

POLICY		Responsible Department	Executive
		Original Adoption Date	21.03.05
		Current Adoption Date	27.04.22
		Audit Committee Review Date	20.05.22
		Date of Review	31.03.27

GIFTS AND BENEFITS POLICY	
Latest Review Changes	Minor formatting and logo updates, Review timeframe changed to 5 years from 3 years, inclusion of <i>Local Government (General) Employee Code of Conduct) Variation Regulations 2018</i> under Applicable Legislation, Updated Reference Document Guideline of the Commissioner for Public Sector Employment - Gifts and Benefits (2020) to the current version, Addition of Contents page, Clarification around what is and is not a gift and/or benefit, additions of sections 7, 8, 9, 10, 11, 12 & 13, Inclusion of a Gifts and Benefits Declaration Form and an extract from Councils Gifts and Benefits Register.
Previous Council Reviews	31.05.09, 24.02.11, 23.01.12, 04.06.13, 27.02.19
Previous Audit Committee Reviews	08.07.10, 17.11.11, 30.05.13

Applicable Legislation

Local Government Act 1999

Local Government (General) Employee Code of Conduct) Variation Regulations 2018

- *Variation of regulation 8A—Code of conduct for employees 5*
- *Insertion of Schedule 2A Schedule 2A -Code of conduct for employees*
 - i. *Gifts and benefits*
 - ii. *Complaints*

Related Policies

Complaints Policy

Related Procedures

Reference Documents

Local Government (General) Employee Code of Conduct) Variation Regulations 2018

Gifts and Benefits Register

Gifts and Benefits Declaration

Guideline of the Commissioner for Public Sector Employment - Gifts and Benefits (2020)

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1. INTRODUCTION

The Municipal Council of Roxby Downs (Roxby Council) is committed to protecting its integrity and reputation and protecting employees from allegations of impropriety. Employees must be, and be seen to be, ethical, fair and scrupulous in the conduct of official duties. Employees are accountable and responsible for their actions and conduct. Their decisions can withstand audit processes and public scrutiny.

Schedule 2A of the *Local Government (General) Regulations 2013* describes the code of conduct for employees in relation to Gifts and Benefits. Employees must comply with the provisions of this Code in carrying out their functions as public officials.

2. PURPOSE

This Policy aims to provide clear guidelines to ensure that employees of the Roxby Council are not compromised in the performance of their duties in relation to acceptance of gifts and benefits from individuals or other entities external to Council.

3. SCOPE

This Policy applies to all employees of the Municipal Council of Roxby Downs including permanent, temporary, externally hosted trainees and casual staff. A gift or benefit received by a person related to the employee will be treated as a gift or benefit by the employee. This includes a spouse, domestic partner, child under 18 years that resides with the employee, family company or family trust.

4. DEFINITIONS

Benefit means something that is believed to be of value to the receiver such as service. Examples include: the use of facilities, discounted travel and discounted meals

Bribe means a gift or benefit given with the direct intention to influence behaviour

Gift of Gratitude means a gift of minor value such as for excellent customer service

Token Gift means an item that is mass produced for business purposes. A token gift usually has little meaning or value and is not targeted specifically at the individual or at the business of Council.

Employee means a Local Government employee as defined pursuant to the *Local Government Act 1999*.

5. SPECIFIC PROVISIONS/RESPONSIBILITIES

5.1. General Principles

Employees must not seek gifts or benefits of any kind.

Employees must not accept any offer of gifts or benefits:

- in the form of cash or gift card;
- that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
- from any person who is in, or seeks to be in, any contractual relationship with the Council
- offered in relation to the regulatory functions of Council;
- that may influence, or may reasonably influence decision making at any level;
- that could give rise to the appearance of a past, present or future conflict with the employee's Council responsibilities;
- where the offer of the gift or benefit could be interpreted as having been made with the objective of securing a favour or preference.

5.1.1. **What is a Gift?**

A gift or a benefit is something offered to or received by a council official, or someone personally associated with them for their personal use and enjoyment. In a business context, gifts and benefits are frequently given to facilitate an ongoing working relationship and to establish patterns of loyalty to the giver. The sense of obligation that business gifts instil is the main difference between private gifts and business gifts.

