

# Gifts and Personal Benefits - Council Policy

<b>Effective Date</b>	17 August 2016
<b>Policy Owner</b>	Customer Support and Governance Manager
<b>Link to Corporate Plan</b>	Strategic Theme 1: Effective and Inclusive Governance
<b>Review Date</b>	June 2023
<b>Related Legislation</b>	<p>Local Government Act 2009</p> <p>Local Government Regulation 2012</p> <p>Public Sector Ethics Act 1994</p> <p>Crime and Corruption Act 2001</p> <p>Crime and Corruption Regulation 2015</p>
<b>Related Documents</b>	<p>Disclosures (Conflicts of Interest and Prescribed Personal Interests) - Council Policy.</p> <p>Employee Code of Conduct</p> <p>Procurement - Council Policy</p>

Policy Version	Approval Date	Adopted/Approved
1	17/08/2016	Ordinary Meeting of Council
2	23/05/2018	Ordinary Meeting of Council
3	22/05/2019	Ordinary Meeting of Council

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## 1. PURPOSE

The purpose of this policy is to set out Western Downs Regional Council Officers' obligations in relation to gifts and personal benefits.

## 2. SCOPE

This policy applies to all employees (including contractors) of Western Downs Regional Council and will assist Officers in complying with their integrity and transparency requirements under the Code of Conduct and *Local Government Act 2009*.

This policy provides directives and disclosure requirements relating to gifts and personal benefits.

This policy does not apply to Councillors. Arrangements for Councillors for:-

- a) the disclosure gifts and benefits is set out in the *Local Government Regulation 2012*;
- b) disclosing electoral gifts and donations is set out in the *Local Government Electoral Act 2011*.

## 3. POLICY

### 3.1 Introduction

All Council Officers have an obligation to declare the receipt of gifts and personal benefits.

All Officers are obliged to comply with the ethics principles set out in the *Public Sector Ethics Act 1994*. Council's Employee Code of Conduct sets out the behavioural standards expected of Officers.

### 3.2 Principles

Pursuant to Section 199 of the *Local Government Act 2009*, it is unacceptable for any employee of Council to ask for, or to encourage, the offer of any gift or benefit in connection with the performance of their official duties.

Further, Council Officers are to be guided by the following principles relating to disclosures of gifts and personal benefits:-

- a) disclosure of gifts and personal benefits is expected and encouraged;
- b) gifts and personal benefits are not an entitlement or a right and are generally not to be accepted; and
- c) applying disclosure requirements that enhance transparency and decision making in the public interest is fundamental to good governance.

### 3.3 Gifts and Personal Benefits

A gift or a personal benefit includes:-

- a) the transfer of money or negotiable instrument of any kind (including lottery tickets, gift cards etc), loans, overdrafts or guarantor for a loan;
- b) retail reward scheme points where these accrue from the use of a corporate credit card or other purchasing arrangement (Note: Council has a policy of not attaching reward schemes to corporate credit cards);
- c) the transfer of property of a presentational or charitable nature or otherwise;
- d) the provision or use of property, equipment, services free of charge, at a reduced rate, for a period of time or an unspecified period (e.g. use of holiday unit);
- e) the sale of property with a sale price below proper valuation as a result of your Council role;
- f) hospitality, including meals, entertainment (tickets etc.) or accommodation;
- g) travel; and
- h) any "bargain deal".



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It does not include:-

- a) items which can be regarded as mementos such as ties, pens, stationery, promotional items etc. the "fair current market value" of which does not exceed \$100;
- b) frequent flyer points accrued by those traveling on official business.
- c) gifts given or received under an appropriately approved employee health, well-being or recognition program; or
- d) gifts received from family members, work colleagues or personal friends offered in a purely personal capacity.

However, in accepting a gift from a work colleague who is not a personal friend, consideration should be given to the size and nature of the gift and the recipient's position compared to that of the employee making the gift. If in doubt, the gift from the employee should be refused or a declaration form should be completed. Please note, the giving of cup of coffee, a teabag(s), a beer, a chocolate(s), a lunch, a morning or afternoon tea etc would not constitute a gift.

Council Officers that are offered gifts or personal benefits in relation to the conduct of Council business must always determine whether it is appropriate to accept the gift or personal benefit by considering:-

- a) why is the offer being made;
- b) do they have any concerns that the acceptance of the gift or benefit may create an obligation on their part; and
- c) the public perception of the acceptance.

Officers and related persons may only accept gifts and personal benefits in accordance with the following:-

- a) gifts or benefits must not be accepted which give the appearance of a bribe or creation of a conflict of interest past, present or future;
- b) it does not influence, or have the potential or perceived potential to influence, in any way the integrity and impartiality of the recipient;
- c) it does not affect the performance of the recipient's official duties, or be seen to influence the decision-making or behaviour of the recipient, such as but not limited to: -
  - granting licences;
  - inspecting and regulating businesses;
  - giving approvals; and
  - letting of contracts.
- d) gifts must not in any circumstances be accepted involving the transfer of money, or any items easily converted to cash (e.g. loan, voucher, lottery tickets), regardless of value, other than as part of a reward or assistance programme approved by Council. If the Officer is not in a position to refuse the acceptance of such a gift, the Officer must immediately make the appropriate declaration and pass the gift their Supervisor;
- e) recipients of gifts and personal benefits must take action as provided in the attached guideline for disclosure and disposal of gift and personal benefits;
- f) gifts immediately become 'public property' to be managed in accordance with the attached guidelines.

