



COUNCIL POLICY

Gifts and Benefits

Policy Number:	PO150		
Strategic Plan Objective	Meet all legislative and compliance responsibilities		
Policy Owner:	Chief Executive Officer	Record Number:	16/14911[v3]
Responsible Officer:	Governance Officer	Minute Reference:	283/2017 (08/11/2017)
Date Adopted:	08/11/2017	Next Review Date:	November 2020

1. POLICY OBJECTIVES

Council is committed to acting in the best interests of the community and upholding the principles of honesty, integrity and transparency; all key components of good governance.

This Policy aims to distinguish between gifts and benefits that can be reasonably accepted and those that must be refused and to ensure that all gifts and benefits are managed in a transparent and accountable fashion.

2. SCOPE

2.1 This policy applies to all:

- i) Elected Members when exercising/performing official functions and duties in all situations, including those outside of normal business hours.
- ii) Employees (includes contractors, volunteers and agency personnel – refer to definition) when exercising/performing official functions and duties in all situations, including those outside of normal business hours.

3. DEFINITIONS

Definitions are provided in Attachment 1.

4. POLICY STATEMENT

Council must not accept any gifts/benefits that may be construed as a bribe by way to provide, coerce or extract information to gain an advantage, either directly or indirectly, for themselves, their family or a person with whom the employee is closely associated.

Elected Members and Employees must not:

1. Seek gifts/benefits of any kind;
2. Accept any gift/benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
3. Accept any gift/benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council;
4. Accept any gift/benefit from any person/organisation involved in a tendering or procurement process, either recent or ongoing;
5. Accept cash of any value.

Elected Members and Employees may accept hospitality provided in the context of performing their duties, including free or subsidised meals, beverages, or refreshments where there is no possibility of the attendance being construed as creating a sense of obligation, an advantage to the provider of the hospitality or an influence, provided in conjunction with:

1. The discussion of official business;
2. Council work related events such as training, education sessions workshops and conferences;
3. Council functions or events;
4. Social functions organised by groups such as Council committees and community organisations;
5. Invitations to and attendance at local social, cultural or sporting events;
6. Local Government/Government functions and/or events.

Hospitality must not be accepted from any person(s) involved in a current tender process with Council.

4.1 Employees

Before accepting a gift/benefit employees must receive permission to accept their gift or benefit from their direct Manager/Director.

4.2 Gifts and Benefits

The Minister for Planning, for the purposes of Section 63 (1) of the Local Government Act, 1999, published via Government Gazette that details of a gift or benefit of more than \$100 (each gift or benefit) must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer (CEO).

Council have determined that details of a gift/benefit must be recorded within Council's Gifts and Benefits Registers, R034 - Employee Gifts and Benefits Register or R033 - Elected Members Gifts and Benefits Register, as follows:

Gifts and Benefits \$10 - \$100 in value

Where Elected Members or Employees receive a gift/benefit between \$10 - \$100 in value, details of this gift/benefit must be recorded into the appropriate gifts and benefits register maintained by the CEO.

The gifts and benefits registers are available for inspection at the Principal Office of the Council and on the Council website. Once registered in the gifts and benefits register the said gift/benefit can be retained subject to 4.1 and the requirements under the mandatory codes of conduct and this policy.

The Elected Members Gifts and Benefits Register is in addition to and does not replace the Elected Members Allowances and Benefits Register R003.

Gifts and Benefits over \$100 up to \$200 in value

Where Elected Members or Employees receive a gift/benefit over \$100 and up to \$200 in value, details of this gift/benefit must be recorded into the appropriate gifts and benefits register maintained by the CEO for a determination which may include:

- Gift/benefit to be retained by Council and distributed as directed by the CEO
- An auction and/or raffle with proceeds donated to a registered charity as determined by the CEO, with local Charities taking priority.

In the event that any item for raffle/auction has no tickets sold or bids received, the said item will be distributed/donated by the CEO at his discretion.

The CEO's determination must be recorded into the appropriate gifts and benefits register.

Gifts and Benefits over \$200 in value

Where Elected Members or Employees receive a gift/benefit over \$200 in value, details of this gift/benefit must be recorded into the appropriate gifts and benefits register maintained by the CEO and referred to the CEO and Mayor for a determination which may include:

- Gift/benefit to be retained by Council and distributed as directed by the CEO
- An auction and/or raffle with proceeds donated to a registered charity as determined by the CEO, with local Charities taking priority.

In the event that any item for raffle/auction has no tickets sold or bids received, the said item will be distributed/donated by the CEO at his discretion.

The CEO/Mayor's determination must be recorded into the appropriate gifts and benefits register.

Refusal

If doubt exists, gifts/benefits are to be refused.

