

Central Coast Council

Gifts and Donations Policy

July 2023



CENTRAL COAST COUNCIL

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PURPOSE

The purpose of this Policy is to:

- . Outline obligations and responsibilities relating to Council officials accepting and reporting gifts and donations, in line with the *Local Government Act 1993* (in particular Part 5A – Gifts and Donations) and *Local Government (General) Regulations 2015* (in particular Part 3A – Gifts and Donations); and
- . To protect Council officials from being compromised and assist them in making appropriate judgements in relation to gifts and donations and furthermore, avoid a public perception of bias, which may impact the integrity of their role and the Council.

SCOPE

This Policy applies to all gifts and donations offered to, or received by, Central Coast Council officials and is to be applied in conjunction with provisions contained within the Code of Conduct of Councillors, Employees Code of Conduct Policy and any other relevant Council policies and procedures.

Gifts are usually unsolicited and are meant to convey a feeling of gratitude on behalf of the giver. In providing local government services to the community there should be no expectation of repayment.

STANDARDS (INCLUDING RELEVANT LEGISLATION)

This Policy was developed in accordance with:

RELEVANT LEGISLATION

- . *Local Government Act 1993*
- . *Local Government (General) Regulations 2015*

RELATED POLICIES/DOCUMENTS

- . Code of Conduct of Councillors – 2023
- . Employee Code of Conduct Policy – 2022

RELATED FORMS/TOOLS

- . Gifts and Donations Declaration Form – Councillors
- . Gifts and Donations Declaration Form – Employees
- . Gifts and Donations Register

DEFINITIONS

Benefit – a non-tangible item which is believed to be of value to the receiver i.e. preferential treatment such as queue jumping, access to confidential information and hospitality.

Bribe – a gift or donation 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.

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.

Council officials – Mayor, Councillors, Council staff (including those staff engaged through an employment agency), Council committee members and volunteers.

Cumulative gift – a series of gifts of nominal value from the same person or organisation over a six-month period which may have an aggregate value that is modest, e.g. A \$10 lunch is bought for the Council official each week over a period of time.

Direct report – a Council official whose position at the Council is directly below that of another person, and who is managed by that person.

Family member – includes parents, spouses, children and siblings.

Gift – is usually a tangible item provided at no charge. Gifts may include, but are not limited to items such as cash, a loan of money or property, goods and services made available at heavily discounted prices, alcohol, clothes, products, invitations to social functions and tickets to sporting, theatrical or music events.

Gift of gratitude – a gift offered to an individual or department in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude.

Gift of influence – a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

Gifts and Donations Declaration Form – a form to be completed (example template at (Attachment 1 and 2) when an individual receives a gift or donation of a non-token nature above the nominal limit or receives a series of token gifts or donations over a six-month period that may have significant aggregate value (Cumulative gift).

Gifts and Donations Register – a register maintained by Council of all declared gifts and donations (Attachment 3).

Hospitality – the provision of accommodation, meals, refreshments or other forms of entertainment.

Interested source – a person or organisation (excluding public sector bodies) which;

- . seeks business with Council;
- . conducts activities regulated by Council; or
- . has an interest which may be substantially affected by the performance or non-performance of the official's duties.

Modest value – is the monetary limit of the value of gifts or donations that may be accepted, i.e. total value of gift or donation received. A gift or donation is of modest value, if it has a value of over \$50 and below \$500.

Nominal value – is the monetary limit of the value of gifts or donations that may be accepted, i.e. total value of gift or donation received. A gift or donation is of nominal value, if it has a value of up to \$50.

Non-token – items that are of a more individual nature, with a value above the nominal donation limit. Items may include: free or discounted travel; use of holiday homes; corporate hospitality at major sporting events; free training excursions; tickets to major events and access to confidential information.

Public perception – the perception of a fair-minded person in possession of the facts.

Significant value – is the monetary limit of the value of gifts or donations that has a value above the nominal and modest value limit of \$500 and above.

12 month period – refers to a period of time during each financial year, e.g. 1 July – 30 June annually.

Token – often mass produced i.e. pens, calendars, ties or items with a company logo on them, offered in business situations to individuals. Usually have a value under the nominal donation limit.

POLICY STATEMENT

Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased.

Council officials should actively discourage offers of gifts and donations and must not solicit gifts or donations.

Council officials must not take advantage of their official position to secure an unreasonable personal profit or advantage.

People doing business with the Council should be encouraged to understand that they do not need to give gifts or donations to Council officials to get high quality service.

From time to time Council officials may be offered gifts or donations. In some limited circumstances gifts and donations may be accepted. Token gifts of nominal value may generally be received. Non-token gifts of significant value should not be accepted.

Council officials should at all times be aware of the wider situation in which an offer of a gift or donation 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 the Council or may be applying to Council in relation to the exercise of Councils functions.

Council officials must avoid situations that suggest that a person or body, through the provision of gifts or donations is attempting to secure favourable treatment from the Council.

