

	<h1>District Council of Cleve</h1>	Version No:	3.0
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Policy Name: **9.15 - GIFTS AND BENEFITS**

## 1. INTRODUCTION

This policy aims to provide guidelines to ensure that Council officials are not compromised in the performance of their duties through innocently or in good faith accepting gifts or benefits which may result in a feeling of obligation or could be construed as an attempt to influence.

## 2. POLICY

Elected Members and employees must not seek or accept a bribe, or other improper inducement. Elected Members and employees must never solicit a gift or benefit under any circumstances, nor should they accept a gift or benefit other than one of token value, which also does not create the perception of being given to create an obligation or is likely to influence.

For the purposes of this Policy, a token value is defined as not exceeding a value of \$100.00. Gifts or benefits of nominal or token value that do not create a sense of obligation may be accepted. It is the responsibility of each individual Council Elected Member or an employee to ensure that details of any gift given to them is recorded in Council's Gift Register.

1. As stated above, Elected Members or employees should not solicit gifts or benefits under any circumstances or accept gifts of more than nominal value. Offers of money or gift vouchers should never be accepted.
2. Elected Members or employees who are offered or given a gift or benefit, even those refused, are required to ensure that the following details are entered in the Gifts Register as soon as is practical:
  - Date, time and place of gift offered
  - Who the gift/benefit was offered to
  - Who offered the gift or benefit and contact details (if known)
  - Description of gift/benefit
  - Response to the offer
  - Any action taken by management
  - Signature of Supervisor (in the case of employees) or the Chief Executive Officer

In the case of gifts offered or given, which are gifts exceeding the nominal gift threshold of \$100.00, the matter must be reported as soon as is practical to the Chief Executive Officer.

3. Where a gift or benefit of more than nominal value cannot reasonably be refused or returned (e.g. presentation in a public forum where refusal would cause embarrassment), property is to be regarded as the property of District Council of Cleve. Receipt for such gifts must be entered in the Gifts Register and the Chief Executive Officer advised as stated above.
4. Offers of token or nominal value can be accepted where they do not create a sense of obligation in the receiver.
5. A gift or benefit may be accepted if it is received in the course of the official's duty and it relates to the work of District Council of Cleve. For example, a book on relevant technical topic. Such gifts become the property of District Council of Cleve and must be entered in the Gifts Register.
6. Council shall maintain a Gifts and Benefits Register (*Section 70(a1)(C) Local Government Act*) to record offers of gifts and benefits.
7. This policy is to be reviewed as required but at least within 12 months of an Ordinary Council Election.
8. The contents of this policy will be included in Elected Member and employees induction programs
9. This policy is to be promoted externally and included in tender and expression of interest documents issued by the District Council of Cleve.

### 3. **GIFTS AND BENEFITS**

#### 3.1 Token Gifts

(Nominal Value not exceeding \$100.00)

Generally speaking, token gifts and moderate acts of hospitality could include:

- 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 (e.g. address at meeting).
- Free or subsidised meals, of a modest nature, and/or beverages provided infrequently that have been arranged primarily 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 their Council at work related events.
- Refreshments, of a modest nature, provided at conferences.
- Ties, scarves, coasters, tie pins, pens, diaries, notepads, key rings, chocolates, flowers and small amounts of beverages.
- Invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as community organisations.

### 3.2 Gifts of Value

- Offers of money or gift vouchers must never be accepted, regardless of the amount.
- Gifts and benefits that have more than a nominal or token value will include tickets to major sporting events, corporate hospitality at a corporate facility or at a sporting venue, discounted products for personal use, use of holiday homes, free or discounted travel and free training excursions.
- If you receive a gift or benefit of more than token value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to the Chief Executive Officer. You must also ensure that any gifts received are recorded in the Gifts Register as prescribed above.
- Situations should be avoided which could create a perception that gifts or benefits (including hospitality) are being given to influence the behaviour of a Council official.
- All reasonable steps must be taken to ensure that immediate family members of Council officials do not receive gifts or benefits that could be perceived to be an attempt to influence the behaviour of the Council official in question.
- Elected Members and designated persons must by law disclose a description of any gift or gifts totaling a value exceeding \$750 made by the same person during a period of 12 months or less (Ordinary return, Schedule 3 – (Section 79) Local Government Act 1999).

### 3.3 Cumulative Gifts

A series of small gifts, which individually fall below the nominal value threshold, may have an aggregate value that exceeds the nominal value of \$100.00. For the purpose of this policy, gifts given by a particular person or organisation to the same Council employee or Elected Member within a twelve months period are considered to be a part of a series of gifts forming an aggregate value. Therefore, at the point that the gifts in question reach the specified amount of \$100.00 (in total) they must be treated as gifts of value as prescribed by this policy.

