BARCOO SHIRE COUNCIL POLICY
GIFTS AND BENEFITS POLICY

Policy Number: BSC-041	**Version:** 3
Classification: Statutory	**Section:** Executive - Administration
Date Adopted by Council: 16.10.2024	**Resolution Number:** 2024.10.006
Next review Due: October 2026	**Responsible Officer:** Chief Executive Officer
Last Reviewed: 15.12.2021	**Review: Note:** This Policy is reviewed when any of the following occur: 1. The related information is amended or replaced. 2. Other circumstances as determined from time to time by the Chief Executive Officer. Notwithstanding the above, this Policy is to be reviewed at intervals of no more than two years.
Legislation: *Local Government Act 2009;* *Local Government Regulation 2012* *Public Sector Ethics Act 1994* *Crime and Misconduct Act 2001* *Public Service Commission (PSC) Directive No. 22/09 Gifts and Benefits and Guideline*	

1. PURPOSE

The purpose of this policy is to:

- support Barcoo Shire Council's (BSC) commitment to open and transparent governance; and
- provide Councillors and employees guidance on appropriate responses to offers of gifts or benefits in connection with their duties while representing BSC or otherwise related to their association with the BSC.
- provide Councillors and employees with principles to consider when determining the appropriateness of accepting a gift or benefit.
- provide Councillors and employees with a process to be followed where a gift or benefit is accepted;
- minimise the risk of Councillors and employees being exposed to an actual or perceived conflict of interest.

2. INTENT

The community expects Councillors and employees to discharge their responsibilities impartially and with integrity. The acceptance of gifts and/or benefits outside of a controlled and transparent process increases the risk of creating negative perceptions.

BSC Councillors and employees are entrusted with public trust and must carry out their duties impartially and with integrity. Consequently, it is not appropriate for BSC employees and/or Councillors to be offered accept or give gifts and benefits that affect, may likely affect and/or could reasonably be perceived to affect, the performance of their official duties; including entering any discretionary competitions involving prizes.

Councillors and employees must comply with the Directive 22-09 Gifts and Benefits.doc (forgov.qld.gov.au) and its associated Guideline (as amended or replaced by the PSC from time to time) in respect to the treatment of benefits, gifts and rewards offered in connection with their duties.

Furthermore, Councillors, Chief Executive Officer, and Senior Executive employees, pursuant to section 291 of the Local Government Regulations are required to disclose the monetary value of accommodation, asset gift or travel over $500 in their register of interests.

3. SCOPE

This policy applies to all Council employees and councillors.

4. PSC DIRECTIVE AND GUIDELINES

- The PSC Directive and Guidelines applies to Council employees as well as Queensland public service employees are to be implemented
- Managers and the Chief Executive Officer (CEO) are the only persons with authority to grant approvals to staff accepting and retaining gifts.
- Only in unusual or exceptional circumstances and where the Manager or CEO can be satisfied that it is not contrary to the public interest to do so, approval may be granted for staff to retain gifts/ accept benefits notwithstanding the recipient may be regarded as having a potential or perceived conflict of interest.
- If the offer of a benefit involves the payment of a subscription to attend a function or event, the offer must be refused unless the relevant Manager is satisfied that the employee's attendance, in an official capacity representing Council, is of benefit to Council for networking or other transparently beneficial reasons.
- Any offers of gifts or benefits from a supplier to Council must be reported to the CEO in addition to any other reporting requirements.
- All benefits, gifts and hospitality with a value of over $150 and/or totalling over $150 from an entity within a financial year; must be recorded in the Register of Gifts and Benefits.
- Managers are responsible for ensuring that a Notification / Approval of Receipt of a Gift or Benefit form is completed and approved before any benefit, gift or hospitality is retained.

5. PRINCIPLES

5.1. GENERAL

Councillors and employees must be mindful at all times of their obligation to maintain public confidence in Council administration and must be aware that acceptance of any gift or benefit from an external party may, or may be seen to, affect the performance of official duties, or influence, or be seen to influence, their decision-making or behaviour.

Any gift or benefit accepted and/or provided, regardless of monetary value, implies, or may imply, a relationship which may interfere with objectivity and independence. In most situations, BSC councillors and employees can courteously decline offers of gifts or benefits on the basis that acceptance would be against Council policy and therefore they have no discretion in that area.

