

Gifts and Benefits Policy

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Introduction

Public officials (including Councillors and employees of Council) have an obligation to carry out their duties conscientiously, honestly and objectively.

Councillors and staff of Randwick City Council must:

- Never solicit or accept gifts and benefits regardless of the value;
- Never solicit or accept cash or cash-like gifts/benefits regardless of the amount.

If an employee becomes aware of a staff member soliciting or accepting gifts or benefits of any kind, he or she must report it immediately to the General Manager.

If an officer (or Councillor) is offered a gift of cash (including offers of money to cover expenses for trips to view samples of work etc.) or cash-like gifts/benefits (see clause 5.6 on page 5 of this policy) it should be refused and the incident reported immediately to the officer's supervisor, the General Manager or, in the case of a Councillor, to the Mayor.

In circumstance where an offer of a gift is made which may constitute a bribe, or an attempt to bribe, it is not only appropriate that the offer be rejected, but it is also important that the fact that the offer was made be reported to the appropriate person within the Council (the General Manager or the Manager Administrative Services or the Mayor, if the offer is made to a Councillor) and to the ICAC. The ICAC's brochure on bribery details the steps to be taken should a public employee or Councillor be offered a bribe or otherwise suspects that bribery has occurred.

1. The motive of the gift giver

Gifts can be given with varying motives and purposes.

1.1. Gift of influence

A gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

1.2. Gift of gratitude

A gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.

1.3. Token gift

A gift that is offered in business situations to an agency or public official representative of an agency. Such gifts are often small office or business accessories (e.g. Pens, calendars, folders) that contain the company logo. They are usually products that are mass produced and not given as a personal gift.

1.4. Ceremonial gift

An official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual.

Regardless of the purpose for which a gift is given, it must not be accepted. Gifts of gratitude, token gifts and ceremonial gifts are acceptable under certain, limited circumstances (see clause 3.1 below).

2. The actual or perceived effect of the gift

It is important to consider the intentions of the gift giver when deciding if it is appropriate to accept a gift. Often the intended recipient may not know the intentions or the intentions may be different from the public perception of the situation.

The **likely perception** of the gift-giving relationship is that the gift could influence the intended recipient or the intended recipient's performance of his or her official function, as such gift and benefits should never be accepted by Councillors or Council staff. This is despite the fact that such perceptions alone may not indicate an actual inappropriate influence.

3. Reporting requirements

3.1. What should I do if I am offered a gift or benefit?

All offers of **gifts and benefits** should be **rejected** and the offer should be reported orally to a supervisor immediately and recorded via Council's Gifts and Benefits declaration form.

All **gifts (including token gifts)** offered to staff/Councillors (whether the gifts are accepted or rejected) must be recorded in the **GIFTS REGISTER** via Council's Gifts and Benefits declaration form (see instructions below).

3.2. Options for dealing with the receipt of gifts that are unable to be returned

There are several options for the disposal of gifts that, for one reason or another, are unable to be returned. There will be circumstances where a gift that is unacceptable under this policy may not be able to be returned or may not easily be returned.

Examples of this are:

- 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.

Options for disposing of gifts that are unable to be returned include:

- Surrendering the gift to Council; or
- Donating the gift to an appropriate charity.

In instances such as this, the matter should be reported to the employee's supervisor who will determine how to dispose of the gift.

When the gift giver has a continuing business relationship with the Council the gift must be returned.

3.3. Gifts and Benefits Declaration Form and Register

The Gifts and Benefits declaration form is available on Council's Intranet (by using the 'Quick find' link on the Home Page).

Instructions for use:

1. The declarer completes the three parts of the declaration in the 'DECLARER TO COMPLETE' section.
2. The declarer sends the completed form to his/her supervisor.
3. The supervisor receives the declaration as an email attachment or in hardcopy.
4. The supervisor reviews the form and answers the questions and completes the information required.
5. The supervisor then sends the form to the Register Custodian (Manager Administrative Services) and a copy to the person who made the declaration (either electronically or in hardcopy).

The Electronic Gifts and Benefits Register (once updated by the Register Custodian) will be saved in TRIM folder F2004/08432.

3.4. Prizes and gifts

Staff members and/or Councillors must not enter competitions while working in an official capacity. For example, those attending a specific session at a conference must not enter a draw for a prize by submitting their business cards or signing up for further information about the product.

