



# Gifts & Benefits Policy

## LINKS TO COMMUNITY STRATEGIC PLAN & DELIVERY PROGRAM

**Direction G1** – Council's decision making processes are open, transparent, corruption resistant and based on sound integrated planning

**Strategy G1a** – Develop and maintain a framework of plans and policies that ensures open and transparent Council operations

AUTHOR: **Paul Spyve**

DEPARTMENT: **Governance & Integrated Planning**

DATE CREATED: **June 2012**

DATE REVISED:

DATE APPROVED BY EXECUTIVE TEAM:

DATE ADOPTED BY COUNCIL:

NEXT REVIEW DATE: **June 2014**

TRIM FILE REF:

# Gifts & Benefits Policy

## 1. Objectives

The objectives of this Gifts & Benefits Policy are:

1. To explain gifts and benefits, including token gifts and benefits and gifts and benefits of value.
2. To provide clear guidelines on how to deal with gifts and benefits.
3. To ensure that Council Officials understand and meet their obligations under Council's Codes of Conduct so as not to be compromised or appear to be compromised because of a gift or benefit.
4. To demonstrate to anyone who may wish to offer a gift or benefit that the matter will be dealt with in an open and transparent manner.
5. To provide a reporting system to record all gifts or benefits offered/accepted/or declined in accordance with this guideline.

## 2. Policy Statement

This Gifts and Benefits Policy supports Council's Code of Conduct and provides procedures and direction for managing Gifts and Benefits. The Policy has been established to provide guidelines for dealing with gifts and benefits and establish transparent processes so that the integrity and independence of the individual and the Council is not compromised.

This policy applies to all Council Officials of Waverley Council as defined in this Policy. This policy does not deal with political donations and gifts that are dealt with under the *Environmental Planning and Assessment Act 1979*.

The policy operates in addition to all other obligations under the *Local Government Act 1993* (the Act), any other legislation, or relevant codes and policies regarding the disclosure of any interests.

## 3. Definitions

In this policy:

*council official* includes Councillors, members of staff, administrators appointed under section 256 of the Act, members of Council committees, conduct reviewers and delegates of Council

*delegate of Council* means a person or body, and the individual members of that body, to whom a function of Council is delegated

*gift or benefit* means any product or service (including hospitality) voluntarily provided to a Council Official, as further explained in this policy, at no charge or at a discounted charge or fee of any other consideration as a consequence of the recipient's role as a Council Official. It includes gifts or benefits received by family or associates of a Council Official. It includes any circumstance where there was no opportunity given to refuse the gift or benefit. It does not include a political donation or gift that is dealt with under the Environmental Planning and Assessment Act 1979

*staff* means all employees of Waverley Council (full time, part time, temporary, or casual). It also includes, for the purposes of this policy only, contractors (who principally provide their labour)  
*you and your* refers to Council Officials of Waverley Council.

#### **4. Responsibility/Accountability**

- All Council officials are responsible for complying with this policy.
- All Managers/Directors are responsible for providing advice to staff on the provisions of this policy.
- The General Manager and Directors are responsible for advising Councillors and staff and other Council officials, on the provisions of this policy.
- The Divisional Manager Governance & Integrated Planning is responsible for facilitating public access to the Gifts and Benefits Register.

#### **5. Code of Conduct**

This policy complements the provisions relating to Personal Benefit contained in Council's Codes of Conduct for councillors and staff. Gifts and benefits are dealt with in Section 8 of the Code of Conduct (Personal Benefit). This Policy expands on the provisions of the Code and establishes a procedure for disclosing and, where necessary, surrendering or refusing certain gifts and benefits.

The Code of Conduct states that you must not:

- seek or accept a bribe or other improper inducement
- seek gifts or benefits of any kind
- accept any gift or benefit that may create a sense of obligation on your part or may be reasonably perceived by an impartial observer to be intended or likely to influence you in carrying out your public duty
- accept any gift or benefit of more than token value
- accept an offer of money, regardless of the amount

#### **6. Managing Gifts**

Council's requirements in respect of the management of gifts and benefits depends on the nature of the gift or benefit:

