

## GIFTS AND BENEFITS POLICY

### Policy statement

Council officials will act with integrity at all times. The acceptance of gifts and benefits has the potential to constitute (or to be perceived to constitute) corrupt conduct. Council officials cannot solicit or accept gifts, benefits or hospitality that could reasonably be perceived as an attempt to influence them.

The objective of this Policy and related procedures is to ensure that all staff have access to clear information on how to manage and report gifts and other benefits that have been refused or accepted.

### Scope

Staff and Councillors.

### Definitions

Term	Definition
cash-like gift	Includes, but is not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons (definition from clause 6.13 of the Code of Conduct).
Code of Conduct	The current <i>Code of Conduct</i> as adopted by Blue Mountains City Council.
Council officials	Includes councillors, members of staff of a council, administrators and other council representatives
Crimes Act	<i>Crimes Act 1900</i> (NSW)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
gift or benefit	Any item, service, prize, hospitality or travel which is provided by a customer, client, supplier potential supplier or external organisation which has an intrinsic value and/or a value to the recipient or an immediate family member or friend.
ICAC	The Independent Commission Against Corruption, NSW
ICAC Act	<i>Independent Commission Against Corruption Act 1988</i> (NSW)
personal associate	Includes your spouse or de factor partner, relatives and other personal associates including secondary employers or business partners.
relative	Includes your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons, or an of the same of your spouse or de factor partner (definition from clause 4.4 of the Code of Conduct).

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## Policy details and information

### **Read this first**

Council’s latest adopted Code of Conduct should guide your behaviour with respect to acceptance or refusal of gifts and benefits. References in this policy are to the Code of Conduct adopted by Council in 2019 and at the time of reading you should confirm that this is the latest version. This policy is secondary to the latest adopted Code of Conduct.

All actions in relation to gifts and benefits under the policy must be taken as soon as practicable, including gift/benefit refusal, reporting and registering.

If you have any doubts about how to proceed appropriately, please ask your supervisor/ Manager or contact Council’s Governance & Civic Services Manager.

### ***Failure to follow this policy and related procedures***

This policy and related procedures is designed to facilitate compliance with the Code of Conduct. Failure to act in accordance with this policy may lead to a breach of the Code of Conduct, or a breach of the ICAC Act or Crimes Act. This may give rise to disciplinary or punitive action against you.

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## ***Code of Conduct***

This policy seeks to clarify existing provisions in the Code of Conduct. In accordance with clause 6.5 of the Code of Conduct as adopted in 2016, in connection with your official duties, Council officials must not:

- a) seek or accept a bribe or other improper inducement;
- b) seek gifts or benefits of any kind;
- c) 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;
- d) accept any gift or benefit of more than token value;
- e) accept an offer of cash or a cash-like gift, regardless of the amount;
- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser or
- g) personally benefit from reward points programs when purchasing on behalf of the council.

## ***Token gifts***

The Code of Conduct has a degree of tolerance for ‘token gifts’ and provides consideration of token value and accumulative value over a twelve month period.

However, it is Council’s position that for the best protection of staff and the integrity of Council as an organisation, that even gifts of ‘token value’ should normally be refused, because:

- (i) ‘token value’ is inherently subjective, depending on the people involved; and
- (ii) a perception of influence or sense of obligation may result from gifts or benefits of any value, which may be a particular risk depending on the role of the staff member.

Accordingly, all gifts and benefits, regardless of the value, must be declared using Council’s Gifts and Benefits Declaration Form and submitted as indicated.

This protects staff, and supports the public interest, by:

- (a) providing a mechanism for transparent declaration;
- (b) providing an impartial decision-maker in the acceptance or refusal of gifts.

## ***Family members***

You must take reasonable steps to ensure that your personal associates do not receive gifts or benefits that may be perceived as attempts to influence your behaviour or decision-making. Such offers must be reported to Council via the Gift/Benefit Register Form (see [Attachment 2](#)).

## ***Reporting bribes***

You must never seek or accept a bribe under any circumstances.

If an offer appears to be a bribe (this is especially, but not only, true for cash or cash-like gifts), you must decline the offer and report the matter to the Governance & Civic Services

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Manager or Chief Executive Officer, who may in turn report the matter to the ICAC and the police as appropriate (see [ICAC Act: s.11](#); [Crimes Act: s249B](#)).

### ***Further reporting and conflicts of interest***

In addition to reporting under this policy, Council requires Councillors, employees and other representatives as well as certain external parties (such as parties making a development application: see [s10.4 of the EP&A Act](#)) to report potential conflicts of interest including donations and gifts (including reporting political donations and gifts). Please refer to the Code of Conduct for more details and discuss any questions with your supervisor, Manager or the Governance & Civic Services Manager.

