# Authority

*Local Government Act 2009*

*Local Government Regulation 2012*

*Crime and Corruption Act 2001*

*Code of Conduct for Council Employees*

# Policy Statement

This policy establishes the responsibility of Council Officers and elected members with regard to the solicitation and acceptance of benefits, gifts and prizes. An officer or elected member must not encourage, solicit or accept any benefit, personal or otherwise, where there may be a real or potential risk of compromise or conflict of interest.

# Principles

This policy is based on the following principles:-

* transparent and effective processes;
* good governance; and
* ethical and legal behaviour of councillors and employees.

# Scope

This policy applies to benefits, gifts and prizes over the value of $150 offered to, or received by, staff as a consequence of their employment with Wujal Wujal Aboriginal Shire Council. This policy also applies to elected members. **Amounts under $150 – please refer to the Code of Conduct for Council Employees.**

# Benefits, gifts and prizes (greater than $150)

Benefits may be accepted if no conflict of interest exists and the officer has gained prior approval. Third party sponsorship to attend conferences or provide subsidised attendance through reduced registration fees, etc. must be recorded. The 'Declaration of Benefits, Gifts and Prizes Received' form (Appendix 1) should indicate whether the third party is the conference organising committee or a commercial supplier/exhibitor. If the purpose of the sponsorship is to enable the officer to attend to present a paper or chair a session this should be clearly indicated on the Declaration form.

A record of benefits greater than $150 in value must be submitted by the relevant officer and retained on the Register of Benefits, Gifts and Prizes.

# Benefits over $300 - Fringe Benefit Tax implications

If the value of the benefit is over $300 FBT rules apply. As the benefit was received whilst on Council business the benefit is the property of Council.

# Benefits over $500 - Register of Interests requirements

The following positions are required to complete a Register of Interests return:

* a Councillor
* the Chief Executive Officer
* a Senior Executive employee
* a person who is related to a councillor, the chief executive officer or a senior executive employee

However, the register of a person who is related to a councillor, the chief executive officer or senior executive employee need not include any interest that is –

1. held jointly, or in common, with the councillor, chief executive officer or senior executive employee; and
2. included in the register of interests of the councillor, chief executive officer or senior executive employee.

These registers must include details of gifts totalling more than $500 and sponsored hospitality benefits, particularly the donor’s name and a description of the gift. The regulation states that "sponsored hospitality benefits" relate to travel or accommodation. If an employee or related person receives a benefit other than a "sponsored hospitality benefit" valued at $500 or more, it is reportable as a gift.

Disclosure of such interest must be within 30 days of the person becoming aware of the interest.

# Retention of benefits, gifts and prizes

*Disposal of benefits, gifts or prizes*

If the Council does not have an appropriate use for the benefit, gift or prize, it may be disposed of in accordance with the following principles:

* Disposal of benefits, gifts or prizes must be in the public interest and pay due respect to the wishes and expectations of the donor (if known). Disposal by donation to a charity, hospital, school, community or not-for-profit organisation or similar should be considered;

* The disposal should be properly documented for audit purposes; and

* Conflicts of interest should be avoided.

# Benefits, Gifts and Prizes should not involve time away from official duties

Offers of tickets or corporate hospitality at sporting events, cultural events or other major recreation attractions are to be treated in the same manner as all other benefits, gifts or prizes. Any employee attending a sporting event, cultural event or recreation attraction as part of a benefit, gift or prize, must ensure that this occurs outside the employee's normal working hours or on approved leave.

# RESPONSIBILITY

This policy is to be implemented by the Chief Executive Officer and adhered to by all employees and elected members of the Wujal Wujal Aboriginal Shire Council.

# DEFINITIONS

***Council*** refers to the Wujal Wujal Aboriginal Shire Council

***Gift*** ***and/or benefits***

A gift or benefit is anything of value that is offered to you in the course of your work, apart from your normal employment entitlements. It can be either tangible or intangible:

**Tangible gifts** — cash, goods, hospitality (e.g. meals or drinks), or promotional materials (e.g. free pens, diaries).

**Intangible gifts** — personal services, free or subsidised travel or accommodation, entertainment, preferential treatment, privileged access, promise of a special favour or advantage (e.g. a special type of loan), discounts on goods and services (including discounted interest rates).

***Employees*** refers to any employee, contractor, volunteer of Council

***Officer*** refers to any employee or volunteer of Council

***Senior Executives*** refers to those people holding a Director position with Council

# RISK FACTORS

No matter how small a gift is, accepting it may:

* be perceived that you are taking a bribe or secret commission
* cause a perception of undue influence
* provoke a sense of obligation in the donor or the recipient
* consciously or unconsciously influence decisions made by the organisation
* benefit some individuals or organisations through influenced or unjust decisions, while unfairly disadvantaging others
* result in the organisation incurring a Fringe Benefits Tax (FBT) liability on any benefits obtained
* by employees
* compromise the independence, impartiality or good name of the organisation.

Accepting gifts or benefits could create a conflict of interest between your official duty and your personal interests. In particular, if you work in a sensitive area or one of particular trust (e.g. internal audit or purchasing), you should refuse any gift that could create a perception of bias or influence if you accept it. Consult your supervisor if you are unsure.