#### **Bribes:**

“Bribery” is defined as inducement by offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office and to influence that person to act contrary to the known rules of honesty and integrity.

Elected Members of staff and delegates must not offer or seek a bribe. Receiving or offering a bribe is an offence under the *Criminal Law Consolidation Act 1935*.

A person who believes that they have been offered a bribe should refuse it and report the matter immediately to the Chief Executive Officer. The Chief Executive Officer must then take steps to report the matter to the Independent Commission Against Corruption (ICAC) pursuant to the *Independent Commissioner Against Corruption Act 2012*, additionally, the Chief Executive Officer must inform the South Australian Police of the incident.

**Gifts that are unable to be returned:**

When a gift is received that exceeds the nominated value of \$100.00 or for some other reason cannot be retained by the individual, Council must make a decision as to how the relevant gift is disposed of having regard to the nature of the gift and the circumstances in which it was received.

In some circumstances, such as the donation of a technical resource, the gift may be kept by Council for the ultimate benefit of the public purse, as it assists Council in its operations. Other gifts could be donated to a suitable charity or the items auctioned and the proceeds donated. In the interest of transparency, the process utilised and the reasons for the decision must be documented.

### 3.3 Gift and Benefit Examples

**Example 1: Gifts, benefits and hospitality**

A regular supplier offers the Council's Purchasing Officer a free weekend for two at a beach resort. The officer's impartiality when dealing with the supplier would be compromised if he or she accepts the offer.

Planning and building employees are regularly offered alcohol, food, tickets to major sporting events and free lunches by developers, builders, project managers and suppliers. Employees sometimes accept these gifts without declaring them and argue that they are in return for providing good service and are an accepted way of "doing business". Again, this will be perceived to have compromised the impartiality of the employee concerned.

In these situations, employees should, in the first instance, refuse a gift offered. If employees feel obliged to accept gifts, then they should declare the gift and have it recorded in Council's gift register. Council may then determine how these gifts are dealt with and could, for example, donate specific items to charity.

**Example 2: Acceptance of gifts and bribery**

A local Council employee is involved in a series of inspections on a building site. During the inspections, the developer offers the employee numerous gifts including alcohol and a present for the employee's new born child. The employee accepts the gifts as he feels they are offered as unconditional and genuine tokens of appreciation for his work, especially as the inspection involved a number of lengthy tasks. The employee believes the developer's interests. After the recommendation is made, the developer complains to the Council about the employee accepting the gifts.

Although the employee accepts the gifts in good faith, he nevertheless places himself in a vulnerable position. While each of the gifts is of modest value, when viewed in total, the value of the gifts seems quite substantial. The developer is able to manipulate the situation to allege the employee has accepted bribes.

The employee's acceptance of the gifts could also be used as circumstantial evidence of bribery. The employee could not rely on the fact that he made a decision he would have made, regardless of the gifts, as a defence to bribery.

### Example 3: Acceptance of gifts and influence

A Council's Information Technology Manager attends two meetings with potential suppliers. During the first meeting the suppliers serve tea, coffee and biscuits. The second meeting is held at a restaurant and the suppliers pay for the manager's three course meal.

Both meetings arguably provide the manager's Council with benefit, namely the opportunity to discuss the supplier's products. Despite this, a contrast can be drawn between the meetings. In the first, the refreshments are only modest in nature and consequently do not create the impression that an attempt is being made to gain the manager's favour. In the second, the nature of the lunch creates the impression that an attempt is being made to compromise the manager impartiality.

The damage of this perception far outweighs any benefit associated with the manager's attendance.

#### 4. LEGISLATION

Local Government Act 1999 (SA)

Criminal Law Consolidation Act 1935

Independent Commissioner Against Corruption Act 2012

#### 5. AVAILABILITY OF THE POLICY

This Policy will be available for inspection at the Council's offices during ordinary business hours and via the Council's website <http://www.cleve.sa.gov.au>. Electronic versions are the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

#### 6. ADOPTION OF POLICY

This Policy was adopted by the Council at its Ordinary Council meeting on 13<sup>th</sup> April 2021.



Peter Arnold  
Chief Executive Officer

#### 7. DOCUMENT REVIEW

This document will be reviewed prior to each Council election by the District Council of Cleve every (4) four years.

#### 8. REVIEW HISTORY

Version	Issue Date	Author	Reason for Change
3.0	13/04/2021	Jodie B	Minor updates following Council election 2018 Formatting Added legislation, availability of policy, adoption of policy, document review and review history sections