Some common examples of gifts that may be offered in the course of work include:

- alcohol
- clothes
- products
- Tickets
- gift vouchers
- office or business accessories

5.1.2. **A Gift is Not:**

- A political donation for the purposes of the *Commonwealth Electoral Funding Act 2018*;
- A gift provided to the Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual Council official, or someone personally associated with them;
- a benefit or facility provided by the council to an employee or councillor
- Attendance by a Council official at a work-related event or function of token value for the purposes of performing their official duties, or
- Free or subsidised meals, beverages or refreshments provided to Council officials in conjunction with the performance of their official duties such as, but not limited to:
 - The discussion of official business;
 - Work-related events such as Council-sponsored or community events, training, education sessions or workshops;
 - Conferences;
 - Council functions or events;
 - Social functions organised by groups, such as Council committees and community organisations

5.2. **What is a Benefit?**

Benefits are different to gifts in that they are generally non-tangible. Benefits may still have financial value however, particularly to their recipients. In terms of managing them, gifts and benefits should be considered interchangeable. Some common examples of benefits are:

- access to private spectator boxes at events
- a new job or promotion
- preferential treatment (such as queue jumping)
- access to confidential information
- a relationship with a Council contractor that provides a discount for private work.

5.3. Acceptance of Gifts and Benefits

In the first instance employees have the responsibility to politely refuse any gift or benefit. If refusal has the potential to damage Council's relationship with the person, company or organisation making the offer, then the offer may be accepted and declared.

Each situation must be assessed on its own merits.

If offered a gift or benefit an employee, before deciding to accept an offer, must consider:

- Roxby Council Policies
- Schedule 2A of the Local Government (General) Regulations 2013 - Code of Conduct for Employees
 - Gifts and Benefits
 - Complaints
- who is making the offer
- why is the offer being made
- how the offer could be perceived by a member of the public
- degree of openness of the occasion (e.g. the offer is visible to others and not concealed or done in secret)
- the nature of the gift or benefit being offered
- whether the donor has been making repeated offers

If there is any doubt as to whether a gift or benefit contains an implied obligation or an intention to influence a decision it must be refused.

5.4. Circumstances when Gifts or hospitality may be accepted

- Gifts of gratitude from a grateful customer (i.e. cake, chocolates, flowers);
- Token gifts (e.g. pen or calendar). Care should be taken to not use these products in public if they are provided by a commercial enterprise with corporate branding;
- Ceremonial gifts that relate to protocol or culture; and
- Hospitality of a modest nature provided in the context of performing duties including free or subsidised meals, beverages or refreshments of reasonable value provided at Council related events such as training sessions, workshops and conferences, Council events, social functions and local social, sporting or cultural events.

5.5. Treatment of Conference Prizes

Any prize obtained at a conference or seminar attended as part of official duties and paid for by Council will become the property of Council.

6. DECLARATION/ REPORTING OF GIFTS AND BENEFITS

All gifts and benefits, regardless of value or whether they have been refused or accepted, must be declared and reported. Employees are required to complete a Gifts and Benefits Declaration form which is to be forwarded to the Chief Executive for approval of the action taken. The declaration includes name of the employee, the date, a description of the gift and benefit and reason why it was offered, response (action taken) and the name of the individual or organisation offering the gift or benefit. These details will be entered into the Gifts and Benefits Register which is available for public inspection on the Council's website www.roxbydowns.sa.gov.au

Where a gift or benefit cannot be reasonably refused or returned (e.g. where refusal would cause embarrassment to the donor) it may be more appropriate for the gift or benefit to be placed in Council property with the following options available:

- Sharing the gift amongst all staff
- Donating the gift to an appropriate charity

7. RESPONSIBILITIES

The Chief Executive is responsible for;

- ensuring that Council has a framework for registering gifts or benefits and appropriate procedure to manage this process.
- reporting allegations of bribery or corruption to ICAC and the South Australian Police, as appropriate.
- The implementation and monitoring of this policy
- Maintenance of the Gifts and Benefits Register
- Managing the determination of declarations of gifts and benefits.

The relevant Group Managers are responsible for determining the action to be taken in respect of each completed Gifts and Benefit Declaration of a gift or benefit that requires determination under this Policy.