The intention behind the giving of a gift — and what the community may perceive as the intention — should always be considered in determining whether accepting the gift is appropriate.

Bribery is a serious criminal offence, so you should immediately report to your organisation anyone who attempts to give you something with the expectation that you will give them

favourable treatment in return. If you do not deal with offers of gifts and benefits appropriately, you could face reprimand, loss of salary, fines, dismissal or jail time.

Public sector employees should never, under any circumstances, accept a gift of cash or of anything readily convertible to cash (such as shares, betting slips or promissory notes).

# POLICY

An officer or elected member must:

* Not directly or indirectly encourage, solicit, accept, offer or give a bribe or other illegal benefit, and must report any such instance;

* Not directly or indirectly encourage or solicit any benefit in connection with their position;

* Not directly or indirectly accept any benefit in connection with their position other than in accordance with this policy;

* Not directly or indirectly use their position other than for the public interest.

An officer or elected member will, in every case complete a 'Declaration of Gifts Received' (as per the attached form) for submission to the CEO's office to record the acceptance of any benefit over $150 in value in the Register of Benefits, Gifts and Prizes.

An officer or elected member may accept a benefit:

* If it does not influence, or have the potential to influence, the recipient in such a way as to compromise or appear to compromise the recipient's integrity and impartiality or to create a conflict of interest or perception of conflict of interest;

* If it is not related to advice or decisions about (but not limited to) granting licences, inspecting and regulating businesses or giving approvals;

* If the obligation or potential obligation implied in accepting the gift or benefit of all values and types has been discussed with your Manager;

* If it is made in the course of your official duties and relates to the work of the Section/Department or has a benefit to the community or it is normal in the gift giver's culture and not accepting a gift or benefit could cause offence.

A benefit received by an officer or elected member in connection with his/her position will remain the property of the Council and must, in the first instance, be referred to the Chief Executive Officer to determine how the benefit, gift or prize will be managed. This includes prizes won while attending

conferences on behalf of Council. Prizes of a substantial nature may be donated to a registered charity at the discretion of the Chief Executive Officer in conjunction with the winner of the prizes.

The 'Register of Benefits, Gifts and Prizes Received' will be the subject of external audit review. Records must be retained for a minimum of 5 years.

Eileen Deemal-Hall
**Chief Executive Officer**

|  |  |
| --- | --- |
| **DATE OF ADOPTION:** | 25 July 2019 |
| **TIME PERIOD OF REVIEW:** | 2 Years |
| **DATE OF NEXT REVIEW:** | June 2021 |

**APPENDIX 1**

**DECLARATION OF GIFTS RECEIVED**

Details of gift received (including hospitality and other intangible benefits)

|  |  |
| --- | --- |
| Name of gift recipient: |  |
|  | *Name of person and position* |
| Department: |  |
| Gift received from: |  |
|  | *Name of person and company/organisation* |
| Reason for issue: |  |
|  |  |
|  |  |
| Description of gift (including the location of hospitality): |
|  |
| Approximate value of gift including GST: |  |
| Date gift received: |  |
| Accepting this gift if of benefit to the Wujal Wujal Aboriginal Shire Council because \*:- |
|  |
| \* This description must provide sufficient information to establish that all gifting principles have been satisfied. |

**Gifting principles** – Before accepting the gift or benefit, you must comply with all of the following principles:

It does not influence, or have the potential to influence, the recipient in such a way as to compromise or appear to compromise the recipient’s integrity and impartiality or to create a conflict or perception of conflict of interest.

It is not related to advice or decisions about (but not limited to) granting licences, inspecting and regulating businesses or giving approvals.

The obligation or potential obligation implied in accepting the gift or benefit of all values and types has been discussed with your Manager.

It is made in the course of your official duties and relates to the work of the Section/Department or has a benefit to the community or it is normal in the gift giver’s culture and not accepting a gift or benefit could cause offence.

Approval by Mayor/CEO/Director

 *(Name of authorising person and position)*

**Useful Decision-making Guide**

 **This guide is only an example of how an employee may consider whether a gift or benefit should be accepted. Specific circumstances should be discussed with your Manager/Supervisor.**

Is the gift money or

something

that could be

readily exchanged

for money

?

**Yes**

-

refuse the offer and

report

it to your supervisor.

**No**

-

lower risk, could consider.

Is it offered

to encourage you to give favourable

treatment in your official capacity?

**Yes**

-

refuse the offer and report

it to your supervisor.

**No**

-

lower risk, could

consider.

Could the gift be seen by other people to influence your

behaviour as a Council employee?

|  |  |  |
| --- | --- | --- |
| **Yes** - refuse the offer & discuss with your supervisor.  |  | **No** - lower risk, could consider.  |

Will you or the Council be making important

decisions regarding the gift giver in the near future?

**Yes**

-

refuse offer & discuss with your

supervisor.

**No**

-

lower risk, could

consider.

Is the gift

expensive?

**No**

-

lower risk, could

consider.

**Yes**

-

consider refusing offer,

unless it was a ceremonial gift.

Discuss with your supervisor.

Have you received other gifts from this

person/agency recently?

|  |  |  |
| --- | --- | --- |
| **Yes** - consider gifts as a series and observe reporting requirements. Discuss with your supervisor.  |  | **No** - lower risk, could consider  |