

POLICY



CENTRAL TABLELANDS WATER

DRAFT 2

**GIFTS,
BENEFITS
&
HOSPITALITY
POLICY**

DOCUMENT CONTROL

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Introduction

The 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. Staff must be open and transparent about offers of gifts, benefits or hospitality.

This policy sets the principles and requirements to support good decision making including the integrity of decisions made when undertaking your official business activities. Council recognises that gifts and benefits of nominal value are frequently offered and accepted and there is little risk of harm in permitting this to occur. However, this Policy also recognises that on occasions, gifts and benefits are offered to influence the attitudes or decisions of Council Officials in favour of the provider. In this case the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

Policy Coverage

This policy applies:

- to all persons undertaking official work for the Council in either a paid or unpaid capacity. This extends to close associates where there is a link between an offer made to the close associate and the employee's official duties.
- in all circumstances where gifts offered by a stakeholder can be perceived as linked to official business, This includes where gifts, benefits or hospitality may be offered outside normal working hours or while on leave.

Scope

This Policy applies to all Councillors, employees, contractors, volunteers, Committee members (referred to as Council Officers) in relation to gifts and benefits.

This 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.

Legislative Context

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

(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.

(1) 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 staff member.

(2) Independent Commission Against Corruption Act 1988 (ICAC Act)

Under Section 11 of the ICAC Act, the General Manager has a duty to inform ICAC regarding any matter that he or she suspects on reasonable grounds, concerns or may concern corrupt conduct.

Policy

The Council encourages all Council officials to discuss any offers of gifts or benefits that you are considering accepting with your manager no matter what their monetary value. If you accept any gifts or benefits valued at **\$100.00** or more, you must complete the Gifts and Benefits Declaration Form to register the details. Completing the form and registering an offer is also required in situations where you are offered but don't accept a gift or benefit of significant value or you believe the offer has been made to induce you to provide preferential treatment. In all situations you must be aware of and understand your role and responsibilities to protect your reputation and that of CTW ensuring no negative consequences for the Council.

Code of Conduct (CTW 2020)

Gifts and Benefits are dealt with under Part 6 of the Code of Conduct (Personal Benefit). This policy expands on the provisions of the Code of Conduct and establishes a procedure for disclosing and, where necessary, surrendering certain gifts and benefits.

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.

Exclusions

1.1 The following items are not considered a gift, benefit, or hospitality for the purposes of this Policy and hence no disclosure is required:

- a) items with a value of \$10 or less
- b) a political donation for the purposes of the Electoral Funding Act 2018
- c) a benefit or facility provided by the council to an employee or councillor
- d) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
- e) free or subsidised meals, beverages or refreshments 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

1.2 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.

1.3 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?

1.4. **You must not:**

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit 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) 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
- e) personally benefit from reward points programs when purchasing on behalf of the council.

1.5 Where you receive a gift or benefit of any value other than one referred to in Exclusions (item 1.1), 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.

1.6 Where you receive a gift or benefit 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.

Gifts and benefits of token value

1.7 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a **12-month period** that, when aggregated, do not exceed a value of **\$100**. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- b) gifts of alcohol that do not exceed a value of \$100
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$100 in value.

Gifts and benefits of more than token value

1.8 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 1.4(d) and, subject to clause 1.6, must not be accepted.

1.9 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

1.10 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

1.11 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

“Cash-like gifts”

1.12 For the purposes of clause 1.4(e), “cashlike 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

1.13 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.

1.14 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.