All Managers/Supervisors are responsible for ensuring that their staff are aware of this policy, its intent and be available to give advice on its interpretation. If in doubt, refer to the Chief Executive.

8. BRIBERY

Bribery occurs when a person offers undue reward 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. Employees must not offer or seek a bribe. Receiving or offering a bribe is an offence under the *Criminal Law Consolidation Act 1935*.

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

9. PERCEPTIONS OF ACCEPTING A GIFT AND/OR BENEFIT

Perceptions are very important in relation to gifts and benefits. There is often a perception that the offer of a gift could influence the intended recipient's performance of his or her functions, despite the fact that such perceptions alone may not indicate an actual inappropriate influence. Perceptions can be affected by a variety of factors including:-

- The relationship between the giver and the Council official;
- The transparency and openness of how the gift was offered; and
- The value of the gift, i.e. an expensive gift is more likely to be perceived as gifts to win favours.

10. PURCHASE INCENTIVE SCHEMES

Roxby Council staff must not personally benefit from reward points programs (i.e. Flybys, Frequent Flyer points) when purchasing on behalf of the Council (purchase incentive scheme). If you are offered a free item for your personal use for purchasing a certain quantity of product, you must refuse the gift/benefit and complete a Gifts and Benefits Declaration Form. Incentives include additional points for frequent travel.

11. TOKEN/NON TOKEN OFFERS

11.1. Token Offers

Token offers are of inconsequential or trivial value to both the public sector employee and the person making the offer and may generally be accepted, as long as they do not create a conflict of interest or lead to reputational damage. They may include promotional items, such as pens and note pads provided at a conference, or modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

11.2. Non-token offers

Non-token offers (offers that are more than trivial or inconsequential) can only be accepted if they have a legitimate business benefit. That is, when the offer furthers the conduct of official business or other legitimate goals of your organisation, the public sector or the State. Examples of non-token offers that must be declined include:

- a) Tickets to entertainment events that do not relate to official duties; or
- b) Non-token hospitality provided while introducing a product or service (eg the public sector employee's role requires impartial assessment of new products and services, which may be undermined if the public sector employee accepts or is seen to accept such hospitality).

12. THE 'GIFT' TEST

In making an assessment about accepting or declining a gift, benefit or hospitality, the following 'GIFT' test is a good reminder.

G	Giver	<p>Who is making the offer and what is their relation to me?</p> <p>Does my role require me to select suppliers, award grants, regulate industries or determine government policies?</p> <p>Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately?</p> <p>Is it a courtesy, a token of appreciation or a valuable non-token offer?</p> <p>Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly?</p> <p>Has the person or organisation made several offers over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality?</p> <p>What would my colleagues, family, friends or associates think?</p>

13. COMPLAINTS

A complaint alleging that an employee has contravened or failed to comply with this policy must be dealt with in accordance with Part 2 of the Complaints Policy

14. BREACHES OF THIS POLICY

Roxby Council employees, contractors, volunteers, and delegates of Council are obliged to comply with this policy.

Any person may report an alleged breach of this policy by a Council employee (other than the Group Manager) to the relevant Group Manager in writing.

Any person may report an alleged breach of this policy by a Group Manager to the Chief Executive in writing.

The Chief Executive, as appropriate, shall investigate any report received and act as is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

15. ATTACHMENT(S)

Gifts and Benefits Declaration form

Extract from Gifts & Benefits Register

16. POLICY REVIEW

This policy will be reviewed periodically and at least every five (5) years to ensure legislative compliance.

17. FURTHER INFORMATION

Members of the public may inspect this policy free of charge on Council's website www.roxbydowns.sa.gov.au or at the Roxby Council Office located at 6 Richardson Place, Roxby Downs, SA 5725