- If a gift is a lottery, raffle or other ticket that may result in a cash prize or a prize over \$50 in value, you can accept it if it is registered and you donate it to Council's Charitable Trust.
- If you have won a cash prize or a prize worth over \$50 in value in a raffle or contest as part of your Council duties (such as while attending a conference) you can accept it if it is registered and
  - (if cash prize) if you donate it to Council's Charitable Trust, or
  - (if non-cash) if you deliver it to the Director Corporate & Technical Services who may decide to donate it to Council's Charitable Trust or deploy it to assist some or all of Council's staff to carry out their duties.
- If the same person or organisation gives you more than one small gift or benefit, you must register the gifts or benefits once the cumulative value reaches \$20 within a 12 month period.
- If a gift or benefit is valued between \$20 and \$50 you can accept it if it is registered,

- If a gift or benefit is non-returnable, you can accept it if it is registered and you donate it to Council's Charitable Trust.
- If a gift or benefit is valued at over \$200, you cannot accept it, or once the cumulative total value of the gifts or benefits reaches \$200 within a 12 month period, you cannot accept further gifts or benefits.

The basic procedures for managing offers of Gifts and Benefits, in this Policy, are as follows:

The Gift or Benefit	Accept?	Register?	Donate?
Under \$20	Yes	Not required	Not required
Value \$20 - \$50	Yes	Yes	Not required
Value \$51 - \$200	Yes	Yes	Yes
Ticket with Prize >\$50	Yes	Yes	Yes
Prize >\$50	Yes	Yes	Yes
Nonreturnable	Yes	Yes	Yes
Value \$200+	<b>NO</b>		
Cash (Any value)	<b>NO</b>		

Council maintains a series of Gift Registers. These are located in the relevant Division or with each Director.

The Registers consist of:

- |                                     |                 |
|-------------------------------------|-----------------|
| • Councillors                       | Governance      |
| • General Manager's Unit            | General Manager |
| • Corporate & Technical Services    | Director C&TS   |
| • Public Works & Services           | Director PWS    |
| • Planning & Environmental Services | Director PES    |

## 7. General Obligations

Soliciting gifts or benefits is strictly prohibited under all circumstances. If a Council official becomes aware of another Council official soliciting gifts or benefits, he or she should report the circumstances immediately to the General Manager or to Governance. The General Manager or Governance must also inform the ICAC.

Offers of gifts or benefits that may not be bribes, but are suspected of being offered for the purpose of influencing a Council official's behaviour in his or her official capacity, should always be refused. In such circumstances the General Manager should be notified of the incident and the General Manager should consider whether to make a section 11 report to the ICAC.

Acceptance of gifts of money (or equivalent) is strictly prohibited in all cases, since in all likelihood such a gift would be perceived as an attempted bribe. This includes offers of money to cover expenses for trips to view samples of work or to expedite the decision making functions of Council. A monetary gift that is delivered (for example in the mail or by other means of funds transfer) must immediately be reported to the General Manager who must retain the gift for evidentiary purposes.

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. Immediate family members include parents, spouses children and siblings. Council also views gifts and benefits to an associated person in the same way even if outside your immediate family. Associated persons could be a close friend, business partner/associate etc.

## **8 Reporting Breaches**

Breaches of this policy should be reported directly to the General Manager or to Governance. The General Manager must consider whether any reported breaches of this policy constitute suspected corrupt conduct, which must be reported to the ICAC in accordance with the requirements of Section 11 of the ICAC Act.

Other breaches of this policy will result in the commencement of the disciplinary process under the Code of Conduct.

## **9 Related Legislation, Policy and Documents**

- Independent Commission Against Corruption Act (ICAC Act) 1988
- Local Government Act 1993
- Local Government (General) Regulation 2005
- Waverley Council – Code of Conduct for Councillors
- Waverley Council - Code of Conduct for Staff, Volunteers and Delegates
- Waverley Council – Statement of Business Ethics
- Waverley Council – Mission Statement and Values
- Waverley Council Delivery Program
- Waverley Council – Gift Registers

## **10 Further Information**

- ICAC “Managing Gifts and Benefits in the Public Sector Toolkit” (June2006)
- ICAC Brochure “Bribery, corrupt commissions and rewards” (2006)
- NSW Ombudsman “Public Sector Agencies Fact Sheet No 07: Gifts” (2004)
- Queensland Criminal Justice Commission (CJC) “Managing the receipt of gifts: a best practice for local government employees” (2001)

This policy will be reviewed every two years or more frequently if required, to ensure that it meets relevant legislative and policy provisions.