

Council Policy

Gifts, Benefits and Bribes



CONTROLLED DOCUMENT INFORMATION

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18 March 2025	OCM 077/25	Modified to new template and branding and updated to reflect the new Public Interest Disclosures Act and Policy. Amended to update current Gifts and Benefits Declaration form and locations.

Further Document Information and Relationships	
Related Legislation*	Local Government Act 2020 - Sect 138 Public Interest Disclosures Act 2022 No 14 - NSW Legislation
Related Policies	Code of Conduct Fraud and Corruption Policy and Plan Public Interest Disclosures Policy Procurement Policy
Related Documents	Audit Office of New South Wales Declaration of Gifts and Benefits - online form

	Independent Commission Against Corruption Office of Local Government - Fraud and Corruption Prevention
Note: Any reference to Legislation will be updated in this Policy as required. See website http://www.legislation.nsw.gov.au/ for current Acts, Regulations and Environmental Planning Instruments.	

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1. Purpose

The purpose of this policy is to provide guidance to Councillors, employees and volunteers to identify and manage risks associated with the offer and receipt of gifts, benefits and bribery.

In a private context, gifts are often given to mark special occasions and express gratitude and friendships. However, in the business environment these gifts and benefits may be offered to influence a decision (Bribery).

Council recognises that gifts and benefits of nominal value are frequently offered and accepted and that there is little risk of harm in permitting this to occur.

However, the Policy also recognises that on occasions, gifts and benefits of more than a nominal value may be specifically offered to influence the attitudes or decisions of Councillors and employees in favour of the giver. In this case, the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

This policy has been developed in alignment with Councils Code of Conduct to ensure Council is open, transparent, and accountable.

2. Commencement and Review

This Policy is effective from date of adoption by Council resolution and shall remain in force until repealed by resolution of Council.

3. Scope and Application

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

This Policy aims to provide guidelines for Councillors, Council employees and volunteers in dealing with offers of gifts, benefits and bribes.

This Policy applies to all Council Officials, including Councillors, Council staff, Council committee members, Council delegates, and volunteers of Council.

4. Definitions

In this Operational Policy, the following terms shall be interpreted as having the following meanings:

Term	Definition
Council	means Parkes Shire Council.
Business Day	means a day that is not a Saturday, a Sunday, 27/28/29/30/31 December, nor a public holiday in Sydney.
General Manager	means the General Manager of Parkes Shire Council appointed under section 334 of the <i>Local Government Act 1993</i> .
Governing Body	Means a person elected or appointed to civic office as a member of the governing body of Council who is not suspended, including the Mayor
Gifts	<p>For the purpose of this policy, “gifts” made to individuals in the course of a business relationship are usually given for commercial purposes, such as to create a feeling of obligation on the receiver.</p> <p>Some examples of gifts include:</p> <ul style="list-style-type: none"> • Money • Gift cards • Alcohol • Clothes • Products • caps and hats • tickets.
Benefits	<p>For the purpose of this policy, the term “benefit” is used to refer to something which is believed to be of value to the receiver, such as a service which would create a feeling of obligation on the receiver. This may include preferential treatment, discounts, privileged access and/or other advantages that are perceived to be of value.</p> <p>Some examples include:</p> <ul style="list-style-type: none"> • Tickets to sporting events or other entertainment • use of facilities such as a gymnasium or holiday home • free or discounted travel • Frequent Flyer points on work purchases • Rex bonus flights (should only be used for work if accumulated on work related flights) • free meals, etc.

Bribery	<p>“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. Bribery may be interpreted as real, apparent or potential:</p> <ul style="list-style-type: none">• Real – where receipt of a gift improperly influenced the performance of official duties.• Apparent – where it appears or could be perceived that a gift improperly influenced the performance of official duties, whether or not, that is actually the case.• Potential – where a gift is provided now, the interests are not, but could, come into direct conflict with official duties in the future.
Nominal Value	<p>Gifts and benefits of nominal value usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties. Token Gifts can be defined as a gift of minimal value.</p> <p>Examples of gifts and benefits that could be regarded as having a minimal value include cheap marketing trinkets or corporate mementos that are not targeted specifically at the business of Council, such as:</p> <ul style="list-style-type: none">• inexpensive pens and pencils• notepads• key rings• modest hospitality• Caps and hats• Small items associated with sponsored functions such as conferences, seminars, etc.

5. Legislative Perspective

Corruptly receiving a gift or benefit is an offence under both the common law and NSW legislation.

5.1. Crimes Act 1900 (NSW)

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. This also pertains to receiving benefits for showing favour or disfavour to any person in relation to their official duties

5.2. Local Government Act 1993

Section 440 of the Act requires that councils adopt a code of conduct. The section states that serious corrupt conduct, of which bribery is an example, may lead to the dismissal or temporary suspension from office of a Councillor or of a staff member.

5.3. Local Government (General) Regulation 1999 - Sections 40E and 40F

This regulation requires a person making a return under Section 449(3) of the Local Government Act to disclose any gifts received (exceeding \$500.00) or contribution towards travel (exceeding \$250.00) received since the previous return.

6. General Rules

- a) No gifts or benefits of more than nominal value may be accepted by Councillors, employees or volunteers.
- b) Under no circumstance should offers of money or gift cards be accepted.
- c) If a gift or benefit is received in the course of a Councillor or employee's duties and relates to the work of Council, or has a public benefit, it may be accepted. All such items must become the property of Council and be recorded in Council's *Gift Register*.

