



PARKES SHIRE COUNCIL

GIFTS, BENEFITS AND BRIBES

POLICY

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CONTROLLED DOCUMENT INFORMATION

ECM Number	178828		
Department	Organisational Capability		
Position	Human Resources manager		
Review Timeframe	Each 4 Year Term of Council	Next Scheduled Review Date	2022
Adoption by Council	02.08.2005	Resolution/Minute Number	05-644

Version History

Version Number	Date Changed	Modified by	Details & Comments
0	Date Policy Created	Name	Policy Created
1	12.04.2009	Sharon Ross	Description of the amendments made
2	01.11.2011	Rhonda Milgate	Just add lines as needed
3.	30.06.2014	Rhonda Milgate	No amendments - Now also included in Staff Behaviours Guidelines)
4.	20.12.2016	Rhonda Milgate	No amendments - Formatted to new Policy Template
5.	16.12.2020	Shona Henry	New Form implemented

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1. Purpose

The policy is designed to provide guidance to Councillors, employees and volunteers on the issue of gifts, benefits and bribery. It sets out the procedures that Councillors and staff should follow in deciding whether to accept a gift or benefit.

2. Policy

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



3. Definitions

i. Gifts

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. Some examples of gifts include:

- money;
- gift cards;
- alcohol;
- clothes;
- products;
- caps and hats;
- tickets.

ii. Benefits

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. Some examples include:

- 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.

iii. Bribery

“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.

iv. Nominal Value

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



4. Legislative Perspective

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

i. 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.

ii. 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.

iii. 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.

5. 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*.

6. 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.



7. Forms

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

A link is provided on Council's intranet site

<https://cia.parkes.nsw.gov.au/T1Prod/CiAnywhere/Web/PROD/Forms/FillOut?formDef=b213ae07debc921dff532ff175cd5bd1&suite=ECM>

This link is also available for the use of Councillors.

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.

8. 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:

- (a) 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;



- (b) if any further contact with the person who offered the bribe is required, a supervisor or colleague will accompany the employee who was subject of the offer;
- (c) if any threats are made towards the employee concerned, every effort will be made to ensure their safety, including informing the NSW Police and the ICAC;
- (d) if you are in doubt over the possible offer of a bribe, always report it.

9. Reporting of Taking of 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.

i. Internal Reporting

This situation is covered by Council's *Protected Disclosures Policy*. In general, the process of reporting bribery is the same as for other corrupt conduct, as per the guidelines in the *Protected Disclosures Policy*.

ii. External Complaint

Complaints regarding 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.

10. 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;

11. TRAINING

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

12. Review

This policy shall be reviewed at a minimum of each new term of Council to ensure that it meets the requirements of legislation and the needs of Council.

13. Associated Council Policies and Documents

Statement of Ethical Principles

Code of Conduct

Corruption Risk Management Plan

Gifts and Benefits Forms (Copy attached and available on Council's Intranet site for staff and Councillors use)

Gifes and benefits Register

Protected Disclosure Policy





**PARKES SHIRE COUNCIL
Gifts and Benefits Register**



Date Gift or Benefit Offered or Received _____
Day / Month / Year

Received by or Offered to _____
Name, Position

Gift Offered or Given by _____
Name, Organisation

Description of Gift or Benefit _____

Token Gifts _____
Estimated Value of Gift (\$)

Gifts of Value _____
Estimated Value of Gift (\$)

Gift Accepted Yes No

Circumstances surrounding the offer _____

Action taken/required _____

Recipient Signature _____

Day / Month / Year

Supervisor Signature _____

General Manager Signature _____

(File Note - Completed page to be scanned and registered into CIS)

