

1.24 Bribes, Gifts and Benefits

POLICY TITLE: BRIBES, GIFTS AND BENEFITS

FILE REF: SC67

EXPIRY DATE: SEPTEMBER 2026

POLICY OBJECTIVE

- 1) Lockhart Shire Council understands the need for its business to be conducted in a fair, ethical and honest manner. The aim of this policy is to ensure council officials are informed on Council's position and expectations in relation to offers of gifts, bribes or personal benefits.
- 2) The acceptance of gifts and benefits is a problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts and benefits can be difficult. This policy has been produced to guide Councillors and staff who may be offered gifts, benefits or bribes in the course of their official duties.

POLICY STATEMENT

A Councillor or member of staff must:

- 1) Not seek or accept a bribe, or other improper inducement.
- 2) Not take advantage of his or her official position to improperly influence other councillors or members of staff in the performance of their public or professional duties for the purpose of securing a private benefit for himself or herself or for some other person.
- 3) Generally, not by virtue of his or her official position accept or acquire a personal profit or advantage of a pecuniary value. However, they may:
 - a) Accept a nominal value (low value) gift or benefit.
 - b) Accept a more than nominal value (high value) gift or benefit in special circumstances, e.g. a situation where it would be rude or inappropriate do to so, the gift or benefit must be reported to the General Manager or the Mayor (in the case of councillors) as soon as practicable after the event.

BRIBES

- 1) Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will take steps to report the matter to ICAC and the police immediately.
- 2) Councillors, Staff and Delegates must not offer or seek a bribe.
- 3) Receiving a bribe is an offence under both the common law and NSW legislation. The common law offence of bribery is defined as receiving or 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 incline that person to act contrary to the known rules of honesty and integrity.
- 4) Section 249B(1) of the Crimes Act 1900 (NSW) creates an offence if any employee corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person any benefit as an inducement to do, or not do, something in relation to their official duties. Similarly, it is an offence for an employee to corruptly receive or solicit (or corruptly agree to receive or solicit) any benefit that would in any way tend to influence that employee to show favour or disfavour to any person in relation to their official duties.
- 5) Section 249J of the Crimes Act also provides that custom is not a defence to the receiving, soliciting, giving or offering of any benefit. This means that a person cannot rely on the fact that it is customary to offer and receive gifts and benefits in his or her trade, business, profession or calling, as a defence.

GIFTS AND BENEFITS

1. In a private context, gifts are usually unsolicited and meant to convey a feeling on behalf of the giver, such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.

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2. Gifts are also offered to individuals in the course of business relationships. Such gifts are usually given for commercial purposes; for example, to create a feeling of obligation in the receiver.
3. It is Council's preferred position that:
 - a) Gifts and benefits not be offered to Councillors, staff and delegates.
 - b) Gifts and benefits are not to be solicited.
 - c) Gifts and benefits should be actively discouraged by Councillors, staff and delegates.
 - d) People doing business with Council should understand that they do not need to give gifts or benefits to Councillors or staff to get high quality service.
4. Gifts and benefits fall into two categories, those that are more than token value and those of token value.
5. Councillors and staff must not accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty

Gifts of Token Value

1. Gifts below token value may be accepted if they do not create a sense of obligation on your part, or are not perceived to be intended to, or likely to influence you in carrying out your public duty.
2. For the purposes of this policy "token value" is described as goods and/or services which have nominal value (i.e. less than \$50.00).
3. Generally speaking, token gifts and benefits may include:
 - a) 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).
 - b) Free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business.
 - c) Free meals, of a modest nature, and/or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops.
 - d) Refreshments of a modest nature provided at conferences where you are a speaker.
 - e) Ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages.
 - f) Invitations to appropriate out of hours "cocktail parties" or social functions organized by groups, such as, Council Committees and community organisations.
4. Token value gifts and benefits may only be accepted if the gift is not likely to be seen as compromising Councillors or employees.

Gifts of more than Token Value

- 1) More than token gifts and benefits are those with a value of more than \$50.
- 2) You must never accept an offer of money, regardless of the amount.
- 3) Generally speaking, more than token value gifts and benefits may include:
 - a) Tickets to major sporting events.
 - b) Corporate hospitality at a corporate facility at a sporting venue.
 - c) Discounted products for personal use.
 - d) The frequent use of facilities such as gyms.
 - e) Use of holiday homes.
 - f) Free or discounted travel.
 - g) Goods and items donated to Council and employee functions.
- 4) You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.

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- 5) You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

GIFTS AND BENEFITS REGISTER

- 1) Council will maintain a Gifts and Benefits Register for the purposes of the Code of Conduct and this Policy.
- 2) Where a gift or benefit of more than token value is received in circumstances where it cannot reasonably be refused or returned, the details of the gift must be disclosed to your supervisor, General Manager or the Mayor (in the case of councillors) and recorded in the Gifts and Benefits Register held by Council. The gift or benefit must be surrendered to the Council, unless the nature of the gift or benefit makes this impractical.
- 3) At a minimum, the following details are recorded in the Council's gift register:
 - a) The nature of the gift or benefit.
 - b) The estimated monetary value of the gift or benefit.
 - c) The name of the person who provided the gift or benefit, and
 - d) The date on which the gift or benefit was received.
- 4) The Gifts and Benefits Register will be tabled at a meeting of the Audit, Risk and Improvement Committee on an annual basis.
- 5) Gifts and benefits that do not have to be recorded in the Gifts and Benefits Register include:
 - a) A political donation for the purposes of the Electoral Funding Act 2018.
 - b) A gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them.
 - c) Attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - d) Free or subsidised meals, beverages or refreshments of token value provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i. The discussion of official business
 - ii. Work-related events such as:
 - I. Council-sponsored or community events, training, education sessions or workshops.
 - II. Conferences.
 - III. Council functions or events.
 - IV. Social functions organised by groups, such as council committees and community organisations.

REWARD PROGRAMS AND LOYALTY SCHEMES

Credit Cards

- 1) Reward points accruing on Council credit cards may only be used (redeemed) for Council purposes. Councillors and staff must not personally benefit from reward points accruing on Council credit cards.

Travel and Accommodation

- 1) All travel and accommodation must be booked using a Council purchase order or Council credit card.
- 2) Councillors and staff who are members of an airline club e.g. frequent flyer, Qantas Club etc. may accept the benefits of membership other than the accrual of reward points e.g. access to airport lounges. However in choosing an airline for travel the most cost effective logical fare of the day (i.e. the lowest fare available meeting the traveller's logistical needs) needs to be used for all domestic flights i.e. the traveller can only specify destination, date and preferred time. Program membership cannot influence airline choice.

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- 3) Councillors and staff who are members of a hotel chain may accept the benefits of membership other than the accrual of reward points e.g. room upgrade, late checkout etc. The choice of venue should be based on the most cost-effective option meeting the traveller's logistical needs including venue location. Program membership cannot influence accommodation choice.

Other Rewards

- 1) You must not:
- a) Participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser.
 - b) Personally benefit from reward points programs when purchasing on behalf of the Council.
- 2) Any other rewards, prizes or other benefits received as a result of a Council business transaction, from competitions, promotions or other programs available to the general public, remain the property of the Council.

REFERENCE DOCUMENTS

This Policy should be read in conjunction with the following Council documents:

1. Policy 1.4 Code of Conduct
2. Policy 1.6 Statement of Business Ethics
3. Policy 1.7 Fraud Control Policy

Adopted by Council – 18 September 2023
Refer minute no. 170/23

Adopted by Council 16 March 2020
Refer minute 47/20