

CITY OF
CANADA BAY

GIFTS AND BENEFITS POLICY

Date of Adoption: 20 Sept 2011

Effective Date: 21 Sept 2011

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Objectives

The purpose of this policy is to provide guidance to Councillors and staff regarding the issue of receiving or being offered gifts or benefits and to ensure that in dealing with any gifts, benefits or the offer of gifts or benefits, Councillors and staff are not influenced in the performance of their duties and that there is no perception of undue influence due to these offers.

Scope

This Policy applies to the Mayor and Councillors, and to all members of staff of the City of Canada Bay Council when performing their civic duties.

Policy Statement

A councillor or staff member must not:

- seek or accept a bribe or other improper inducement;
- by virtue of his or her position, acquire a personal profit or advantage which has a monetary value,
- A councillor or staff member must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence a Councillor or staff member to:
- act in a particular way (including making a particular decision);
- fail to act in a particular circumstance;
- otherwise deviate from the proper exercise of his or her official duties.

A councillor or staff member must never accept an offer of money, regardless of the amount.

Allowable Benefits

Generally speaking, benefits allowable in accordance with this Policy are free or subsidised meals, beverages or refreshments consumed at and provided in conjunction with:

- the discussion of official business;
- council work related events such as training, education sessions, workshops;
- conferences;
- Council functions or events;
- social functions organised by groups, such as council committees and community organisations;
- invitations to and attendance at local social, cultural or sporting events;

Where a benefit is received, as outlined in a) above, and the attendance has been previously approved by Council, the Mayor, the General Manager or a Director and/or is within the civic responsibilities of the Mayor or Councillors, disclosure is not required.

Gifts and Benefits

Gifts and benefits which cannot be accepted include, but are not limited to:

- a. gifts of alcohol
- b. ties, scarves, coasters, tie pins, diaries, chocolates or flowers.
- c. tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)
- d. corporate hospitality at a corporate facility at major sporting events,
- e. discounted products for personal use,
- f. the use of facilities such as gyms, use of holiday homes, free or discounted travel.

Gifts and Benefits - Process and Procedure

In carrying out your civic duties, you must not:

- seek or accept a bribe or other improper inducement;
- seek gifts or benefits of any kind;
- 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;
- accept an offer of money, regardless of the amount.

Where you receive a gift or benefit that cannot reasonably be refused or returned for example a presentation of a gift from a visiting overseas delegation:

- The gift must be disclosed promptly to your supervisor, the Mayor or the General Manager.
- The recipient, supervisor, Mayor or General Manager must ensure that any gifts or benefits received are recorded in a Gifts Register by filling out a Disclosure of Gifts and Benefits Form (attached to the back of this document).
- The gift or benefit must be surrendered to Council and then returned to the person(s) or company/organisation who supplied the gift, unless the nature of the gift or benefit makes this impractical, as mentioned above. In this case the General Manager will auction or raffle the item with the proceeds being donated to a charity nominated by the General Manager. Where the gift cannot be auctioned or raffled and cannot be returned the General Manager will determine how the gift will be treated.

If you are offered a gift and refuse the offer of the gift you must also have this recorded in the Gift Register.

Disclosures of Gifts and Benefits received by or offered to staff shall be reported to the Executive on an annual basis for information purposes and any action where necessary.

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment from you or the Council. Immediate family members ordinarily include parents, spouses, children and siblings.

Improper and Undue Influence

You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this policy where they seek to influence other council officials through the appropriate exercise of their representative functions.

You must not take advantage (or seek to take advantage) of your status or position with Council or functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

Bribery

A bribe is defined as "*a gift or benefit offered to or solicited by a public officer to influence that person to act in a particular way*". Bribery includes offences committed under section 249B and associated sections of the Crimes Act 1900 (NSW). Offering or accepting a bribe is a serious offence with severe consequences.

