

1. Policy intent

The purpose of this policy is to provide guidance to Council officers with respect to the potential offer and acceptance of gifts or benefits in order to maintain the integrity of the Tablelands Regional Council and the community's confidence in public sector institutions.

2. Scope

- 2.1 This policy applies to all gifts and benefits offered to, or received by, Councillors, employees, contractors and volunteers as a consequence of employment or office (whether paid or unpaid), or while representing the TRC.
- 2.2 In addition, gifts or benefits offered to a relative of a TRC employee, as a result of TRC activities, to whom this policy applies should be considered as though the benefit was offered directly to the TRC employee.

3. Out of scope

This policy does not apply to:

- 3.1 Councillor electoral candidates and post-election reporting. Specific and separate legislation and policies apply to electoral candidates and post-election reporting by candidates.
- 3.2 A contribution, gift or benefit given on a personal basis that is not associated with the recipient's role at TRC.
- 3.3 Gifts by TRC entity to employees, contractors or volunteers if the gift or gifts have a combined value of less than \$300. *Gifts of \$300 or more attract Fringe Benefits Tax and the policy applies.*
- 3.4 Promotional material received by TRC employees attending a conference or event endorsed by the organisation that has an estimated collective value of less than \$50.
- 3.5 Entertainment and hospitality received by TRC employees as part of attending a conference, training, forum or event endorsed by the organisation that has a singular value of no more than \$100 per person (subject to the provisions of the TRC Entertainment and Hospitality Policy).
- 3.6 Minor hospitality of an occasional nature that is offered and accepted as a normal cultural courtesy when visiting a private residence or meeting with a community group (where there is no expectation of a benefit in exchange). For example tea, coffee, cake, refreshments.

4. Background/supporting information

- 4.1 The *Public Service Act 2008* provides personal conduct principles for public service employees such as carrying out duties impartially and with integrity and acting honestly, fairly and in the public interest.

- 4.2 The Local Government Act 2009 (the Act) and Local Government Regulation 2012 (the Regulation) establishes requirements and standards for Councillors and local government employees to declare and manage personal interests and gifts including maintaining registers of interests.
- 4.3 The Local Government Act 2009 Division 3 Section 199(3) provides that:
- "A local government employee must not ask for, or accept, a fee or other benefit for doing something as a local government employee."
- 4.4 Section 176(3) of the Act provides a definition of misconduct by Councillors including a failure to carry out duties impartially and with integrity or conduct that is a breach of faith.
- 4.5 Other documentation relevant to gifts and benefits include:
- a. *Public Sector Ethics Act 1994*
 - b. TRC's employee Code of Conduct; Entertainment and Hospitality Policy and; Procurement Policy
 - c. *Public Service Act 2008*,
 - d. *Financial Accountability Act 2009*
 - e. *Crime and Corruption Act 2001*
 - f. Office of the Public Service Commission (Queensland) Gifts and Benefits Guideline 2010.

5. Policy statement

- 5.1 A representative of TRC must not encourage, solicit or accept any benefit, personal or otherwise where there may be a real or potential risk of compromise or conflict of interests.
- 5.2 A representative of TRC who is offered a gift or benefit in circumstances that create an apparent conflict of interest shall properly take the necessary action to ensure that the apparent conflict of interest is managed / negated and report this matter to their manager or the chief executive officer (CEO) regardless of whether the benefit was actually received.
- 5.3 An employee of TRC who receives a gift or benefit regardless of the value must declare the benefit to the CEO as soon as possible or within five days of the receipt of the benefit unless the benefit is out of scope as defined by this policy.
- 5.4 If a gift (such as a carton of beer) is given to a group of TRC employees, the most senior officer is responsible for declaring the gift.
- 5.5 No employee is empowered to make a decision themselves about keeping a gift or benefit (unless the benefit is out of scope as defined by this policy). All decisions about who may keep a gift must be made by a more senior officer than the recipient or the Mayor in the case of the CEO.

6. Definitions

6.1 Gift

- 6.1.1 The transfer of money or other property or other benefit without consideration or for a consideration substantially less than the full market value;
- 6.1.2 a loan of money or other property made on a permanent or indefinite basis other than an overdraft facility.

6.2 Benefit

- 6.2.1 Something that has a good effect or promotes loyalty (including significant promotional material);
- 6.2.2 property or services in any form other than money;
- 6.2.3 sponsored hospitality benefit - being a contribution whether financial or non-financial for the cost of travel undertaken or accommodation used or food and drink consumed;
- 6.2.4 preferential treatment, privileged access, promise of a special favour or other advantage.

6.3 Interest

Refer to Schedule 5 of the *Local Government Regulation 2012* for the types and definitions of interests that must be reported by Councillors and senior contract staff.

