



Policy Name	Gifts, Benefits and Hospitality (Elected, Local Authority and Council Committee Members)	
Publication Date:	10/03/2021	
Council Decision (Reference):	OCM 27/2021	
Classification:	Governance Policy	
Categorisation:	Governance	
Review Frequency:	3 years	
Review Date:	10/02/2024	
Responsible Officer:	Executive Manager, Office of the CEO	
Version (Revision Number):	1.0	

1. PURPOSE

The purpose of this policy is to clearly define the conduct required of Councils Elected, Local Authority and Council Committee Members in relation to offers of gifts, benefits, and hospitality, and to provide a transparent and accountable process that supports public confidence in the West Arnhem Regional Council.

This policy is intended to support Members to avoid conflicts of interest and maintain high levels of integrity, accountability, transparency, and public trust.

2. SCOPE

This policy applies to all Elected, Local Authority and Council Committee Members of the West Arnhem Regional Council.

Any gift, benefit or hospitality offered or accepted shall be subject to the provisions of this policy.

3. DEFINITIONS

In the context of this policy the following definitions apply:

A person is an **associate** if: they are in a close family relationship; or they are in a partnership; or one is a company and the other is a director or manager of the company; or they are related companies; or one is a private company and the other is a shareholder in the company; or a chain of relationships can be traced between them under one or more of the previous descriptions (see section 8 of the *Local Government Act 2019*).

Benefit means preferential treatment, privileged access, favours or other advantages offered to an individual. Benefits may include invitations to sporting, cultural or social events, access to discounts as a result of a person's employment or position, loyalty programs, and promises of a new job.

Bribe means to give money or some other form of consideration to a public official so as to persuade the official not to exercise their common law or statutory powers or to bestow some privilege or favour.





Campaign donation return means the return required to be given by a candidate to the Electoral Commission under section 148 of the *Local Government Act 2019*.

Conflict of interest means a **potential, perceived** or **actual** conflict between a member's official duties and responsibilities in serving the public interest, and their own private interests. A conflict of interest can arise from avoiding personal losses, as well as gaining a personal advantage – whether financial or otherwise. This includes advantages to relatives, friends, and business associates.

A conflict of interest may be actual, perceived, or potential:

- An **actual** conflict of interest exists where the actions of a member, at the present time, could be influenced by the member's private interests.
- A **perceived** conflict of interest arises where it appears that decisions that a member makes in the course of undertaking their official duties may be influenced by the member's private interests, whether or not this is in fact the case.
- If a member is in a situation where their future decision making may be influenced by their private interests, the member has a **potential** conflict of interest.

Gifts are free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. a small bunch of flowers), consumables (e.g. chocolates), and services (e.g. painting and repairs).

Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.

Member/s means a collective term for Elected Members, Local Authority and Council Committee Members.

Money includes cash, cheques, money orders, travellers' cheques, direct deposits, shares, vouchers or items which can be easily converted to cash. This includes vouchers and credit notes.

Nominal value means gifts or benefits totalling less than \$50 from the same donor or an *associate* of the donor in a financial year.

Protocol gift means a gift or benefit given to a Council Member for diplomatic, ceremonial, or symbolic purposes that will not be sold or transferred (unless in diplomatic, ceremonial, or symbolic circumstances). Protocol gifts are the property of Council, irrespective of value, and should be accepted by individuals on behalf of Council.

Reasonable hospitality is a meal or service provided by a not-for-profit organisation to a Mayor, Elected Member or Local Authority Member who attends a function or event in an official capacity.

Register of declared gifts and benefits means the register referred to at section 113 of the *Local Government Act 2019*.

