



Central Darling Shire Council

Title of Policy	Gifts and Benefits Policy		
This applies to	All council officials		
Author	Michael Boyd	Date approved:	
Position of Author	General Manager	Authorised by:	
Legislation, Australian Standards, Code of Practice	Local Government Act 1993 Local Government (General) Regulation 2005 Crimes Act 1900 ICAC Act 1998		
Related Policies/Procedures	Code of Conduct Internal Reporting Policy (Public Interest Disclosures Act)		

PURPOSE

The purpose of this policy is to provide guidance to Councillors, employees and volunteers regarding the issue of receiving or being offered gifts or benefits and to ensure that in dealing with any gifts, benefits or the offer of gifts or benefits, Councillors, employees and volunteers are not influenced in the performance of their duties and that there is no perception of undue influence due to these offers.

SCOPE

This policy applies to the Mayor and Councillors and to all employees and volunteers of Central Darling Shire Council when carrying out their Council duties.

OBJECTIVES

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

Councillors, employees and volunteers need to be aware that gifts and benefits may be specifically offered to influence the attitudes or decisions of the recipients in favour of the giver. In this case, the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

This Policy aims to provide guidelines for Councillors, Council employees and volunteers when acting in their official capacity in dealing with offers of gifts, benefits and bribes.

GIFTS AND BENEFITS

There is a difference between token gifts and benefits and other gifts and benefits. Generally speaking, token gifts and benefits will always be under \$20 value (from one source per year) and may include:

- (a) Free or subsidised meals, beverages or refreshments provided in conjunction with:
 - (i) The discussion of official business
 - (ii) Council work related events such as training, education sessions and workshops
 - (iii) Conferences
 - (iv) Council functions or events, Council-sponsored events or events where the individual is representing Council in an official capacity
 - (v) Social functions organised by groups, such as council committees and community organisations
- (b) invitations to and attendance at local social, cultural and sporting events
- (c) Ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- (d) Prizes of token value.
- (e) Offers of cakes, non-alcoholic beverages or the like.

Gifts and benefits that cannot be viewed as token gifts and benefits include, but are not limited to:

- (a) Money and gift cards;
- (b) Alcohol;
- (c) Corporate hospitality at a corporate facility at major sporting events;
- (d) Free or discounted products and services for personal use;
- (e) The use of facilities such as gyms, use of holiday homes, free or discounted travel.

POLICY STATEMENT

Duties and Responsibilities

A Councillor, employee or volunteer must not:

- Accept a gift or benefit that is not a token gift or benefit;
- Seek or accept a bribe or other inducement;
- By virtue of his or her position, acquire a personal profit or advantage which has a monetary value;
- Seek or accept any payment, gift or benefit intended or likely to influence, or that could reasonably be perceived by an impartial observer as intended or likely to influence the Councillor, employee or volunteer to:

- act in a particular way (including making a particular decision);
- to fail to act in a particular circumstance; or
- to otherwise deviate from the proper exercise of his or her official duties.

A Councillor, employee or volunteer must never accept an offer of money, regardless of the amount.

What do I do if I am offered a gift or benefit?

In a circumstance where a Councillor, employee or volunteer is offered a token gift or benefit it can be accepted or politely refused. It is up to the individual whether the acceptance or refusal of a token gift or benefit is recorded in Council's Gifts and Benefits Register.

In a circumstance where a Councillor, employee or volunteer is offered a gift or benefit that is of greater than token value, the gift or benefit must be politely refused.

The fact that you have been offered a gift or benefit which is greater than token value and has been refused must be recorded in Council's Gifts and Benefits Register by completing the disclosure form attached.

What do I do if I receive a gift or benefit through the post?

In such situations the gift or benefit must be returned to the giver with a letter explaining that you are not permitted to accept such gift or benefit. However, where the cost effectiveness of returning this gift is inefficient then the gift shall be placed in the corporate stationery cupboard.

What do I do if I am offered a gift or benefit that cannot be reasonably refused?

It is recognised that there may be occasions where an offer or a gift or benefit is made that cannot be readily refused without causing offence to the giver - for example from a visiting overseas delegation. In many foreign cultures the giving of gifts is an accepted way of doing business.

Where this occurs, you must:

- promptly notify your Director, General Manager or the Mayor;
- complete the Gifts and Benefits Register disclosure form attached; and
- surrender the gift or benefit received to the Council. The Mayor and General Manager will determine whether the gift or benefit can be readily returned or should be kept by the Council for appropriate display (usually in those cases where the gift or benefit is from an overseas visiting delegation in recognition of that visit). If neither is considered appropriate the gift or benefit may be auctioned with the proceeds being donated to a nominated charity.

What other situations should I avoid?

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts or benefits or hospitality of any kind, is attempting to secure favourable treatment from you or the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment from you or the Council. Immediate family members ordinarily include parents, spouses, children and siblings.

Improper and Undue Influence

You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or somebody else. A Councillor will not be in breach of this policy where they seek to influence other Councillors through the exercise of their representative functions.

You must not take advantage (or seek to take advantage) of your status or position with Council or functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

What do I do if I win a prize at an official function I am attending?

The Gifts and Benefits Register must be used to record and manage gifts or benefits offered as a prize or incentive.

BRIBERY

A bribe is defined as a "gift or benefit offered to or solicited by a public official to influence that person to act in a particular way". Bribery includes offences committed under Section 294B and associated Sections of the Crimes Act 1900 (NSW).

Offering or accepting a bribe is a serious offence with severe consequences.

If a Councillor, employee or volunteer is offered a gift or money or other gift or benefit, which could be considered a bribe, that person must immediately notify his or her Director or the General Manager or Mayor providing full details.

The General Manager has a duty under the Independent Commission Against Corruption (ICAC) Act to inform the ICAC about any matter that he suspects or reasonable grounds concerns or may concern corrupt conduct. This includes bribery. Council recognises that it may not always be successful in its efforts to prevent bribery. Council encourages employees and members of the public to report incidences where they believe that bribery has occurred.

This situation is covered by Council's Public Interest Disclosure Internal Reporting policy. In general, the process of reporting bribery is the same as for other corrupt conduct.

FURTHER INFORMATION

If you wish to obtain further information or have any questions regarding how you manage a situation where you are offered a gift or benefit please contact either your Director or the General Manager.

Further information, definition or key terms and concepts and processes for dealing with gifts and benefits can also be obtained from the ICAC website and in their publication *Managing Gifts and Benefits in the Public Sector- Toolkit*

Appendix A - Gifts and Benefits Register Form

Name of council officer making this declaration	
Position/Title	
Offered to, or received by? (if different to above)	
Date of offer or date of receipt of gift/benefit	
Who made the offer? (name, position and organisation)	
Description of gift or benefit	
Estimated retail value	\$
Decision made (circle)	ACCEPT / REFUSE
Reason for above decision	
Management required for gift or benefit (eg. Distribute amongst staff, auction for charity)	

I have reviewed the Central Darling Shire Council’s Gifts and Benefits Policy and agree that the above action is in accordance with the poliicy. I understand that any action contrary to this policy may result in disciplinary proceedings in accordance with the Code of Conduct.

I have completed this form within 2 weeks of the offer of the gift or benefit, or prior to an offer of attendance of an event.

Declaration made by:

Name/Title **Signature** **Date**

Authorised by: (Director/General Manager/Mayor)

Name/Title **Signature** **Date**

Noted by Public Officer:

Name/Title **Signature** **Date**