Councillors and employees must not ask for or encourage the giving of any form of gift or benefit in connection with the performance of their official duties including entering in any discretionary competitions involving prizes.

6. SOLICITING GIFTS OR BENEFITS

- Soliciting gifts or benefits is strictly prohibited under all circumstances.
- If a Councillor or employee becomes aware of a situation of soliciting gifts or benefits, they must report it to the CEO immediately.
- The CEO must notify the Crime and Corruption Commission of any soliciting of gifts or benefits by Councillors or employees.

BRIBERY

Acceptance of money or any other gifts perceived as bribery is strictly prohibited in all cases and must be reported immediately to the CEO.

An offer of money perceived as bribery must be reported immediately to the relevant Manager and/or CEO.

The relevant Manager and/or CEO must notify the Crime and Corruption Commission of any offer of money as soon as practicable after the offer has been made.

7. GIFTS DECLARATION

Any Councillor or employee who receives a gift or benefit is required to fill out the declaration form and provide the completed form to the relevant Manager and/or CEO within 10 business days of receiving the gift or benefit.

7.1. ACCEPTANCE OF GIFTS OR BENEFITS

The Managers and CEO are the only persons with authority to grant approval to employees accepting and/or retaining gifts or benefits.

If an offer of a benefit involves payment of a subscription to attend a function or event, the offer must be refused unless the relevant Authorised Officer is satisfied that the employee's attendance in an official capacity representing Council is of benefit to Council for networking or other transparently beneficial reasons.

Each type of gift or benefit carries a level of risk that Councillors and employees should consider when deciding whether the gift or benefit should be accepted or declined.

In determining whether acceptance of a gift is appropriate, the three major considerations are:

- the intent in which the gift or benefit is given;
- the public perception of acceptance of the gift or benefit; and
- the value of the gift or benefit.

Acceptance of a gift or benefit may be considered only if it complies with the following principles:

- it does not influence, or have the potential or perceived potential, to influence, in any way so as to compromise, or appear to compromise, the integrity and impartiality of the Councillor or employee, or to create a conflict of interest, or perception of conflict of interest; and
- it is not related to advice or decisions about (but not limited to):
  - granting licences;
  - inspecting and regulating businesses;
  - giving approvals; or
  - letting contracts; and
- it does not incur any cost to Council; and
- it must not involve money or anything easily converted to money such as shares.

Where a gift or benefit has been received in conjunction with Council providing a sponsorship or grant, CEO approval is required before acceptance of the gift or benefit occurs.

7.2. REJECTION OF GIFTS OR BENEFITS

A gift or benefit must not be accepted if any of the following principles apply:

- it is considered as a gift of influence;
- it affects, or could be perceived to affect, the performance of the recipient's official duties or influences, or could be seen to influence, the decision-making or behaviour of the recipient;
- the gift giver or any reasonable observer would conclude that the recipient may be under obligation to the gift giver;

- it is not offered openly; or
- it is an offer of money or anything readily convertible to money – for example, shares.

7.3. PROVISION OF GIFTS OR BENEFITS

A gift or benefit must not be provided if any of the following principles apply:

- it is considered as a gift to influence;
- it affects, or could be perceived to affect, the actions of the gift recipient or influences, or could be seen to influence, the decision-making and/or behaviour of the gift recipient;
- The CEO and Council are to grant approval to employees providing gifts and/or benefits to a beneficiary.

7.4. GIFTS REGISTER

The Executive Assistant/Records Officer shall keep a register of all gifts and benefits ("gifts register"), and offers of gifts or benefits, given and/or received by Councillors and employees.

The gifts register shall include the following information:

- date of the offer;
- details of the person and/or organisation offering the gift;
- the name of the recipient;
- description of the gift or benefit;
- estimated value of the gift or benefit;
- decision regarding whether the gift should be retained by the recipient or otherwise; and
- name of the Authorised Officer who made the decision.

8. DEFINITIONS

To assist in interpretation, the following definitions shall apply:

CEO shall mean the person appointed to the position of Chief Executive Officer under the Local Government Act 2009 (the Act) and anyone acting in that position.
Council shall mean the Mayor and Councillors of Barcoo Shire Council.
Councillor shall mean the Mayor and elected Councillors.
Employee shall mean all employees of Council, including volunteers and contractors.
Gifts and/or benefits shall mean a present given voluntarily to show favour toward someone, honour an occasion, or make a gesture of assistance or goodwill, which is offered outside of normal open contractual arrangements. This could include but is not limited to the following examples.