## **Related documents**

This document should be read in conjunction with:

### **Legislation**

- [Crimes Act 1900 \(NSW\)](#)
- [Environmental Planning and Assessment Act 1979 \(NSW\)](#)
- [Independent Commission Against Corruption Act 1988 \(NSW\)](#)

### **Other documentation**

- Blue Mountains City Council, *Code of Conduct*
- Blue Mountains City Council, *Statement of Business Ethics*
- Blue Mountains City Council, *Conflicts of Interest and Declarations Policy*

## **Reference Materials:**

In addition to the above, the following reference materials comprised part of the research for this Policy:

- NSW Auditor General's report, [Managing gifts and benefits](#) (February 2013)
- NSW Public Service Commission, [Behaving Ethically – 2.1 Managing Gifts and Benefits](#)
- ICAC, [Developing a Gifts and Benefits Strategy](#)

### **Operational policy: Version control information**

Adopted by ELT: 31 August 2020

Next review due: August 2025

Previous version(s): 16 December 2015, 28 June 2017, 25 September 2019

Policy register reference: 261

Responsible service: Governance & Civic Services

**Contact position: Governance & Civic Services Manager**

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## Attachment 1: Procedures for dealing with gifts and benefits

### What do I do if I am offered a gift or benefit?

The steps for how to respond to the offer of either are described below. Please also see the [decision flow chart for gifts and benefits](#), attached.

1. If possible, politely decline the gift/benefit. **Cash or cash-like gifts or benefits in particular must be refused.**
2. As soon as practicable, and regardless of whether the gift was whether offered, refused or accepted,
  - (a) record that you have declined the gift in a Gifts and Benefits Register Form (see [Attachment 2](#))
  - (b) Seek supervisor/Manager feedback on the form; and
  - (c) Submit the completed and signed form to the Governance & Civic Services Manager, **together with the gift**, if the gift was unable to be refused.
3. The Governance & Civic Services Manager will review the decision of the supervisor/manager and provide you with an outcome.
4. The details of the gift or benefit, and how it was treated, will be recorded in the gift register, which is maintained in the Governance & Civic Services branch.

### What happens to gifts that are received?

All gifts, if not already refused, must be surrendered to the Governance & Civic Services Manager for oversight and assessment.

Your manager/supervisor will make an initial assessment and should consider:

- What is the value of the gift or benefit?
- Has a gift or benefit been provided by the giver previously? (accumulative value assessment)
- Who is making the offer and why?
- How was the offer made? Was it open or concealed? How would a reasonable member of the public view the offer if they witnessed it?
- Does the role of the Council official involve planning or purchasing decisions?
- Does the gift or benefit potentially create an implied obligation?

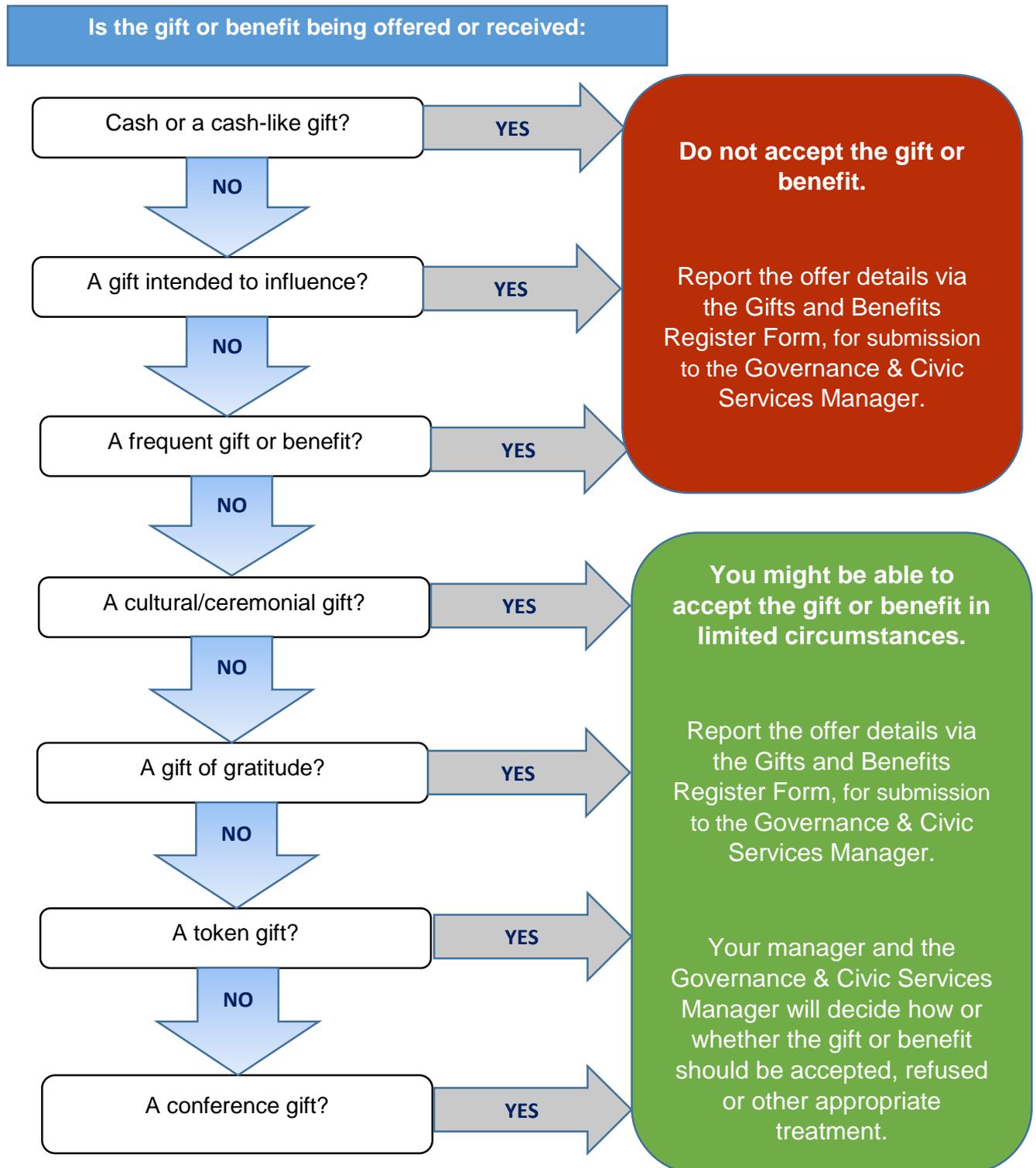
The Gifts and Benefits Register Form includes a section for your manager/supervisor to record their recommendation, based on their close knowledge of your role and potential conflicts of interest. Please ensure that you seek their input prior to submitting the form.