If the Council has business dealings with the organisation that provided the prize, or could potentially have business dealings with the organisation in the future (which would almost always be the case), accepting the prize may lead to perceptions of improper influence. It is not appropriate, therefore, to keep a gift or benefit won or offered at a conference or meeting if your attendance at the conference is in your official capacity as a Council employee (ie. Council has paid the registration fee for the conference and/or the conference/meeting is being held during work hours).

In addition, it is not appropriate to keep a gift or benefit obtained through a purchase incentive scheme. For example, a company may offer a free computer to clients after they have purchased a certain quantity of product. It is important to ensure that Council does not compromise any duty of impartiality in procurement (purchasing) practices.

In either of the above cases, since the staff member/Councillor is representing the Council, any 'prize/incentive' should be treated as such and should not be accepted.

Note: These guidelines apply to all times of the year without exception (including Christmas and other cultural and religious occasions).

Randwick City Council has a zero tolerance rule with respect to compliance with this policy. Any applications for exemptions from the requirements of this policy are to be in writing to the General Manager. Exemptions are entirely at the General Manager's discretion and will be determined in writing with reasons given for any specific exemptions.

4. Compliance and exemptions

This policy applies to all staff and Councillors of Randwick City Council. Failure to comply with this policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions, including dismissal.

Randwick City Council has a zero tolerance rule with respect to compliance with this policy. Any applications for exemptions from the requirements of this policy are to be in writing to the General Manager. Exemptions are entirely at the General Manager's discretion and will be determined in writing with reasons given for any specific exemptions. In determining an exemption, the General Manager will also determine whether the gift in question is able to be kept by a particular staff member or whether it should be shared at the workplace.

Examples of the circumstances where exemptions MAY be approved by the General Manager, include:

- a) staff of Moverly Childrens Centre – for gifts of token value and only when the gifts are offered by children attending the centre as a Christmas gift or gift of thanks associated with their role
- b) learn to swim staff of the Des Renford Leisure Centre – for gifts of token value and only when the gifts are offered by children who attend learn to swim classes as a Christmas gift or gift of thanks associated with their role.
- c) Ceremonial gifts – from visiting delegations
- d) Ceremonial gifts – from sister cities
- e) Ceremonial gifts – presented to staff members as thanks for presenting at conferences/seminars.

Any gifts approved through the General Manager exemption process will still be subject to the following requirements:

Token value in relation to this clause is considered to be \$20.00. Any gifts with an estimated value of more than \$20.00 are not considered 'token' and should be rejected or returned.

The following gifts and benefits would normally fall below the token value of \$20.00:

- inexpensive pens or stationery
- chocolates
- flowers
- modest bottle of wine.

By contrast, the following gifts and benefits would be likely to be more than the token value:

- tickets to sporting events
- jewellery
- works of art
- discounted products for personal use
- use of facilities such as gyms.

Ceremonial gifts – an official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation or country. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the organisation, and therefore the gift is considered to be for the organisation, not a particular individual.

5. Code of Conduct

5.1. Extract from Council's Code of Conduct in relation to 'Personal benefit'

6. Personal Benefit

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not 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 council-sponsored or community events, training, education sessions or workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations.

Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek **or accept** gifts or benefits of any kind
 - c) accept any gift or benefit, **regardless of the value**, 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
 - d) subject to clause 6.7, accept any gift or benefit, **regardless of the value**
 - e) accept an offer of cash or a cash like gift as defined by clause 6.13, regardless of the amount
 - f) 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
 - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit **regardless of the value**, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, 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 **and returned**.

- 6.7 Where you receive a gift or benefit **whether of token value or** of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical, **in which case it will be donated to a local charity if it is unable to be returned.**

(Note: Clause 6.8 – 6.12 from the Model Code are not required in Council’s adopted Code as gifts and benefits are not to be accepted regardless of value).

“Cash-like gifts”

- 6.8 For the purposes of clause 6.5(e), “cash like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

- 6.9 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.10 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

Randwick City Council’s Gift and Benefits Policy

- 6.11 **Randwick City Council has adopted a Gifts and Benefits Policy. All staff and Councillors are required to familiarise themselves with this policy. Failure to comply with Council’s adopted Gifts and Benefits Policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions.**

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