A Council Officer must not knowingly accept travel or hospitality (including meals and accommodation) sponsored wholly or in part by any person, organisation or business. However, travel or hospitality may be accepted in circumstances where it is approved by the Chief Executive Officer.



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## 3.4 Corporate Hospitality & Gifts

Any offer of hospitality (e.g. invitation to a corporate box, event tickets etc.), gift or sponsorship made by a current, or potential, supplier of goods and/or services to Council must only be accepted with prior written approval from the Chief Executive Officer.

## 3.5 Disclosure Requirements

All employees must disclose gifts and personal benefits offered to them or their related persons, where these have been offered as a consequence of the employee's employment, duties or attendance at functions.

An employee's related persons are the employee's spouse, children and other dependents are defined in Part 5, Section 289 (2) of *Local Government Regulation 2012*.

In accordance with Council's Disclosures (Conflicts of Interests and Prescribed Personal Benefits) - Council Policy, employees must declare any perceived, potential or real conflict of interest associated with the receipt of a gift or benefit.

### 3.5.1 Timeframe for Making a Disclosure

As soon as practicable after an employee or their related person receives or is offered a gift or personal benefit this must be disclosed in accordance with the guidelines set out in this policy. Gifts and personal benefits offered or received must be declared within one month of receipt.

### 3.5.2 Determining Values

If the value of the gift is not easily established employees should have an appropriate person verify the estimated retail value of the gift. Deliberately undervaluing a gift or benefit to avoid reporting, or to keep it, may be considered misconduct or corrupt conduct.



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## GUIDELINES FOR GIFTS AND PERSONAL BENEFITS.

TYPE OF GIFT OR PERSONAL BENEFIT	RECIPIENT OBLIGATIONS	DISPOSAL GUIDELINES
<b>HISTORICAL, CULTURAL AND PROTOCOL GIFT OR PERSONAL BENEFIT</b>		
<p>Historical, cultural and protocol gifts and benefits (regardless of value)</p> <p>For example:</p> <ul style="list-style-type: none"> <li>▪ Plaque or other gift presented by a visitor to be area</li> <li>▪ Historical book</li> <li>▪ Artwork</li> </ul>	<p>Recipient must provide details to the Chief Executive Officer and complete the gifts and personal benefits declaration form.</p>	<p>The Chief Executive Officer shall determine whether historical, cultural and protocol gifts should be:-</p> <ul style="list-style-type: none"> <li>▪ retained; or</li> <li>▪ placed on public display; or</li> <li>▪ otherwise stored or disposed of.</li> </ul>
<b>OTHER GIFT AND PERSONAL BENEFIT (EXCLUDING CASH ITEMS)</b>		
<p><b>Nominal gifts</b></p> <p>For example:</p> <ul style="list-style-type: none"> <li>▪ promotional merchandise.</li> <li>▪ chocolates.</li> <li>▪ inexpensive pen.</li> <li>▪ Tea/coffee etc.</li> </ul>	<p>Recipient should use their discretion.</p>	<p>The Manager will provide advice, if required, on whether it is appropriate to retain the gift or benefit.</p>
<p><b>Significant gifts and benefits (Valued \$0 - \$500)</b></p> <p>For example:</p> <ul style="list-style-type: none"> <li>▪ gifts of alcohol.</li> <li>▪ tickets to major sporting event.</li> <li>▪ Information technology equipment.</li> <li>▪ hampers of gourmet food.</li> </ul>	<p>Recipient must provide details to their General Manager and complete gifts and personal benefits declaration form.</p>	<p>The General Manager will advise whether a significant gift or benefit received by the Officer should be:-</p> <ul style="list-style-type: none"> <li>▪ retained by the recipient; or</li> <li>▪ placed on public display; or</li> <li>▪ otherwise stored or disposed of.</li> </ul>
<p><b>Substantial gifts and benefits (Valued &gt;\$500)</b></p> <p>For example:</p> <ul style="list-style-type: none"> <li>▪ laptop computers.</li> <li>▪ corporate guest packages as part of major event.</li> <li>▪ travel - free or discounted.</li> </ul>	<p>Recipient must provide details to the Chief Executive Officer and complete gifts and personal benefits declaration form.</p>	<p>Substantial gifts and benefits become the property of Council and must be surrendered to the Chief Executive Officer.</p> <p>The Chief Executive Officer shall determine whether a substantial gift or benefit should be:-</p> <ul style="list-style-type: none"> <li>▪ utilised for Councils operations; or</li> <li>▪ placed on public display; or</li> <li>▪ otherwise stored or disposed of.</li> </ul>

**Note:-** Where the Chief Executive Officer is the recipient of a gift or personal benefit, the Chief Executive Officer must inform the Mayor and the Mayor shall determine what should be done with any gift received.