If a public official is offered a gift of money or other gift or benefit, which could be considered to be a bribe, the public official must immediately notify his or her Manager and Director. The General Manager has an obligation under the Independent Commission Against Corruption (ICAC) Act to inform the ICAC about any matter that he or she suspects on reasonable grounds concerns or may concern corrupt conduct including bribery.

Further Information

If you wish to obtain further information or have any questions regarding the receiving of gifts and benefits, please contact:

- Manager Governance and Support Services
- Director Corporate Services
- Corporate Projects Coordinator

Further information, definitions of key terms and concepts, and processes in dealing with gifts and benefits can also be obtained from the ICAC website, in their publication *Managing Gifts and Benefits in the Public Sector - Toolkit*;

http://www.icac.nsw.gov.au/documents/doc_download/1288-managing-gifts-and-benefits-in-the-public-sector-toolkit

Examples

Example 1 - Gifts, Benefits and Hospitality

A regular supplier offers the Council's purchasing officer a free weekend for two at a beach resort. The officer's impartiality when dealing with a supplier would be compromised if he or she accepts the offer.

Planning and building staff are regularly offered alcohol, food, tickets to major sporting events and free lunches by developers, builders, project managers and suppliers. Staff sometimes accept these gifts without declaring them and argue that they are in return for providing good service and are an accepted way of "doing business". Again, this will be perceived to have compromised the impartiality of the staff concerned.

Example 2 - Acceptance of Gifts and Bribery

A local Council employee is involved in a series of inspections on a building site. During the inspections, the developer offers the employee numerous gifts including alcohol and a present for the employee's new born child. The employee accepts the gifts as he feels they are offered as unconditional and for appreciation for his work, especially as the inspection involved a number of lengthy tasks.

The employee believes he is not compromised by the gifts and eventually makes a recommendation that is not in the developer's interests. After the recommendation is made, the developer complains to the Council about the employee accepting gifts.

Although the employee accepts the gifts in good faith, he nevertheless places himself in a vulnerable position. While each of the gifts is of modest value, when viewed in total, the value of the gifts seems quite substantial. The developer is able to manipulate the situation to allege the employee has accepted bribes.

The employee's acceptance of the gifts could also be used as circumstantial evidence of bribery. The employee could not rely on the fact that he made a decision he would have made, regardless of the gifts, as a defence to bribery.

Example 3 - Acceptance of Gifts and Influence

A Council's Information Technology Manager attends two meetings with potential suppliers. During the first meeting the suppliers serve tea, coffee and biscuits. The second meeting is held at a restaurant and the suppliers pay for the Manager's three course meal.

Both of the meetings arguably provide the Manager's Council with a benefit, namely the opportunity to discuss the supplier's products. Despite this, a contrast can be drawn between the meetings.

In the first, the refreshments are only modest in nature and consequently do not create the impression that an attempt is being made to gain the Manager's favour.

In the second, the nature of the lunch creates the impression that an attempt is being made to compromise the manager's impartiality. The damage of this perception far outweighs any benefit associated with the Manager's absence.

DISCLOSURE OF GIFTS & BENEFITS RECEIVED



This form is for use by Councillors and employees in conjunction with Council's Gifts Policy.

Please complete this form within seven (7) days of receiving a gift or benefit and refer the form to your Director, prior to seeking approval by the General Manager.

All completed forms will form part of *Council's Gifts Register*, as held by the Manager, Governance and Support Services. This Register is accessible by the public under Section 12 of the Local Government Act 1993.

I, (name) wish to disclose the following in accordance with the City of Canada Bay Gifts Policy.

Details of Gift

Description:

Date Received: Estimated Retail Value: \$

Received By

Gift Received By: Myself My Relative/Associate (please specify)

Name of Relative/Associate:

Address:

Relationship to Self:

Received From

Name of Relative/Associate:

Address:

Company/Organisation:

Comments

I wish to make the following Comments in relation to this disclosure:

Signature

I declare the above to be true and correct: Date:

Approvals

Director: Date:

General Manager: Date: