excursions, tickets to major events and access to confidential information, discounted products for personal use, goods and services provided via a determination in a will.
Token Souvenirs	Means mass produced items of below the Nominal Value often carrying corporate advertising such as pens, calendars, or ties, that are offered in business situations for promotional purposes.
Token	Items below the Nominal Value that is not a prohibited gift (see Clause 4) and other issues like improper influence have been considered and do not apply



POLICY STATEMENT

1. General

Council officials may be offered gifts or benefits. In the limited circumstances set out in this policy, gifts and benefits may be accepted.

2. Making Ethical Decisions

When dealing with a gift, the situation may be unusual and way forward may not seem clear. Always make an ethical decision. The Integrity Commission sets out a three step process for ethical decision-making:

- A. Is It legal?
What laws apply in my workplace and how do they apply to the decision? You may need to seek legal advice in your workplace.
- B. Is it informed?
How do the code of conduct and any professional codes apply? How do workplace policies apply (eg. gifts and benefits)? How does it sit with the values of my organisation?
- C. Is it fair?
What would a workmate think of the decision? What would an informed person think about the decision? Do I have any self-interest in the decision?

If in doubt, ask for assistance and disclose the gift.

3. Appropriate behaviour towards gifts

A Council officer must:

- not actively encourage or solicit offers of gifts and benefits;
- not take advantage of their official position to secure a benefit or gift;
- make reasonable efforts to ensure that they are seen to be fair, impartial and unbiased;
- be aware of the wider situation in which an offer of a gift or benefit 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 Council's functions, and
- avoid situations that suggest that a person or body, through the provision of gifts or benefits is to secure favourable treatment from Council.
- encourage people undertaking or carrying on business with the Council to understand that they do not need to give gifts or benefits to Council officials in order to obtain a high quality service.

4. Gifts that are not to be accepted or must be immediately returned

- Gifts or benefits that may be perceived to constitute a conflict of interest with the role of a Council officer (see clauses 2 and 10 for more details).
- Cash of any value.
- Non-Token Gifts or benefits (unless otherwise authorised by this policy).



- ANY gifts or benefit (other than Modest Refreshment, or Token Souvenirs) offered to Contract Management Staff by current or prospective Council contractors,
- Gifts otherwise accepted or retained in contravention of this policy.

5. Gifts that may be accepted

Subject to the other restrictions set out in this policy:

- Token gifts may be received by any Council officers who are not Contract Management Staff. (Only Token Souvenirs and Modest Refreshment may be received by Contract Management Staff).
- Non-token gifts or benefits that cannot be declined or immediately returned must be disclosed in compliance with this policy.

6. Official activities not considered to involve gifts or benefits

- Tickets to, or moderate hospitality at, approved social functions organised by Council-controlled entities or community organisations where attendance is a part of an official contribution made by a Council officer.
- Modest Refreshment provided for training sessions, official functions, and Council business meetings including meetings between Contract Management Staff and contractors or prospective contractors of the Council.
- Internal Council gatherings, or gift presentations where Council officers are rewarded by the Council for service to the Council.
- professional education seminars that are made available by a Council service provider if they are:
 - broadly available to all professionals in the service provider's customer base;
 - do not include other gifts or benefits (such as free flights or restaurant meals);
 - are not tied to any expectation of future reward; and
 - are disclosed to and authorised by the General Manager.

7. Collective Gifts

Such Gifts or benefits given for a group project or task may be accepted on behalf of the Council (as an organisation) but must be surrendered to the Council for appropriate disposal.

8. Working out the Value of Gifts and Benefits

Council officials must add together the values of gifts and benefits received from any source in each financial year. When the annual gifts from a single source exceed the Nominal value for a financial year, the gift must be declared.

If a Council official has any doubt if a gift or benefit is Token or of Nominal Value, they should discuss it with their Manager, the General Manager or the Mayor.

If the likely monetary value of a gift or benefit cannot be determined, the Gift is not a Token gift.

Where goods are discounted the value of the gift or benefit is the value of the discount.



9. Disclosing Non-Token Gifts or Benefits

If Token Gifts or benefits are accepted by Council officials in accordance with this policy, then the gift or benefit does not need to be disclosed.