- Cash or the transfer of money;
- Transfer of property of presentational or charitable nature or otherwise;
- The provision or use of property, equipment or services free of charge, at a reduced rate, for a period of time or unspecified period;
- Loans of money, or equipment including provision of overdraft facilities (e.g., credit card) or guarantor for a loan;
- Intangible items that have no enduring value (eg hospitality and/or entertainment).
- The sale of property with a sale price below proper valuation;
- Hospitality, including meals, entertainment and accommodation;
- Travel (all overseas travel requires disclosure);
- Any bargain deal;
- Artworks;
- Souvenirs.

BSC shall mean Barcoo Shire Council.
The Act shall mean the *Local Government Act 2009*.

Related Documents:

BSC Employee Code of Conduct Policy

Attachments:

1. Gift and Benefit Declaration
2. Decision making Flow Chart
3. Possible Scenarios

Attachment 1. Gift and Benefit Declaration

Gift and Benefit Declaration

DETAILS OF THE OFFER OF A BENEFIT OR GIFT:	Reference:
Section A: Employee's Declaration	
Employee's Name	
Department	
Date Gift/Benefit received/given	
Description of Gift/ Benefit	
Market Value of Gift/ Benefit	
Name of offeror/recipient (organisation or person offering benefit or gift)	
Contact Name for the offeror/recipient	
Offeror's/Recipient's association to Council	
Offeror's/Recipient association to Employee	
Employee's advice of all information relevant to the matter:	

Employee's Declaration:

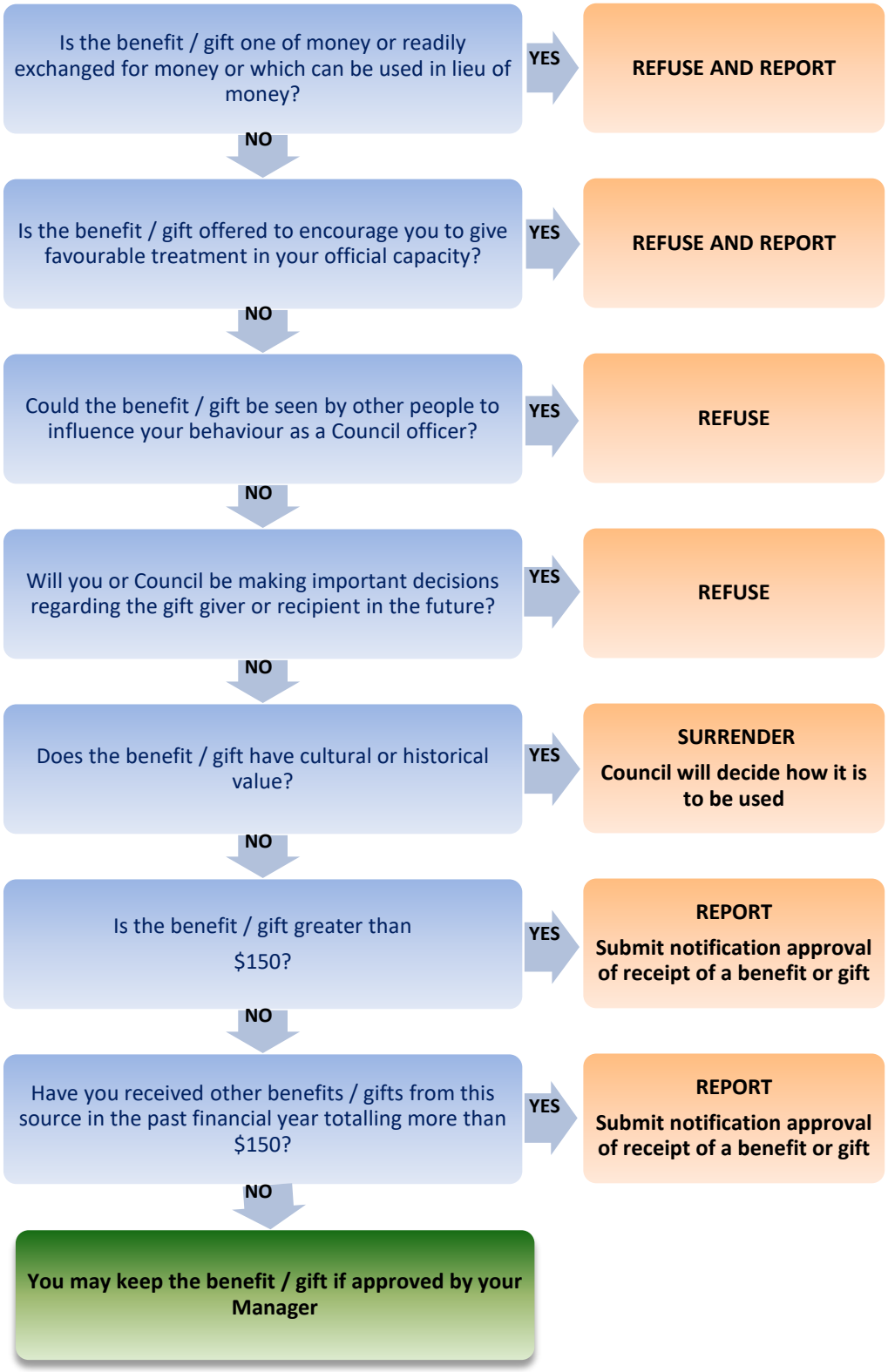
1. I have read and understood the Benefits and Gifts Policy.
2. The information submitted by me on this matter is complete and accurate.
3. There is no basis for any actual or perceived conflict of interest