Roles and responsibilities

Employees	<ul style="list-style-type: none"> • Comply with this Policy and Procedure • Keep appropriate records • Are accountable for any activities involving receiving or giving of gifts, benefits, or hospitality as a public official in conducting your business activities • Must ensure that you act with integrity and demonstrate that you are not influenced in the performance of your duties
General Manager, Councillors and Directors	<ul style="list-style-type: none"> • Ensure staff understand this policy and implement it effectively. • Review all gifts, benefits and hospitality declared to them, in accordance with this policy and the Council’s Code of Conduct launch and finalise their decision within five (5) working days of the gift, benefit or hospitality being declared. • Notify the Councillors, General Manager and Directors of any gift, benefit or hospitality being offered to staff about which they have concerns as to why it is being offered. • Keep appropriate records of gifts, benefits and hospitality accepted by staff in the business area valued below \$100.00.
Governance Officer	<ul style="list-style-type: none"> • Maintain the Council’s Gifts, Benefits and Hospitality Register for all reportable gifts, benefits, and hospitality, including decisions to not accept offers that are significant in value or influential in nature • Reviews the Council’s Gifts, Benefits and Hospitality Register on a regular basis and provides guidance and assistance to managers and staff on the application of this policy • Consults with the General Manager, Councillors, Directors to ensure gifts that are not retained by staffed are appropriately held, distributed, or disposed

BREACHES

- All Councillors, employees, contractors, volunteers, Committee members (referred to as Council Officers) found to be in breach of the Gifts and Benefits Policy and Procedure will be subject to relevant disciplinary processes, as set out in the Code of Conduct.
- Suppliers of goods or services to Council found to be in breach of this Gifts and Benefits Policy and Procedure may receive a warning for non-compliance, or, if the breach is considered by the General Manager to be serious, may be banned from use by CTW Officers. The General Manager will determine if a warning is provided, or immediate banning will be implemented.
- Non-disclosure of Political Donations and Gifts may be subject to a breach in accordance with the Environmental Planning & Assessment Act 1979

GIFTS REGISTER

The register below shows the gifts, benefits and hospitality and their value that has been accepted by CTW employees. This register is updated quarterly.

Date	Position	Description	Estimated Value	Reason for Gift Offered	Accepted or Refused	Action Taken	Authorized Officer	Organization

REVIEW

This Policy will be reviewed at least every two years in the absence of any significant changes or more frequently where required taking into account legislative or organisational changes, risk factors and consistency with other supporting policies.



Gift and Benefit Declaration Form

This declaration form is to be completed by a Council officials who has been offered, or given, a gift or benefit. All details should be disclosed. Please forward the completed declaration to the Governance officer for assessment and referral to the General Manager if required.

OCCURRENCE DETAILS		
Name		
Position		Date
Name of person offering gift/benefit		
Organization		
Gift/benefit description		
Estimated value		
Date offered	Time offered	Location
Response to the offer	<input type="checkbox"/> Gift/benefit accepted <input type="checkbox"/> Gift/benefit declined <input type="checkbox"/> Gift/benefit handed into Manager for disposal	
Has this person or organisation offered you a gift in the past? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes – please provide details of gift, when offered, action taken.		
DECLARATION		
Date	Name	Signature
Approved by General Manager		
Approved/ Disposal	Date	Signature
Governance Officer		
Enter into register <input type="checkbox"/>	Date	Signature

Definitions

Council means	Central Tablelands Council
Council Official(s)	An individual who carries out public official functions or acts in the capacity of a public official. These include Councillors, members of staff, members of Council committees, conduct reviewers and delegates of Council.
GM, Directors, Managers	any person employed by Council that holds a financial delegated authority to undertake the engagement of a contractor for the purchase of goods and services.
Benefit	<p>a non-tangible item of value (e.g., a new job or promotion, preferential treatment or access to confidential information) that one person or organization confers on another. 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.
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 behavior in that office, and to incline that person to act contrary to the known rules of honesty and integrity.
Corruption	the abuse of public office (i.e., public trust) for private or personal advantage.
Nominal Value	a value that usually does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties. For the purpose of this Policy, Council has determined that \$100 is the maximum nominal value of any gift or benefit.
Gift	An item of value which one person or organisation presents to another
Gift Register	An official agency records that details gifts and benefits received by staff and how they were managed.
Official Duties	the work undertaken by a public official as defined by relevant or governing legislation (and regulations), the official's position description or lawful directions given by a supervisor Cash-Like Gift
Cash-Like Gift	A cash-like gifts includes, but is not limited to, gift vouchers, lottery tickets, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, membership or entitlements to discounts