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

If educational programs are identified that are relevant to this Policy, all Council officials will be provided the opportunity to attend.

Candidates for a local government election who are not sitting candidates are not required to disclose gifts or donations received during the election period. Only sitting councillors are required to disclose gifts or donations during their term and during an election period.

ACCEPTABLE GIFTS AND DONATIONS

Gifts or donations of a token nature at or below nominal value may generally be accepted by Council officials without disclosing details to a Direct Report and without recording the details of the gift or donation on the Gifts and Donations Declaration Form or Register (Attachment 1, 2 and 3).

That said, Council officials who receive token gifts greater than the nominal value from the same person or organisation during a 12 month period must, disclose that fact in the gifts and donations register.

If a Council official has any doubt if a gift or donation is token or of nominal value they should seek the advice of the General Manager.

Token gifts or donations:

Gifts or donations of a token nature which are unlikely to create the appearance of a conflict of interest and include:

- . Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers.
- . Books given to individuals at functions, public occasions or in recognition of exceptional work done.
- . Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done
- . Free or subsidised meals of a modest nature and/or beverages provided infrequently (and/or reciprocally) that have been arranged for or in connection with the discussion of official business.
- . 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.
- . Invitations to approved social functions organised by groups such as Council Committees and community organisations.

Nominal value

For the purpose of this Policy the current nominal value limit is identified in the Definitions section.

NON-ACCEPTABLE GIFTS AND DONATIONS

Accepting gifts of money is prohibited.

Council officials should generally not accept gifts or donations that appear to be non-token in nature or more than of a nominal value.

If a gift or donation of a non-token nature or above nominal value is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the gift or donation must be declared via completion of a Gifts and Donations Declaration Form (Attachment 1) and the details must be recorded on the Council Gifts and Donations Register (Attachment 2).

If a Council official refuses a gift or donation because they believe that the gift was a deliberate attempt to receive “special treatment”, then such instances are to be reported to the General Manager or Mayor (if appropriate).

Non-token gifts and donations

Gifts or donations of a non-token nature include:

- . Free or discounted travel
- . Use of holiday homes
- . Tickets to major sporting events
- . Corporate hospitality at a corporate facility or sporting venue
- . Free training experiences
- . Discounted products for personal use

At times a gift of a non-token nature may be given from one authority to another. Such gifts are often provided to a host authority. These 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 authority and therefore the gift is considered to be for the authority, not a particular individual.

Prizes won by Council officials attending seminars, conferences etc. in an official capacity are subject to the Policy and it must be demonstrated that the prize was won through an open process.

Significant value

For the purpose of this Policy a gift or donation with significant value has a value above the specified modest value limit and is identified in the Definitions section.

General Manager’s overriding authority

Notwithstanding anything else in this policy, the General Manager may approve in writing the receipt of a gift or donation from an interested source where this is deemed to be in the Council’s interest.

BRIBES

Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident as soon as possible to the General Manager. Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under both the common law and Tasmanian legislation.

FAMILY MEMBERS

Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or donations of a non-token nature or gifts or donations above the nominal value which are in any way related to Council business. Immediate family members include parents, spouses, children and siblings.

RECORDS – GIFTS AND DONATIONS REGISTER

Council officials who receive token gifts or donations greater than the nominal value limit from the same person or organisation (cumulative gift) must disclose that fact on the Gifts and Donations Declaration Form and Register (Attachment 2 and 3) within 14 days of receipt of the gift or donation.

If a Council official receives a non-token gift or donation in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or donation should be disclosed, and the details recorded on a Gifts and Donations Declaration Form (at Attachment 2) and in the Gifts and Donations Register (at Attachment 3) within 14 days of receipt of the gift or donation.

If the gift or donation is received while the Council official is outside of Australia, notice is to be provided within 14 days of returning to Australia.

The Register will be available on the Council's website for public inspection.

The content of the Register will be monitored by the General Manager on a quarterly basis.

DISPOSAL OF GIFTS

The General Manager will determine whether a gift or donation of a non-token nature should be disposed.

There are options for the disposal of gifts that have been accepted because they could not reasonably be refused but should not be retained by an individual. Examples of such circumstances where gifts or donations may be received include:

- . Gifts accepted for protocol or other reasons, where returning it would be inappropriate
- . Anonymous gifts (received through the mail or left without a return address)
- . A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment
- . A gift or donation of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a Council-related business relationship.

Options for disposal include:

- . Surrendering the gift to Council for retention.
- . Distributing the gift or donation amongst a selection of Council's officials – where a reasonable person would agree that the allocation was appropriate (public perception).
- . Donating the gift to an appropriate charity.

BREACHES OF POLICY

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

Any person may report an alleged breach of this Policy by an official of the Council to the General Manager or Mayor (as appropriate) who shall investigate any report received and take such action as is considered necessary.

If this Policy has been breached, such action may include counselling, code of conduct complaint, disciplinary action (including termination of employment), referral to the Integrity Commission the laying of charges and the taking of civil action.