7. Reporting of Offering of Gifts or Benefits

If a Councillor, employee or volunteer is offered a gift or benefit that is more than of nominal value, the following procedure must be followed:

- a) politely decline to accept the gift or benefit;
- b) make notes immediately after the approach has been made setting out as clearly as possible what occurred, including:
 - I. date, time and place of the incident.
 - II. to whom the offer was made
 - III. who offered the possible gift or benefit?
 - IV. the response to the offer
 - V. any other relevant details of the offer
 - VI. sign and date the notes.
 - VII. The informant should keep a copy of the notes for their own records.
- c) inform either the Mayor (in the case of Councillors) or the relevant line manager (in the case of employees and volunteers). Ultimately, the General Manager must be informed of the offer.

For the avoidance of doubt, if a nominal value of the gift or benefit being offered cannot be determined, Councillors, employees and/or volunteers will follow the appropriate procedure to declare the offered gift or benefit.

8. Forms

Declarations forms must be completed by Councillors and staff who have been offered a gift whether it has been accepted or not.

For staff, a link is provided on Council's intranet site and is included below for.

<https://parkes.t1cloud.com/T1Default/CiAnywhere/Web/PARKES/Forms/FillOut?formDef=9bd421950903f46bbc818e11562637ff&suite=ECM>

For COuncillors, a link is available through the LG Hub.

Once submitted the form will be forwarded through to Council's Governance Team for review. The decision will be recorded and registered in the Gift & Benefit register. The declaration form will also be linked to the employees personnel file or in the case of Councillors to the Councillors Subject in ECM.

A hardcopy declaration is also available to use if needed. This form once completed should be forwarded to the Governance Team for review, approval, further action and registering.

9. Reporting of Offering of Bribes

Any Councillor, employee or volunteer who believes that they have been offered a bribe must:

- a) refuse the bribe;
- b) make notes immediately after the approach has been made setting out as clearly as possible what occurred, including:
 - i. date, time and place of the incident.
 - ii. to whom the offer was made
 - iii. who offered the possible bribe
 - iv. the response to the offer
 - v. any other relevant details of the offer
 - vi. sign and date the notes.

The informant should keep a copy of the notes for their own records.

- c) inform either the Mayor (in the case of Councillors) or the relevant section manager (in the case of employees and volunteers). If the line manager is involved in the offer, contact an appropriate senior officer or the General Manager. Ultimately, the General Manager must be informed of the offer.

The General Manager must:

- a) inform the ICAC;
- b) inform the Police.

Once the matter has been reported and it is apparent that an extended investigation is not likely, the following will occur:

- Council will make the person who offered the bribe aware that bribery is a serious offence and that such behaviour will not be tolerated by Council;

10. Reporting of Taking Bribes

Council recognises that it may not always be successful in its efforts to prevent bribery. Council encourages employees and members of the public to report incidences where they believe that bribery has occurred.

10.1. Internal Reporting

The process of reporting all perceived corrupt by a public official, including bribery is the same as for other corrupt conduct, as per the guidelines in the *Public Interest Disclosures Policy*.

10.2. External Reporting

As per the *Fraud and Corruption Policy*, complaints regarding fraud and corruption, such as bribery received from the general public should be referred to the General Manager. Should the complaint concern the General Manager, then it should be referred to the Mayor.

Complaints or reports of fraud and corruption from the general public can also be directed to Council's Public Officer (Director Customer, Corporate Services and Economy).

11. Non-Compliance with this policy

Failure to comply with the terms of this policy may result in one or more of the following:

- a) disciplinary action;
- b) dismissal;
- c) criminal prosecution;
- d) investigation by ICAC

12. Training

Refresher training in the Gifts, Benefits and Bribes Policy will be included in Council's Corporate Training Plan.

13. Review

As part of Council's commitment to good governance and continuous improvement, this Policy must be reviewed and re-adopted by Council not less than once every four years or as Council otherwise determines in line with legislative requirements and policy changes.

14. Declaration of Gifts and Benefits Form

Declaration of Gifts and Benefits

Declaration of Gifts and Benefits

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

Council recognises that gifts and benefits of nominal value are frequently offered and accepted and that there is little risk of harm in permitting this to occur. However, gifts and benefits of more than a nominal value may be specifically offered to influence the attitudes or decisions of Councillors and employees in favour of the giver.

Gifts are sometimes received by Councillors, staff or volunteers during the course of their Council related duties. These are usually received as thankyou's or received during conferences e.g. Most often they are of a token value amount or nominal value amount.

All gifts received by Parkes Shire Councillors, Staff or volunteers must be recorded in Council's Gift & Benefits Register.

Gifts and benefits of nominal value usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties.

Token Gifts can be defined as a gift of minimal value. Examples of gifts and benefits that could be regarded as having a minimal value include cheap marketing trinkets or corporate mementos that are not targeted specifically at the business of Council, such as: inexpensive pens and pencils; notepads; key rings; modest hospitality; Caps and hats; Small items associated with sponsored functions such as conferences, seminars.

No gifts or benefit of more than a nominal value (\$50.00) may be accepted.

Under no circumstances should offers of money or gift cards be accepted.

For further information refer to Council's [Gifts, Benefits & Bribes Policy](#)

Gifts and Benefits Register

Are you a Councillor or staff member?

Received by or Offered to:

Date Gift or Benefit was offered or received?

Who is the Gift or benefit from?

Description of Gift or Benefit:

Estimated Value of Gift or Benefit:

0

Circumstances surrounding the offer/Why did you receive it?:

Gift Accepted

What have you done with the gift?

Attach a Photo of the item or other relevant information