6.4 Relative

A *relative* or *related person* is a spouse, a dependent child or someone whose affairs are so closely connected with the affairs of a Councillor or officer, that a benefit derived by that person, or a substantial part of it, could pass to the Councillor or officer.

7. Application to Councillors

- 7.1 Councillors are required by the *Local Government Act 2009* and *Local Government Regulation 2012* to manage their own disclosures of gifts, interests and benefits. This section provides a summary of the legislated requirements.
- 7.2 Councillors are not required to obtain approval to accept a gift (apart from the exceptions below). However, the Regulation requires that "the relevant person (Councillor) must be satisfied there can not be the perception of a conflict of interest, financial or otherwise, relating to the gift that could conflict with a duty the person has under the Act."
- 7.3 To avoid the perception of a conflict of interest, it is recommended that Councillors report all gifts to the CEO for recording on the gift register.

8. Exceptions

- 8.1 All gifts of cultural or historical value (for example an artefact) must remain the property of the TRC regardless of their value.
- 8.2 Cash money or items that can be readily converted to cash such as "scratchies", lottery tickets or shares are a breach of Queensland legislation and have a higher risk of being seen as accepting a bribe. The Crime and Corruption Commission recommends that these types of gifts should not be accepted under any circumstances.

9. Register of interests

- 9.1 Councillors are required by the Regulation to maintain a register of interests. Registers of interest are held by the CEO who is obliged to publish the information on Council's website and to make the originals available for public inspection at Council's main office. Interests of a Councillor's related person that are not shared by the Councillor must still be declared but not must not published.

- 9.2 A Councillor's register of interests must include the following particulars for each gift (or collective value of gifts from a particular donor) of more than \$500 given to a Councillor by a donor:
- a. the donor's name; and
 - b. a description of the gift.
- 9.3 This requirement does not apply to a gift from a donor who is:
- a. a person who is related to the relevant person; or
 - b. someone else who is related by blood or marriage to the relevant person; or
 - c. the relevant person's friend.
- 9.4 Registers of interest are to be completed within 30 days of taking the oath of office and updated within 30 days of changes to a person's interests.

10. Application to staff and contractors

Although public officials must not encourage offers of gifts or benefits, there are times when accepting them may be quite appropriate. Some gifts or benefits are clearly intended as thanks for a job well done and there is no expectation of anything in return. In some situations the giving and receiving of gifts is culturally or contextually appropriate. Nevertheless even when an offer is made in good faith, consideration must be given to how others could view the offer and the acceptance of the benefit.

10.1 Benefits that should be declined

- 10.1.1 Cash money or items that can be readily converted to cash such as "scratchies", lottery tickets or shares are a breach of Queensland legislation, have a higher risk of being seen as accepting a bribe, and must not be accepted under any circumstances.
- 10.1.2 Benefits that could be perceived as an attempt by an organisation or individual to secure an advantage over another when seeking Council preferences or services.
- 10.1.3 If, in any financial year, the cumulative value of a number of gifts and benefits received from the same donor, the same class of donor, or from donors in a similar relationship with the recipient, is more than \$500 then further offers of benefits must be declined.

10.2 Accepting benefits

- 10.2.1 In circumstances where there is no expectation of anything in return for a benefit offered, it may be appropriate to accept the benefit. Such circumstances may include:
- a. where the benefit is clearly intended as thanks for a job well done - after the fact;
 - b. where the benefit is given to an employee or the entity in a ceremonial capacity;
 - c. where the receipt or exchange of benefits support the development of business and community relationships provided that corporate standards of probity are upheld.
- 10.2.2 Officers working in a sensitive area or an area of particular trust (such as compliance enforcement, internal audit, governance or purchasing) must be more than usually vigilant when considering the offer of a benefit.
- 10.2.3 If an employee of TRC is in doubt whether it is appropriate to accept a benefit or not, a superior officer (or the Mayor in the case of the CEO) should be consulted prior to making the decision.

- 10.2.4 All benefits, regardless of market value, that are received by an employee of the TRC (or the TRC as an entity) automatically become the property of the TRC upon receipt and must be:
 - a. reported to the Personal Assistant of the CEO as soon as possible for registering in the Gifts and Benefits register;
 - b. forwarded by the CEO's PA to the appropriate decision-making delegate;
 - c. dealt with according to this policy and associated procedures and;
 - d. if received by a senior contract employee, valued over \$500 and allowed to be retained on authority of the CEO, must be reported within 30 days in the recipient's personal register of interests.
- 10.2.5 All gifts of cultural or historical value (for example an artefact) must remain the property of the TRC regardless of their value.

