



LEETON SHIRE COUNCIL

Preserving the Past, Enhancing the Future

LEETON SHIRE COUNCIL POLICY

GIFTS AND BENEFITS

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Gifts and Benefits Policy

OBJECTIVES

The purpose of this policy is to:

- Establish guidelines for the receipt of gifts and benefits by Councillors and Council staff;
- Ensure the process for the acceptance of gifts and benefits is transparent to preserve the community's confidence in Council as an impartial body.

APPLICABILITY

This policy applies to Councillors, members of staff of Council, delegates of the Council, members of Council committees, Council volunteers and contractors.

SCOPE

This policy applies to situations where a Councillor or Council staff member is offered a gift or benefit as defined by this policy.

BACKGROUND

Guidelines for receiving Gifts and Benefits are contained in Part 5 of the Model Code of Conduct, however, the Independent Commission Against Corruption has examined the receipt of gifts and benefits within the Local Government Sector and has made determinations that need to be considered and applied by councils across NSW.

The Independent Commission Against Corruption (ICAC) in its recent Operation Jarek Report (determining allegations of benefits received by council staff in NSW) states (at recommendation 4) that councils should ensure that their gifts and benefits policies should stipulate that all staff who hold financial delegations are prohibited from receiving gifts of any kind.

Due to the high number of LSC staff who have financial delegations and Council's desire to be completely transparent and avoid the perception that any elected member or staff member could be unduly influenced by gifts or benefits (of even a token nature); Council has determined to prohibit the receipt of all gifts and benefits except for those that cannot be returned.

DEFINITIONS

Council staff members of staff of Council, delegates of the Council, members of Council committee, Council volunteers and contractors.

Gift of Benefit for the purposes of this policy, a gift or benefit is the voluntary transfer of property or the giving of a benefit (including hospitality) to a Councillor or an employee of Council at no charge or at a discounted charge as a consequence of their service with Leeton Shire Council.

A gift or benefit does not include:

- any discounted product or service if the discount is reasonable and generally available or capable of being negotiated by others not connected with the Council
- any meal or other hospitality received at a function related to the role of the Councillor or employee, a function where the Councillor or employee is officially representing the organisation, or where the appropriate fee for the function has been paid.
- Any prize received in a raffle, competition or other game of chance or skill
- Any gift, benefit or hospitality received in relation to membership of any professional organisation, club or other association or body.
- Any gift, benefit or hospitality received by a relative or associate of a Councillor or Council employee if the Councillor or Council employee did not know about it.
- Items received at a conference/seminar e.g. sponsors pens, mouse pads etc where Council has paid for the staff member or councillor to attend the conference (in essence Council has paid for these goods accordingly).

POLICY GUIDELINES

1 SEEKING ADVICE

- 1.1 If a Councillor is uncertain whether they are receiving a gift or benefit, they should discuss the matter with the General Manager.
- 1.2 If a member of Council staff is uncertain whether they are receiving a gift or benefit, they should discuss the matter with the General Manager ~~or Councils' Internal Auditor~~, or the Mayor ~~or Council's Internal Auditor~~ in the case of the General Manager.

2 RESTRICTIONS ON RECEIVING GIFTS AND BENEFITS

- 2.1 In general, you must not accept gifts and benefits of any value no matter how small.

This is to protect Councillors and members of staff from being compromised and to prevent a public perception of bias.
- 2.2 You must not:
 - Seek or accept a bribe or other improper inducement.
 - By virtue of your position acquire any personal profit or advantage.
- 2.3 You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.
- 2.5 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.
- 2.6 You must never accept any offer of money, regardless of the amount.

3 ACCEPTING GIFTS AND BENEFITS

- 3.1 As stated above, you must not accept gifts or of any kind or any value (see definitions clause above).

- 3.2 If a Council officer's/elected member's refusal is ignored, or for other reasons a gift cannot reasonably be refused or returned, the gift must be given to the General Manager to become property of the Council.
- 3.3 Once a gift or benefit becomes the property of the Council, its use or disposal is the responsibility of the Council, not the individual. Disposal will take one of two forms; public auction or periodic donations to registered charities. The General Manager will determine what disposal method is most appropriate.

4 DECLARING GIFTS AND BENEFITS

- 4.1 If for the reasons stated at clause 3.2 above, you receive a gift of or benefit in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to the General Manager.
- 4.2 The General Manager shall assess any gifts disclosed and determine the most suitable disposal action (see clause 3.3 above).

5 IMPROPER INFLUENCE

- 5.1 You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.
- 5.2 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

6 RECORDKEEPING

- 6.1 All offers of gifts and benefits refused and above a monetary value of \$50.00 should be recorded in writing (See Annexure 1) as soon as possible and must contain:
 - date, time and place of the incident;
 - to whom the gift or benefit was offered;
 - who offered the gift or benefit and contact details (if known);
 - the response to the offer;
 - any other relevant details to the offer; and
 - the signature of the author and date the record was written.

6.2 A copy of the note should be kept by the Councillor or member of staff and a copy given to the General Manager who should also sign and date it, and then place it on the appropriate file.

6.3 Disclosures of all gifts and benefits that could not be refused will be kept in a public gifts and benefits register. Each entry must include:

- the nature of the gift;
- the name of the recipient;
- the name of the person who offered the gift and their agency or organisation name;
- the decision that was taken in relation to the gift.

The register must then be signed and dated by the General Manager.

7 POLICY AUTHORITY

The policy authority is the General Manager.

8 GETTING HELP

For interpretations, resolutions of problems and special situations please contact the General Manager.

9 TO BE REVIEWED

Due to nature of this Policy and the possible implications that may flow from any gift or benefit received, this Policy may be reviewed at any time and will be reviewed at a minimum of every two years.

Annexure "1"



Declaration of Gifts

I _____ herewith advise that _____
(name) (date)

I was given _____
(item)

By _____
(person and/or company)

The estimated value of this gift is \$ _____

The circumstances in respect to my receipt of the gift were: (detail)

I have taken / propose the following action:

(please tick)

returned the item

other (details)

(Signature)

(Date)

General Manager's comments

(Signature)

(Date)

Policy History:

Date of Adoption/Amendment	Resolution Number
30 September 2009	09/308
23 June 2010	10/210
26 June 2013	13/136
22 February 2017	17/018