Date: Employee's Name: Employee's Signature:

Section B: Manager Decision *(NB original to be forwarded to Human Resources, copy to be retained in Gifts and Benefits Register)*

Date:	Manager's Name:	Manager's Signature:
Approval Comments / Requirements:		

Attachment 2. Decision Making Flow Chart



Attachment 3. POSSIBLE SCENARIOS

The following scenarios are provided to demonstrate approaches and potential outcomes in the handling of offers of benefits and gifts.

Note: - each case has to be assessed according to its particular facts and the acceptance of any gift and/or benefit must have the prior Manager/CEO approval and the decision must, at all times, be in the public interest.

1.0 Retail gift voucher won whilst representing Council at a conference

Mary attends a conference on behalf of Council and wins a lucky door prize of a $200 from a local retailer.

The prize belongs to Council; on return to Council, Mary must complete a Notification / Approval of Receipt of a Benefit or Gift form. Approval must not be granted for Mary to retain the gift as ratepayer monies were outlaid in sponsoring her attendance at the conference.

2.0 Token Gifts and Benefits

Fred, while attending a conference on behalf of Council receives a conference package containing numerous small items that may be considered as token gifts, eg. hat, pens etc.

Token gifts are often offered in business situations to employees of both private and public entities. They are usually products that are mass-produced and not given with the intention of influencing the recipients. This includes sponsor's material provided to all delegates at a conference. Approval to accept these gifts and benefits would be considered appropriate as it would be unlikely to be perceived as an attempt at bribery and / or a breach of policy.

Generally speaking, token gifts and benefits include:

- *a) free or subsidised meals, beverages or refreshments provided in conjunction with:*
  - *i) the discussion of official business*
  - *ii) Council work related events such as training, education sessions, workshops*
  - *iii) conferences*
  - *iv) Council functions or events*
  - *v) Social functions organised by groups such as council committees and community organisations*
- *b) invitations to and attendance at local social, cultural or sporting events*
- *c) gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training/address)*
- *d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers*
- *e) prizes of token value*

3.0 Gifts of Cash

Jennie is a Council employee and is offered a lottery ticket from a supplier.

Jennie must refuse. Any offer of cash, or items which are readily converted into cash, must be refused in all circumstances. This includes items that could be considered substitutes for cash such as gift cards or vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts. Accepting money in any form will breach a number of Council policies and legislative requirements and may be seen as an attempt at bribery. Jennie should also inform her supervisor and / or manager and the Officer managing the Procurement Portfolio of this offer and her decision to refuse.

4.0 Gifts of Flowers

Susan is invited to be a key note speaker at an external conference. Susan completes the presentation and receives a large bunch of flowers as a "thank-you" gift.

Acceptance of this gift can be considered appropriate as it would unlikely to be perceived as an attempt at bribery and / or a breach of policy. On returning to Council, Susan should notify her supervisor and record the gift in their directorate Register of Benefits and Gifts.

5.0 Kickbacks

Paul is overseeing a procurement process and is offered "kickbacks" in the form of supplier products for personal use and concert tickets for an event sponsored by the supplier.

