



# muswellbrook shire council

Gifts, Bribes & Benefits

Policy No. B15/1

**Adopted By Council**  
For Public exhibition: 05/04/2021

## **Gifts, Bribes & Benefits.**

### **B15/1**

#### **POLICY OBJECTIVES**

Muswellbrook Shire Council understands the need for its business to be conducted in a fair, ethical and honest manner. The aim of this policy is to ensure council officials are informed on Council's position and expectations in relation to offers of gifts, bribes or personal benefits.

#### **POLICY STATEMENT**

1. Council officials, at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently in good faith or could be an attempt to influence. It is important that council officials are aware of this concept and respond accordingly to offers of gifts, bribes or benefits.
2. Individuals attempting to corrupt council officials often start with small inducements that appear to have no improper motive behind them, however escalate quickly creating a sense of obligation or preferred treatment. Corruptly receiving a gift, bribe or benefit, no matter how big or small, is an offence under both the common law and New South Wales legislation, this offence extends to the offering or seeking of a gift, bribe or benefit.
3. This policy applies to all those persons covered by the term 'council official' in Council's Code of Conduct.
4. It is the position of this Council, where possible and regardless of the value, that gifts and benefits be respectfully be declined. In a situation where it would be rude or inappropriate do to so, the gift or benefit must be reported to the General Manager, Public Officer or Mayor as soon as practicable after the event.
5. For the purposes of this policy, a reference to a gift, bribe or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.
6. Under no circumstances is an offer of cash or cash like alternative (bribe), defined in Council's Code of Conduct, to be accepted.
  - i. Council officials must not seek a bribe, receiving a bribe is an offence under both the common law and New South Wales legislation, with a maximum penalty of imprisonment.
  - ii. The common law offence of bribery is defined as receiving or 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 incline that person to act contrary to the known rules of honesty and integrity.
  - iii. Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their direct supervisor and the General Manager immediately. Council will then take steps to report the matter to Independent Commission Against Corruption (ICAC) and the police.

- iv. In the case a Councillors is offered a bribe, this should be reported to the Mayor and General Manager immediately. Council will then take steps to report the matter to Independent Commission Against Corruption (ICAC) and the police.
7. For the purposes of this policy “token value” is described as goods and/or services with an aggregated value of less than \$100, as defined in the Code of Conduct.

i. Token value

Some examples of gifts and benefits having token value are cheap marketing trinkets or corporate mementos and may include the following:

- a) Inexpensive pens and pencils;
- b) Notepads;
- c) Key rings;
- d) Diaries; and
- e) Computer mouse pads.

ii. More than Token value

Some examples of gifts and benefits having more than token value include:

- a) Tickets to sporting events or other entertainment;
- b) Goods and items donated to Council and employee functions;
- c) Meals or hospitality over “token” value;
- d) Discounted products for personal use;
- e) Use of facilities such as gyms and holiday homes;
- f) Free or discounted travel;
- g) Free “training excursions”;
- h) Obtaining fly-buys, frequent flyer points etc as a consequence of Council transactions; and
- i) Lucky door prizes or competition prizes.

8. As a council official, you must not by virtue of your position acquire a personal benefit or advantage which has a monetary value, other than that of token value.
9. You must not seek or accept any payment, gift or benefit intended or likely to influence you, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:
- i. act in a particular way (including making a particular decision);
  - ii. fail to act in a particular circumstance; and
  - iii. otherwise deviate from the proper exercise of your official duties.
10. You may, however it is not recommended, accept gifts or benefits of token value that does not create a sense of obligation on your part. Council officials must complete a Gifts, Bribes and Benefits declaration form for all gifts that could potentially be of token value.
11. It is Council’s preferred position that:
- i. gifts and benefits not be offered to council officials;
  - ii. gifts and benefits are not to be solicited;
  - iii. gifts and benefits should be actively discouraged by council officials; and
  - iv. people doing business with Council should understand that they do not need to offer gifts or benefits to council officials to get high quality service (Council policy Business Ethics B45/1 provides further information).

12. From time-to-time council officials may purchase gifts or provide certain benefits to visiting dignitaries, such as Government Ministers. A common sense approach to gifts or benefits provided in such situations should be exercised. The appropriateness of gifts being purchased should be meaningful and of local significance rather than a lavish gift which can create a sense of obligation on the other party.
  - i. All gifts purchased for visiting dignitaries should be approved by the General Manager or Mayor and be within the council officials delegation of authority.
  - ii. All gifts purchased for visiting dignitaries will be recorded in Council's Gifts Register in the same manner as a council official would receiving a gift.
13. The purchasing of gifts for awards or prizes part of a competition or event hosted or in conjunction with Council is not subject to this policy.

## **LEGISLATION**

*Local Government Act 1993*

*Crimes Act 1900*

Muswellbrook Shire Council Code of Conduct.

Muswellbrook Shire Council Procedures for Administration of the Code of Conduct.

## **PROCEDURE**

### **Bribes**

#### ***What to do if you receive an offer of a bribe.***

1. If you think you have been offered a bribe, your supervisor (or appropriate senior officer) must inform senior management immediately. If your supervisor (or appropriate senior officer) does not do this, you should inform senior management yourself.
2. If you have been offered a bribe, the ICAC and the Police must be notified immediately. This will ordinarily be done by the Council. However, if this action is not taken expeditiously the employee may do so themselves.
3. For additional information and guidance on this issue of bribes please refer to;
  - i. Council's Code of Conduct
  - ii. Council's Business Ethics Policy B45/1

### **Gifts and Benefits**

#### ***What to do if you receive an offer of a gift or benefit of more than token value, even those rejected.***

1. Report the matter to your supervisor immediately (Councillors to Mayor or General Manager)
2. Complete details in writing (Form 1 attached can be used). Details should include
  - i. Date, time and place of the incident;
  - ii. Name of person to whom gift or benefit was offered;
  - iii. Name of person (and organisation) who offered gift or benefit and contact details (if known);
  - iv. Response to the offer;

- v. Other relevant details; and
- vi. Signature of the writer and date.

### **Gifts Register**

1. Council will maintain a gifts and benefits register. The register will contain the following information.
  - i. The name of the recipient;
  - ii. The name of the person who offered the gift and their organisation;
  - iii. The decision taken in relation to the gift; and
  - iv. The signature of the Public Officer, General Manager, Mayor or appropriate officer.

It will be used to record all gifts and benefits that are received that are above a token value.

### **REVIEW HISTORY:**

**Responsible Officer:** Governance Officer

	<i><b>Reviewed Policy</b></i>	<i><b>Previous</b></i>	<i><b>Proir</b></i>	<i><b>Prior</b></i>	<i><b>Prior</b></i>
<i><b>Minute No:</b></i>	<b>xxx</b>	<b>369</b>	<b>219</b>	<b>171</b>	<b>820</b>
<i><b>Meeting Date:</b></i>	<b>05/04/22</b>	<b>11/06/2013</b>	<b>13/11/2006</b>	<b>09/02/2004</b>	<b>08/07/2002</b>
<i><b>Review Date:</b></i>	<b>2 years</b>				