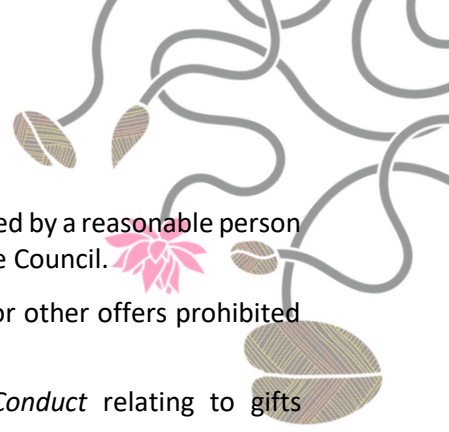
Value is the face value or current estimated retail value.

4. POLICY STATEMENT

This policy sets out the process for accepting, declining, and recording offers of gifts, benefits and hospitality by Elected Members, Local Authority Members, and Council Committee Members.

All Members must, at all times, discharge their duties, responsibilities, and obligations impartially and with integrity, including in relation to receiving, accepting and disclosing gifts, benefits and offers of hospitality.





Principles for the Management of Offers of Gifts, Benefits and Hospitality

- A Member must not accept a gift or benefit of any value that may be perceived by a reasonable person to improperly influence the performance or decisions of the Member or the Council.
- In all circumstances, a Member must not accept offers of money, bribes, or other offers prohibited through this policy or by legislation.
- Members must also adhere to clauses 9.1 and 9.2 of the *Code of Conduct* relating to gifts (see Schedule 1 of the *Local Government Act 2019*):
 - Members must not solicit, encourage, or accept gifts or private benefits from any person who might have an interest in obtaining a benefit from the Council.
 - A Member must not accept a gift from a person that is given in relation to the person's interest in obtaining a benefit from the Council.

Application of the Policy

Relevant Gifts, Benefits and Offers of Hospitality

The provisions of this policy are to be applied to relevant gifts, benefits and offers of hospitality.

A relevant gift, benefit or offer of hospitality, is an offer that exceeds the **nominal value** and includes:

- A gift or benefit received for the Council and accepted by a Member; or
- A gift or benefit received and accepted by a Member for the Member or another person.

Offers below the nominal value are gifts, benefits or hospitality that is of inconsequential or trivial value to both the person making the offer and the Member.

Examples include promotional items such as a pen, note pad, or key ring, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

Members may generally accept offers below the nominal value without having to apply the provisions of this policy, as long as the offer does not create a conflict of interest or lead to reputational damage (e.g., where there have been repeated, regular offers).

All offers of relevant gifts or benefits are to be declared, whether accepted or refused.

Rejecting Gifts, Benefits, or Offers of Hospitality

If a Member has received, or is offered, any gift, benefit or offer of hospitality that breaches the principles for the management of offers of gifts, benefits, and hospitality (listed above), the Member must reject the gift or benefit by returning it to the donor and respectfully explaining to the donor that acceptance of the gift, benefit or offer of hospitality would breach this policy.

It is important that the offer is declined in a way that does not cause offence to the donor or damage relationships. This can be achieved by explaining Council's policy and ensuring the donor understands that the offer is appreciated.

In some cases, it would be inappropriate to refuse an offer – for example an official or protocol gift from government or international delegates. In this case the gift should be accepted on behalf of Council and passed over to the Chief Executive Officer (CEO).

When deciding whether to accept an offer, Members should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage for Council.





The more valuable the offer, the more likely that a conflict of interest or reputational risk will be created. Similarly, regular offers of smaller gifts can also be perceived as creating conflicts or reputational risk.

Members are to refuse offers:

- Likely to influence them, or be perceived to influence them, in the course of their duties, or that raise an actual, potential, or perceived conflict of interest.
- That could bring them, or Council, into disrepute.
- Made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement, or licensing).
- Likely to be a bribe or inducement to make a decision or to act in a particular way.
- That extend to their relative or friends.
- Of money, or used in a similar way to money, or something easily converted to money.
- Where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions.
- Made by a person or organisation with a primary purpose to lobby Council, Members, or staff.
- Made in secret.

If a Member considers they have been offered a bribe or inducement, the offer must be reported to the CEO who will report any suspected criminal or corrupt conduct to the appropriate authorities.