Examples:

Situation 1

Receipt of a significant gift or donation (e.g. air travel and accommodation to an overseas conference) provided by an organisation which has a business proposal, regulatory application, or tender with Council for consideration.

Outcome: Prohibited unless the General Manager approves.

Situation 2

Receipt of a significant gift or donation e.g. flights, accommodation and conference fees provided by a professional organisation in order for the official to speak at the conference which has no business arrangements with Council.

Outcome: Acceptable but must be reported and seek approval of the General Manager.

Situation 3

Acceptance of a significant gift or donation e.g. travel/accommodation to an overseas conference provided by an existing contractor to Council.

Outcome: Prohibited unless the General Manager approves.

Situation 4

Acceptance of a modest gift or donation e.g. Corporate box tickets worth under \$500, while Council is assessing a regulatory application, tender or proposal from the interested source where the official may influence the decision.

Outcome: Prohibited unless the General Manager approves.

Situation 5

Acceptance of a modest gift or donation from a disinterested source.

Outcome: Acceptable but must be reported.

Situation 6

Acceptance of a nominal gift or donation e.g. bottle of whiskey (or comparable) from a developer, contractor or client, provided major decisions in relation to the interested source are not pending.

Outcome: Acceptable.

REVIEW

This Policy should be reviewed at least every four years following the conduct of Local Government elections, unless organisational and legislative changes require an earlier review.

This Policy, including the amounts and frequencies specified, may be varied by resolution of the Council. When varied, the amounts and frequencies that apply to the policy must be updated, included in the Definitions section and notification of an update Policy provided to all Council officials.

RESPONSIBILITIES

General Manager:

- . approves in writing the receipt of a donation from an interested source where it is deemed to be in Council's interest to accept (overriding authority), forwards details to Human Resources for record keeping;
- . reports bribes to Police;
- . reviews Gifts and Donations Register on a quarterly basis;
- . Updates policy; and
- . provides advice to Council officials in line with this Policy.

Direct Reports:

- . ensure implementation of this Policy on an operational level;
- . forward a copy of any Declaration Forms to Human Resources; and
- . report suspected gifts of influence to the General Manager.

Council Officials:

- . report gifts or donations of non-token nature to Direct Report using the Gift and Donations Declaration Form; and
- . diarise any token gifts or donations received and advises their Direct Report.

Human Resources:

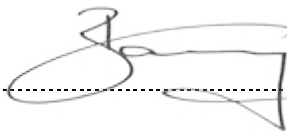
- . maintains and updates the Gifts and Donations Register and corresponding details on a monthly basis;
- . forwards Gifts and Donations Register to the General Manager on a quarterly basis.

ATTACHMENTS

- . Appendix 1 – Gifts and Donations Declaration Form – Employees
- . Appendix 2 – Gifts and Donations Declaration Form – Councillors
- . Appendix 3 – Gifts and Donations Register – example.

Date of approval:17 /...07..../2023...

Approved by:

A handwritten signature in black ink, appearing to read 'Barry Omundson', is written over a horizontal dotted line.

Barry Omundson
GENERAL MANAGER



GIFTS AND DONATIONS DECLARATION FORM – STAFF

RECIPIENT DETAILS

Name: Position:

Department:

Relationship to Donor:

DETAILS OF THE GIFT OR DONATION

Name of Donor:

Suburb or locality where donor resides (if known):

Date received: Date notified Direct Report:

Value (provide estimate if unknown) \$

Description of gift/donation:

Circumstances of gift/donation (reasons/s for granting):

Was gift/donation **received** or **declined**? (please circle)

Reasons for determination (why received or declined)?

If gift/donation accepted, was gift/donation retained by the **employee** or the **organisation**?
(please circle)

Name and position who authorised acceptance of gift/donation:

Signature: (Recipient of gift/donation)

Date:

Signature: (Person authorising receipt of gift/donation)

Date:

Please forward completed form to Human Resource Officer or
Human Resource Systems Officer, within 14 days of receipt of gift or donation.

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GIFTS AND DONATIONS DECLARATION FORM – COUNCILLORS

RECIPIENT DETAILS

Name: Position:

Relationship to Donor:

DETAILS OF THE GIFT OR DONATION

Name of Donor:

Suburb or locality where donor resides (if known):

Date received:

Value (provide estimate if unknown) \$

Description of gift/donation:

Circumstances of gift/donation (reasons/s for granting):

Was gift/donation **received** or **declined**? (please circle)

Reasons for determination (why received or declined)?

If gift/donation accepted, was gift/donation retained by the **Councillor** or the **organisation**?
(please circle)

Name and position who authorised acceptance of gift/donation:

Signature: (Recipient of gift/donation)

Date:

Signature: (Person authorising receipt of gift/donation)

Date:

Please forward completed form to Human Resource Officer or
Human Resource Systems Officer, within 14 days of receipt of gift or donation.

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