The Governance & Civic Services Manager will assess the details provided by you and your manager/supervisor to make an impartial final assessment. You will be informed of the outcome.

Possible outcomes include:

1. **Acceptance** - You may be permitted to accept a token gift or benefit in limited circumstances. This may be conditional on the gift being shared with others, such as your work team.
2. **Return** – The gift or benefit may be returned to the person or organisation. The Governance & Civic Services Manager will authorise a letter to be sent to the giver explaining that the Council official is unable to accept a gift due to Council policy.
3. **Donation** – The gift may be donated to a charity, hospital, school, library, neighbourhood centre, or similar, depending on the gift. The Governance & Civic Services Manager will authorise a letter to be sent to the giver explaining that the Council official is unable to accept a gift due to Council policy, and that the gift has been donated.
4. **Disposal** – From time to time, gifts may need to be destroyed, for example, due to inability to return the gift combined with inappropriate alternative treatment. Disposal of gifts will be noted on file in the Governance & Civic Services branch.

## Attachment 2: Decision flow chart for gifts and benefits



Adapted from: NSW Auditor General's report, *Managing gifts and benefits* (February 2013)

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**Attachment 3: Gifts and benefits register form**

**GIFTS AND BENEFITS REGISTER FORM  
FOR ACCEPTANCE/REFUSAL OF GIFT/BENEFIT (TRIM FILE: F08420)**

**Section A: To be completed by Staff/Councillor**

Name of Council officer/Councillor			
Gift/benefit recipient		<input type="checkbox"/> Council officer/Councillor <input type="checkbox"/> Personal associate (give details):	
Name & address of person/organisation offering gift/benefit			
Person/organisation's relationship with Council		<input type="checkbox"/> Supplier (give details): <input type="checkbox"/> Other (give details):	
Description of gift(s)/benefit(s) (attach additional sheet if required)		Quantity	Total approx. value
Occasion/reason why gift/benefit was offered			
Date of offer		Action taken to date	<input type="checkbox"/> Accepted <input type="checkbox"/> Refused at point of offer <input type="checkbox"/> Returned to giver <input type="checkbox"/> No action taken
If not refused or returned, explain why not:			
Current location/status of gift (if applicable)			
I am involved in:	<input type="checkbox"/> Tendering/procurement decisions <input type="checkbox"/> Development application decisions <input type="checkbox"/> Penalty infringement work <input type="checkbox"/> Staff hiring decisions <input type="checkbox"/> Other (give details):		
The person offering the gift/benefit may have expectations for my future decisions			<input type="checkbox"/> Yes <input type="checkbox"/> No
The person offering the gift/benefit has offered or given me a gift or benefit in the past (provide further comments below)			<input type="checkbox"/> Yes <input type="checkbox"/> No
Further staff comments			
Reported by (name)			
Signature		Date	

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**Section B: To be completed by Supervisor or by Governance & Civic Services Manager (for Councillors)**

Branch Manager name			
Branch Manager recommended action	<input type="checkbox"/> No further action <input type="checkbox"/> Refuse/Return <input type="checkbox"/> Accept <input type="checkbox"/> Dispose <input type="checkbox"/> Donate to Social Club <input type="checkbox"/> Donate to charity (give details):		
Supervisor further comments			
Is there a possible conflict of interests?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Conflict of interest logged	<input type="checkbox"/> Yes <input type="checkbox"/> No
Signature		Date	

**Section C: To be completed by Governance & Civic Services Manager (for staff) or by Chief Executive Officer (for Councillors or Governance & Civic Services Manager)**

Name:			
Governance & Civic Services Manager further comments:			
Signature		Date	

<b>Office use</b>			
Completed form saved at HPE RM No:		Added to gift register on date:	

For any questions relating to this form, please contact the Governance & Civic Services Manager (x5600).