If a Non-Token gift or benefit is offered and:

- (i) cannot reasonably be refused (e.g. because it would cause embarrassment or a breach of protocol); or
- (ii) some other exceptional circumstances apply where it cannot reasonably be refused or returned, such as anonymous gifts sent without a return address, then

the offer and receipt of the gift or benefit must be declared to the General Manager using Council's approved Gifts and Benefits Declaration Form (Attachment 1)

Council officials who receive more than the permissible annual value of gifts from the same person or organisation in a financial year must disclose, as soon as that limit is reached, disclose the details of all the relevant separate gifts.

10. Recording the Gift or Benefit

The details of any disclosed gift or benefit must be recorded in the Gifts and Benefits Register (Attachment 2) by the General Manager.

The Gifts and Benefits Register is to be made available for public inspection at Council's Customer Service counter, or by electronic means, on request.

The General Manager will report annually on the content of the Gifts and Benefits Register to Council.

11. Actual or perceived effect of the gift or benefit

Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift or benefit is prohibited. Where it is suspected that a gift or benefit has been offered for the purpose of influencing the behaviour of someone acting in their official capacity, the gift or benefit must be declined and the matter should be reported immediately to the Council official's Manager or Director, the General Manager or the Mayor.

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

12. Improper Influence

If a Council official refuses a gift or benefit because they believe that the gift was a deliberate attempt to receive special treatment or otherwise secure some form of advantage, the incident must be reported to their Manager, Director, the General Manager or the Mayor, as appropriate.

13. Bribes

Council officials must not, under any circumstances, offer or seek a bribe. A Council official who is offered a bribe should refuse it and report the incident as soon as possible to their Manager or Director, the General Manager or the Mayor. Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under State and Commonwealth legislation.



14. Family members

Council officials must take all reasonable steps to ensure that immediate family members do not receive Non-Token gifts or benefits which are connected with the Council official's role.

Immediate family members include parents, spouses, children and siblings.

15. Use/ownership of gifts

A recipient's Manager, the General Manager, or the Mayor may approve the retention of a Non-Token gift or benefit by a Council Officer.

A recipient's Manager, the General Manager, or the Mayor may decide that a Non-Token gift or benefit is to become the property of the Council and be:

- retained by Council for future operational use;
- distributed among selected Council officials (provided a reasonable person would agree that the allocation was appropriate); or
- donated to an appropriate charity or community group.

16. Breaches of policy

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

Any person must report a likely breach of this policy by a Council official to the General Manager or Mayor, as appropriate. The General Manager or Mayor are to investigate any report received and take such action as is considered necessary.

If this policy has been breached, action taken against the Council official may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges or the taking of civil action.

BACKGROUND

From time to time, Council officials may receive or be offered gifts or benefits related to the performance of their duties.

In order to maintain public confidence in the integrity, transparency and accountability of Council, it is necessary to clearly identify the circumstances under which it is appropriate and not appropriate for officials to accept gifts, and the procedures to be followed when accepting or refusing gifts.



Attachment 1 - Gifts and Benefits Declaration

Sample form current as at 7 July 2020



Gifts and Benefits Declaration Form

Please refer to Council's Receipt of Gifts and Benefits Policy when completing this form.

Council Official's Details*

Name: _____

Position: _____ Position No: _____ N/A

Directorate: CSI CEBD CG N/A (Alderman) Department: _____ N/A

Supervisor: _____ N/A

* A 'Council official' includes the Mayor, Aldermen, Council staff (including staff engaged through an employment agency), Council committee members, Audit Panel members, volunteers and contractors.

Details of Gift or Benefit Received

Date gift was offered

What is the gift?

What is the estimated dollar value of the gift?

Individual Donor's Name

Donor's Organisation

Location/situation at which the gift was offered (e.g. at a function)

Recipient's relationship to the Donor

Should the gift or benefit be accepted or declined?

If the gift was accepted, should it be retained by the Recipient or by the Council?

If retained by the Council should the gift be disposed of?



Glenorchy City Council

Gifts and Benefits Declaration Form

Supervisor's Comments (if applicable)

Recipient Signature

Signed: _____ Date: _____

Please provide completed form to Mayoral and Executive Support Officer



Attachment 2 - Gifts and Benefits Register

See <https://www.gcc.tas.gov.au/your-council/aldermen/aldermen-gifts-and-donations.aspx>



Attachment 3 - Gifts and Benefits Flowchart

