KING ISLAND COUNCIL

Policy

GIFTS AND BENEFITS POLICY

Responsible Officer: GENERAL MANAGER

Date: 17 October 2023

Review Date: 17 October 2027

1. Purpose

The purpose of this policy is to:

- outline the obligations and responsibilities of Council officials when dealing with offers of gifts or benefits, and
- assist Council officials to make appropriate judgements in relation to gifts and benefits and to avoid being placed in a situation where they may become vulnerable to undue influence or threaten community confidence in the fairness, impartiality and integrity of the Council.

Scope

The policy applies to all gifts and benefits offered to or received by all Council officials in their role as officers of Council. Council officials are defined as Mayors, Councillors, Council staff (including staff engaged through an external agency), Council committee members, volunteers and contractors.

Legislation

The particular legislation relevant to this policy is the Tasmanian *Local Government Act 1993.*

Section 339A specifies penalties in relation to the misuse of office by councillors and employees; section 28E deals with the Code of Conduct for councillors and section 62 identifies the functions and powers of the General Manager.

This policy should be read in conjunction with any other relevant State and Federal legislation.

Application

In a private context, gifts and benefits are usually unsolicited and meant to convey a particular feeling of the giver such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.

Gifts and benefits may also be offered to individuals in the course of business relationships. Such gifts and benefits are often given for commercial purposes and serve to create a feeling of obligation in the receiver. **Gifts and benefits given in the course of business relationships are the focus of this policy.**

The policy is to be applied in conjunction with provisions in Council's Codes of Conduct and other relevant Council policies and procedures.

2. Policy

Policy

General

Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased.

Council officials should actively discourage offers of gifts and benefits and must not solicit gifts or benefits.

Council officials must not take advantage of their official position to secure an unreasonable personal profit or advantage.

People doing business with the Council should be encouraged to understand that they do not need to give gifts or benefits to Council officials to get high quality service.

From time to time Council officials may be offered gifts or benefits. In some limited circumstances gifts and benefits may be accepted. Token gifts of nominal value may generally be received. Non token gifts, i.e. of significant value, generally should not be accepted.

Council officials should at all times be aware of the wider situation in which an offer of a gift or benefit is being made. For example, Council officials should consider whether the donor is in, or may be seeking to enter into, a business relationship with Council or may be applying to Council in relation to the exercise of its functions.

Council officials must avoid situations that suggest that a person or body, through the provision of gifts or benefits, is attempting to secure favourable treatment from Council.

When deciding whether to accept or decline a gift or benefit, consideration should be given to both the value of the gift or benefit and also the intention of the gift or benefit being offered.

Sitting councillors are required to disclose gifts or donations received during their term and during an election period.

A series of gifts or donations received by the same councillor from the same donor where the **total value** in a financial year exceeds the current nominal value limit must be reported.

A councillor is to give notice in writing within 14 days of receiving a gift or donation.

Everyone covered under the scope of this policy who are offered or who receive gifts and/or benefits in their role as a Council official, MUST disclose any gift or benefit that is required to be reported as non acceptable gifts and benefits as defined within this policy.

Acceptable gifts and benefits

Gifts or benefits of a token nature at or below nominal value may generally be accepted by Council officials without disclosing details to a supervisor, General Manager or Mayor and

without recording the details of the gift or benefit on the Gifts and Benefits Declaration Form or Gifts and Benefits Register (Attachment 2 and 3).

That said, Council officials who receive more than the specified number of token gifts of a nominal value from the same person or organisation in a specified period must disclose that fact in the Gifts and Benefits Register.

If a Council official has any doubt whether a gift or benefit is of a token or of nominal value, it should be discussed it with their Manager, General Manager or Mayor.

Token gifts and benefits

Gifts or benefits of a token nature do not create the appearance of a conflict of interest these usually include:

- Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers
- Books given to individuals at functions, public occasions or in recognition of exceptional work done
- Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done
- Free or subsidised meals of a modest nature and/or beverages provided infrequently (and or reciprocally) that have been arranged for or in connection with the discussion of official business
- Free meals of a modest nature and or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops
- Invitations to approved social functions organised by groups such as Council Committees and community organisations.

Nominal and significant values

For the purpose of this policy, the current nominal value limit is $50. Any value above the nominal value is considered 'significant' within this policy.

Non acceptable gifts and benefits

Accepting gifts of money (as cash or money equivalent) is prohibited.

Council officials should generally not accept gifts or benefits that appear to be non token in nature or more than of a nominal value.

If a gift or benefit of a non token nature, or above the nominal value, is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the gift or benefit must be declared via completion of a Gifts and Benefits Declaration Form (**Attachment 2**) and the details must be recorded on the Council Gifts and Benefits Register (**Attachment 3**).

If a Council official refuses a gift or benefit in the belief that the gift was a deliberate attempt to receive "special treatment', such instances are to be reported to the General Manager or Mayor.

Non token gifts and benefits

Gifts or benefits of a non token nature include, amongst other things:

- Free or discounted travel
- Use of holiday homes
- Tickets to major sporting events
- Corporate hospitality at a corporate facility or sporting venue
- Free training excursions
- Access to confidential information
- Discounted products for personal use
- A loan of money
- A loan of property
- Goods and services provided via a determination in a Will

At times, a gift of a non token nature may be given from one authority to another. For example, such gifts are often provided to a host authority. These gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to the work of several people in the authority and therefore the gift is considered to be for the authority, not a particular individual.