Disclosure of Relevant Gifts, Benefits or Hospitality

All offers of relevant gifts or benefits are to be declared, whether accepted or refused.

If a Member has received a relevant gift or benefit, the Member must inform the CEO as soon as practicable after receipt and provide the following information in writing, using the *Gifts, Benefits and Hospitality Declaration Form*:

- Name of the Member that received the relevant gift, benefit, or hospitality.
- Name of the donor (person or organisation) giving the gift, benefit, or hospitality.
- Date the gift, benefit or hospitality was received.
- Description of the gift, benefit, or hospitality.
- Whether the gift or benefit is for the Council, the Member, or another person (including the full name and relationship of the person to the Member, if applicable).
- Value (or estimated value) of the gift, benefit, or hospitality.
- Reason for the gift, benefit, or hospitality.
- Any other relevant details.

The CEO (or their delegate) will record the details in the *Register of Declared Gifts and Benefits*.

- A copy of the register will be made available on the Council's website.
- In compliance with the *Local Government Act*, individual entries in the register will be retained for three years after the conclusion of the general election after the entry was made.



If a Member is offered a relevant gift or benefit, and refuses that gift or benefit, the Member must also disclose that offer in writing, using the *Gifts, Benefits and Hospitality Declaration Form*.

Exemptions from Disclosure

The principles outlined above, still apply to gifts or benefits that are exempted from disclosure in the list below.

The following gifts or benefits are exempted from disclosure under this policy:

- A gift or benefit given to the Member by the Council.
- A protocol gift given to a Member for the Council.
- A gift or benefit given to the Council in relation to its status as a body corporate where no individual Member or Members are considered to have accepted the gift or benefit.
- Food, accommodation, hospitality, or entertainment included in the attendance of meetings, conferences, training courses, functions or other events that have been organised through the Council or that are required in accordance with performance of the Member's official duties.
- A donation disclosed (or to be disclosed) by the Council Member in a campaign donation return.
- A private and personal gift (such as a birthday present from a family member).

Risk Management and Audit Committee

Council's Risk Management and Audit Committee will receive a report annually on the administration and quality control of the gifts, benefits and hospitality policies, processes, and register/s. The report will include analysis of Council's gifts, benefits, and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

Responsibilities:

- All Members are responsible for complying with the provisions of this policy.
- The CEO (or delegate) is responsible for maintaining the *Register of Declared Gifts and Benefits* and making sure it is available on the Council website.
- The CEO (or delegate) is responsible for providing the Risk Management and Audit Committee with the annual report on the administration and quality control of the gifts, benefits and offers of hospitality policies, processes and register/s (as outlined above).

Breaches of the Gifts, Benefits and Hospitality Policy

Members found to be in breach of this policy may also be in breach of the *Code of Conduct (Elected Members, Local Authority Members, and Council Committee Members)*. This includes where an individual fails to avoid where possible or identify, declare, and manage a conflict of interest related to gifts, benefits, and hospitality. Any alleged breaches will be handled in accordance with the provisions outlined in the Code of Conduct Policy.

5. Responsibilities

The Executive Manager, Office of the CEO is the Policy Custodian for this policy and is responsible for reviewing the operation of the policy (every 3 years or more frequently as may be required), and for monitoring continuing relevance, effectiveness, and consistency with related documents and the Law.

Following approval of this policy document, the Executive Manager, Office of the CEO (or a nominated delegate) is also responsible for ensuring that the implementation and communication plan is implemented and that all Council employees have access to the policy.



6. Related Documents

Legislation and References

Local Government Act 2019 (NT)

Local Government (Administration) Regulations (NT)

Policy documents

Code of Conduct (Elected, Local Authority and Council Committee Members)

Conflict of Interest (Elected, Local Authority and Council Committee Members)

Procedures

Gifts, Benefits and Hospitality Procedure

Instructions, tools, guidelines, forms and templates

Gifts, Benefits and Offers of Hospitality Declaration Form

Register of Declared Gifts and Benefits