10.3 Decisions about benefits

- 10.3.1 Apart from the matters that are out of scope of this policy or covered by other policies such as the Entertainment and Hospitality Policy, all decisions about benefits with a market value over \$200 that have been accepted by TRC employees will be made by the CEO and recorded in the Gift and Benefit Register.
- 10.3.2 Decisions about benefits with a market value under \$200 may be made by general managers. Decisions about items with a market value of less than \$100 may be made by managers. The information should be given to the CEO's PA to note in the Gift and Benefit Register. The authorising officer should inform the CEO as a matter of courtesy.
- 10.3.3 Decisions about benefits that have been received by the CEO valued over \$100 must be made by the mayor.
- 10.3.4 Any disputes about who should receive a benefit, no matter the value, will be immediately referred to the CEO for decision.
- 10.3.5 Offers of gifts and benefits valued over \$100 that have been declined must be reported to the CEO.

10.4 Examples

Gift	Usual decision	Exceptions	Procedure	Explanation
Coffee (\$5.00)	OK to accept	EHO in local cafe	Accept and drink the coffee	This is out of scope as coffee is normal cultural hospitality
Ticket to races (\$100 including hospitality)	OK to accept	Not OK if officer is involved in decisions about supplier	Requires reporting and decision by GM	People may perceive the officer making decisions has been influenced
Flowers (\$30)	OK to accept	Local Laws Officer currently investigating a nuisance reported by gift giver	Requires reporting and manager's decision	LLO should not accept something whilst in the middle of a job - might be OK after job is closed
Carton of beer (\$50) given to road crew by contract bitumen supplier	OK to accept	If someone on the road crew makes purchasing decisions, the	Most senior person in the road crew declares gift. Manager's	This gift is an informal cultural practice and good for relationships.

Gift	Usual decision	Exceptions	Procedure	Explanation
		gift could be seen as inducement.	decision.	
Trade goods at a conference up to \$50	OK to accept		Does not require reporting	Out of scope
Ipad won as a door prize at a conference (\$700)	CEO decision - usually taken as Council property		Report. CEO decision.	This is a valuable asset for Council and should be kept as a TRC asset and distributed for use to a person as a corporate asset.
Free coffee (\$5) with order of 100 cupcakes	Politely decline			The free coffee is an inducement by the cup-cake supplier to favour them next time. It is easier to manage expectations up front by not accepting.

10.5 Contents of Gift and Benefits Register

The Gift and Benefits Register will contain the following information:

- 10.5.1 name of recipient
- 10.5.2 details of gift
- 10.5.3 estimated market value of the gift
- 10.5.4 date received
- 10.5.5 from whom received
- 10.5.6 reason gift was given
- 10.5.7 decision on how gift should be treated
- 10.5.8 name of decision maker
- 10.5.9 date of decision
- 10.5.10 signature of decision maker.

10.6 Process for declaring, registering and keeping gifts and benefits

- 10.6.1 A gift or benefit that is in scope of this policy should be declared by email to the CEO's Personal Assistant within five days of either accepting or declining the gift.
- 10.6.2 The declaration email should contain details of the gift, estimated market value, date received, who from, who to, the reason the gift was made (if known) and either:
 - a. the reason why the gift was declined, or;
 - b. a request to keep the gift, or;
 - c. a recommendation about who should keep the gift.
- 10.6.3 If the recipient makes a request to keep the gift, the declaration email should contain a statement that the gift does not imply a conflict of interest.
- 10.6.4 The CEO's PA will forward the declaration email to obtain a decision from either the CEO or the appropriate delegate depending on the gift value threshold.

- 10.6.5 The CEO's PA will document the details on the Gifts and Benefits Register (including the decision).
- 10.6.6 The CEO or delegate will inform the gift recipient of their decision about the gift by email.

10.7 Registers of Interests for Senior Contract Staff

- 10.7.1 Registers of interest of senior contract staff are required by the Local Government Regulation 2012.
- 10.7.2 Registers of interest are to be completed within 30 days of commencing employment or within 30 days of changes to a person's interests.
- 10.7.3 The register of interests must include those interests that are shared with related persons. The legislation defines a de-facto partner as a person with whom one shares domestic arrangements.
- 10.7.4 If related persons hold separate interests (in their own independent right), these must also be declared.
- 10.7.5 Registers of interests of senior contract staff are confidential. The information will automatically be provided to the CEO, DCEO and the officer's direct superior in order to support the management of conflicts of interest. Provisions for other parties to inspect the registers of interests of senior contract staff are allowed but limited by the Regulation.
- 10.7.6 Template register of interest forms are available with fields for all declarable interests required by legislation.

11. Responsibility

Council is responsible for the adoption, amendment and repeal of the Policy and the Chief Executive Officer is responsible for the development and amendment of any associated procedures and guidelines relevant to the Policy.

12. Review

It is the responsibility of the General Manager Organisational Services to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed every three years or as required by Council.

This Policy is to remain in force until otherwise amended/repealed by resolution of Council.

JUSTIN COMMONS
CHIEF EXECUTIVE OFFICER