Actual or perceived effect of the gift or benefit

Where a reasonable person could consider that there may be influence applied as a result of accepting the gift or benefit the gift is considered to be a 'gift of influence' and is prohibited.

Where a gift of influence is suspected, the gift or benefit must be declined and the matter should be reported immediately to the relevant Manager, General Manager or Mayor.

Bribes

Council officials must not offer or seek a bribe. A person offered a bribe must refuse it and report the incident as soon as possible to their Manager, General Manager or the Mayor (in the case of Councillors). Council will take steps under its Fraud and Corruption Control Policy, which includes reporting to Tasmania Police or other relevant agency.

Receiving a bribe is an offence under both the common law and Tasmanian Legislation.

Family members

Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits of a non-token nature or gifts or benefits above the nominal value. Immediate family members include parents, spouses, children and siblings. If it is known that a family member has received a gift or benefit, the gift or benefit must be declared.

Gifts and Benefits Registers

Council officials who receive more than the specified number of token gifts or benefits near the nominal value limit from the same person or organisation, (cumulative gift) must disclose that fact on the Gifts and Benefits Declaration Form and Register (Attachments 1 and 2). The specified number is **more than three within a 6 month period**.

If an official of the Council receives a non token gift or benefit in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or benefit should be disclosed and the details recorded on a Gifts and Benefits Declaration Form (Attachment 2) and in the Gifts and Benefits Register (Attachment 3).

The Register will be available for public inspection and published on Council's website monthly.

The content of the Register will be monitored by the General Manager on a regular basis and provided to Councillors at least every 6 months.

Displaying of gifts

Where appropriate any gifts of significance gifted to Council should be placed on display within Council offices.

Disposal of gifts

A Manager, General Manager or Mayor will determine whether a gift or benefit of a non token nature should be disposed of.

Examples of circumstances where gifts or benefits may be received include:

- Gifts accepted for protocol or other reasons, where returning it would be inappropriate
- Anonymous gifts (received through the mail or left without a return address)
- A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.
- A gift or benefit of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a council-related business relationship.

Options for disposal of accepted gifts, i.e. those that could not have been reasonably refused:

- Surrendering the gift to Council for retention
- Distributing the gift or benefit amongst a selection of Council's officials - where a reasonable person would agree that the allocation was appropriate, (public perception).
- Donating the gift to an appropriate charity.

Breaches of Policy

All Council officials are obliged to comply with this policy and sanctions may be applied if the policy is breached.

Any person may report an alleged breach of this policy by an official of Council to the General Manager or Mayor as appropriate. The General Manager or Mayor will investigate any report received and take such action as is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

Review process and endorsement

This policy, including the amounts and frequencies specified, may be varied by resolution of the Council. When varied, the amounts and frequencies that apply to the policy must be updated.

This policy should be reviewed as required, but at least every four years following the conduct of Local Government elections.

Detail of amounts and frequencies specified in the policy

For the purpose of this policy the current nominal value limit is ($50.00).

Council officials who receive more than (three) nominal gifts of a token nature from the same person or organisation, in a six-month period must disclose that fact in the gifts and benefits register.

Associated Documents

Attachment 1 - Glossary
Attachment 2 - King Island Council Gifts & Benefits Declaration Form
Attachment 3 – King Island Council Gifts & Benefits Register
King Island Council Councillors Code of Conduct
King island Council Code of Conduct (employees and other persons at the workplace)

3. Legislation, Terminology and References

Applicable legislation:

All laws in connection with policies including but not limited to:

- *Local Government Act 1993* (TAS)

Definitions	
Term	**Meaning**
Council	King Island Council
Councillor	An elected member of Council known as a Councillor or Alderman or otherwise meeting the definition of a 'councillor' as defined under section 3 of the *Local Government Act 1993* (TAS)

Employee	A person who carries out work for Council as an employee of Council.
General Manager	The general manager of Council as appointed under section 61 of the *Local Government Act 1993* (TAS).
Manager/Supervisor	A person at the Workplace who is appointed to a position that has management/supervisory responsibilities for others or their appropriately nominated or authorised delegate.
Other Persons at the Workplace	A person, other than a Councillor, who carries out work in any capacity for Council, including work as: (a) a contractor or subcontractor. (b) an employee of a contractor or subcontractor. (c) an employee of a labour hire company who has been assigned to work at Council. (d) an apprentice or trainee. (e) a student gaining work experience; or (f) a volunteer.
Policy	Gifts and Benefits Policy
Workplace	A place where work is carried out for Council.

History:

Any previous policies used by Council:

Gifts & Benefits Policy - Policy Adopted 19 November 2019 – Res No: 266/19

POLICY VERSION AND REVISION INFORMATION

Title: Gifts & Benefits Policy

Policy Maintained by: Administration Manager

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Policy Review: 17 October 2027

Version No	Date	Resolution No	Responsible Officer
1.0	17.10.2023	223/23	Administration Manager