In some situations when gifts/benefits are offered, refusal may cause offence. If this is the case, the matter should be referred to the appropriate Director, or if the appropriate Director is not available, to the CEO.

In the case of the CEO, the matter should be referred to the Mayor.

In the case of Elected Members, the matter should be referred to the CEO.

Where a gift/benefit is refused, the CEO may determine that it is appropriate to write to the person(s) offering the gift/benefit to inform them of this policy and request that no further gifts/benefits be offered.

5. COMPLAINTS

Complaints about Elected Member behaviour under this policy must be in writing to the Mayor in accordance with Council's Process for Managing Complaints and Breaches under the Code of Conduct for Elected Members PFC123 and provide all available evidence to support the allegation(s).

Complaints about the Mayor's behaviour under this policy must be in writing to the CEO in accordance with Council's Process for Managing Complaints and Breaches under the Code of Conduct for Elected Members PFC123 and provide all available evidence to support the allegation(s).

Complaints about Employee behaviour under this policy must be in writing to the relevant department director in accordance with Council's Process for Managing Complaints and Breaches under the Employee Code of Conduct PFC014 and provide all available evidence to support the allegation(s).

Complaints about a director's behaviour under this policy must be in writing to the CEO (including any person acting in the role of CEO) and provide all available evidence to support the allegation(s).

In the case of a complaint against the CEO, complaints must be in writing to the Mayor and provide all available evidence to support the allegation(s).

Complaints about this Policy can be made in writing to the Governance Officer. These complaints will be managed in accordance with Council's Complaints Policy.

6. REVIEW

This Policy will be reviewed every three years and as deemed necessary in consideration of any changes to legislation and relevant standards, codes and guidelines. Elected Members and Employees will actively participate in the evaluation process as required.

7. TRAINING

Council is committed to supporting Elected Members and Employees in complying with this policy.

This policy will be provided to Elected Members and Employees during induction and training needs will be reviewed annually, during individual performance reviews and as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

8. RELATED COUNCIL POLICIES AND DOCUMENTS

PO091 Risk Management Policy
PO026 Fair Treatment Policy
PO134 Whistleblowers Policy
PO037 Internal Review of a Council Decision Policy
PO146 Support Disciplinary & Performance Management Policy
PO147 Complaints Policy
PO148 Fraud and Corruption Prevention Policy
PFC014 Process for Managing Complaints and Breaches under the Code of Conduct for Council Employees
PFC123 Process for Managing Complaints and Breaches under the Code of Conduct for Council Members
R034 - Employee Gifts and Benefits Register
R033 - Elected Members Gifts and Benefits Register

9. REFERENCES AND LEGISLATION

Criminal Law Consolidation Act 1935
Freedom of Information Act 1991
Independent Commissioner Against Corruption Act (SA) 2012
Local Government Act 1999
Ombudsman Act 1972
Public Finance and Audit Act 1987
South Australian Government Gazette Notice 52 - Thursday, 22 August 2013
Whistleblowers Protection Act 1993
Code of Conduct for Council Employees
Code of Conduct for Council Members
Local Government Association Guide – Gifts and Benefits under the Codes of Conduct

10. COUNCIL DELEGATION

Delegate:	Chief Executive Officer
Sub Delegate:	Directors

11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Gifts and Benefits Policy	PO150	14/08/2013	14/05/2014
Gifts and Benefits Policy	PO150	14/05/2014	08/11/2017

DEFINITIONS

Council	Yorke Peninsula Council.
Employee(s)	All personnel undertaking tasks/duties for and/or on behalf of the Yorke Peninsula Council, including persons employed directly by the Council in a full time, part-time or casual basis under an employment contract, volunteers, contractors, agency personnel and work experience placements.
Gifts or Benefits	Includes but is not limited to lunches, dinners, tickets to concerts or sporting events, bottles of wine or spirits, vouchers, accommodation, information or any item which may be interpreted or considered as payment or an expression of gratitude for a service provided, or to enhance/build a relationship which may be considered advantageous to the person providing the gift or benefit with whom the employee is closely associated. This extends to include a person with whom the Elected Member or employee is closely associated.
A Person with whom the Elected Member or employee is closely associated	<p>A person is closely associated with an Elected Member or employee of a council—</p> <p>(a) if that person is a body corporate of which the Elected Member or employee is a director or a member of the governing body; or</p> <p>(b) if that person is a proprietary company in which the Elected Member or employee is a shareholder; or</p> <p>(c) if that person is a beneficiary under a trust or an object of a discretionary trust of which the Elected Member or employee is a trustee; or</p> <p>(d) if that person is a partner of the Elected Member or employee; or</p> <p>(e) if that person is the employer or an employee of the Elected Member or employee; or</p> <p>(f) if that person is a person from whom the Elected Member or employee has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services; or</p> <p>(g) if that person is a relative of the Elected Member or employee.</p>