Paul must refuse as this may be seen as an attempt at bribery. Paul should also inform his supervisor and / or manager along with the Officer managing the Procurement Portfolio of this offer and his decision to refuse.

6.0 Offers of Hospitality

A potential supplier has invited Steve to lunch to discuss the purchase agreement for new mowing equipment for his work area.

Hospitality from suppliers to employees that procure, manage, maintain or use equipment may be provided to influence future decisions and can lead to allegations or perceptions of corruption. Despite perhaps being made completely without motive, it would be wise to politely decline this offer as it has the potential to be perceived to affect the performance of Steve's official duties, or influence, or be seen to influence his decision-making or behaviour.

6.1 A SUPPLIER OFFERS CORPORATE BOX TICKETS TO A SPORTING EVENT TO JIM WHO IS IN A POSITION OF INFLUENCE REGARDING THE GRANTING OF WORK TO THAT FIRM EITHER AS A REWARD OR FUTURE INCENTIVE.

Offers must be refused and approval must not be granted and Manager/CEO must be notified of the offer.

6.2 DEB IS INVOLVED IN A PROJECT THAT IS ABOUT TO BE THE SUBJECT OF A PUBLIC TENDER. DEB'S PARTNER, DAVE RECEIVES AN INVITATION FOR HIM AND A GUEST TO ATTEND THE GOLD COAST V8 SUPERCARS EVENT IN THE CORPORATE BOX OF ABC CO. ABC CO. IS LIKELY TO SUBMIT A TENDER IN RESPONSE TO COUNCIL'S ADVERTISEMENT. *The gift is being extended to Deb as her partner's* guest. The gift is of significant value. Accepting the gift could compromise Deb and the tender process. She must not accept the gift and must notify the Officer managing the Procurement Portfolio of the offer. Dave can choose not to attend, or attend alone or with another guest.

6.3 Darren is invited to attend a significant event or sporting function as part of what is considered beneficial networking. *Attendance at some events may provide Council* employees with opportunities to make important business connections that will be of genuine benefit to Council or the community. There may also be a representational role for senior employees at such events. As with other offers, prior approval must be sought from the relevant Manager/CEO who, in making a decision, will take into account any actual or perceived conflict of interest that may arise.

7.0 Delivered Gifts

Violet receives a gift delivered to her workplace.

Violet must contact the donor and courteously advise them that acceptance of gifts is against Council policy and the gift will, therefore be returned. If the donor refuses to accept the return of the gift, Violet must advise the donor in writing that, in light of the donor's refusal to accept return of the gift, it will be referred to the Manager who will ensure the gift is disposed of in an appropriate manner e.g. donation to Staff Social Club.

The distribution of the gift must be undertaken in a transparent fashion.

If the donor is a supplier or potential supplier to Council, the Officer managing the Procurement Portfolio must be advised of the details of the gift.

8.0 Industry Forums

Matthew is offered a free subscription to an industry forum conducted by a local law firm that supplies services to Council. The forum is dedicated to a topic of interest to Matthew in his role.

The offer must be raised with Matthew's Manager *in* the first instance. If the Manager is satisfied that Matthew's attendance at the forum is beneficial to his role and the development of his knowledge in the particular topic area, the Manager may approve Matthew's attendance. If Matthew and / or the Manager are of the view that the offer of payment of the subscription is perceivably an attempt to influence Matthew but attendance at the forum would be beneficial to his knowledge development, the Manager may approve payment by Council of the subscription for Matthew's attendance.

9.0 Travel

After an exhausting period of business meetings on behalf of Council, David checks in at the airport for the return flight to the Gold Coast. To David's surprise the check-in attendant offers to upgrade the economy seat to business class.

David didn't seek the upgrade nor does he manage the travel contract. The upgrade is worth $250, it is being offered because the economy seats are oversubscribed but there are still seats in business class. David can accept the upgrade but must report it and register it on the Benefits and Gifts register.

10.0 Government to Government

A government delegation has been visiting the Barcoo to study and discuss disaster management. They met with a number of Council staff over the period of their visit to discuss approaches to disaster management. At the conclusion of the visit, they present Helen, who organised the visit, with a gift valued at $500.

The gift is from a government delegation that is expressing its appreciation for the assistance and time given to them. *Refusing the gift would not be* appropriate. Helen should accept the gift on behalf of Council and record it in the Benefits and Gifts Register. The gift will remain the property of Council.