APPENDIX 1 – Gifts and Benefits Declaration Form



Gifts and Benefits Declaration Form

This declaration supports the Gifts and Benefits Policy

ROXBY COUNCIL EMPLOYEE TO COMPLETE	
Employee Details	
First name:	Surname:
Position title:	Division/unit:
Description of Offer	
Date of offer	
Date gift, benefit or hospitality will be accepted (if declaring before occurrence)	
Description of offer	
Estimated or actual value (attach any information that confirms value)	
Description of Person/Organisation Making/Made Offer	
Name of person/organisation making/made offer	
Position of person making/made offer (if known and applicable)	
Nature of your authority's relationship with person/organisation making/made offer	<input type="checkbox"/> Client/customer <input type="checkbox"/> Member of public <input type="checkbox"/> Supplier/contractor <input type="checkbox"/> Other (describe)
Officer Assessment	
Why is the offer being made/has been made?	
Could accepting offer create an actual, potential or perceived conflict of interest ¹ ? For example, are you/your authority about to make a decision on the person/organisation that could lead to a favorable outcome for them?	<input type="checkbox"/> Yes If yes, ensure decision reflects appropriate management strategy, and consider if conflict of interest declaration is also required. <input type="checkbox"/> No <input type="checkbox"/> Unsure
Does accepting an offer of hospitality have a link or obvious benefit to either the authority or government priorities or objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure

¹ **Actual conflict of interest** is where a public officer's personal interests and their public duty conflict. These are happening now and require management.

Potential conflict of interest is where a public officer's personal interests and their public duty are likely to conflict sometime in the future.

Perceived conflict of interest is where a third party could form the view that personal interests could improperly influence a public officer's decisions or actions now or in the future.

Have any previous offers been made to you/your business area by the same person/organisation in the last 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
Have you already accepted/declined the offer?	<input type="checkbox"/> Yes <input type="checkbox"/> No Date accepted/declined:
Do you want to accept the offer? If yes , why?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Officer Declaration	
I declare the information I am providing in this declaration is true and accurate to the best of my knowledge.	
Signature: _____ Date: _____	
APPROVING OFFICER TO COMPLETE	
First Name:	Surname:
Position title:	Division/unit:
Relationship to officer:	
I have reviewed the information provided and recommend the following action:	
<input type="checkbox"/> Offer be declined <input type="checkbox"/> Gift or benefit be returned to person/organisation <input type="checkbox"/> Gift or benefit be retained by officer <input type="checkbox"/> Gift or benefit be retained by authority <input type="checkbox"/> Gift or benefit be disposed of by authority (e.g. donated to charity) <input type="checkbox"/> Hospitality be accepted <input type="checkbox"/> Other (detail)	
I confirm that to the best of my knowledge the offer or its acceptance:	
<input type="checkbox"/> will not create/has not created an actual, potential, or perceived conflict of interest <input type="checkbox"/> where hospitality is accepted, it has a link or obvious benefit to either the authority or government priorities and objectives; and creates no actual, potential, or perceived conflict of interest.	
Approved value (if applicable): \$	
I have submitted this declaration for inclusion on the gifts, benefits and hospitality register.	
Signature: _____ Date: _____	

END FORM

APPENDIX 2 - Extract From Gifts & Benefits Register

		GIFTS AND BENEFITS REGISTER				
Employee Name	Date Benefit Offered	Name of Donor	Description of Gift or Benefit	Market Value \$	Accepted or declined	Comments
Tony Weir	13/04/2019	Kon Kiparoglou	Bottle of Wine, Gym Calf Stool	\$ 90.00	Declined	
Drew Ellis	9/12/2019	Bank SA	Box of chocolates	\$ 15.00	Accepted	Shared with staff
Regina Qualmann	19/03/2020	Anthony Osa	Box of Chocolates	\$ 7.00	Accepted	Shared with staff
Roxby Council	4/12/2020	Community Hub	Box of Lindt Chocolates	\$ 18.00	Accepted	Shared with Staff
Roy Blight	4/12/2020	Community Hub	Box of Pralines	\$ 10.00	Accepted	Shared With Staff
Michelle Hales	4/12/2020	Community Hub	Box of Pralines	\$ 10.00	Accepted	
Sasha Yantewo	4/12/2020	Community Hub	Box of Pralines	\$ 10.00	Accepted	
Roxby Council	14/12/2020	BSH	Box of Lindt Chocolates	\$ 10.00	Accepted	Shared with staff
Council Customer Service	5/08/2021	Port Augusta Magistrates Court	Box of Favourites Chocolate	\$ 10.00	Accepted	Shared with staff
Kerin Edmonds	16/02/2022	Cammy Yang	Box of Lindt Chocolates	\$ 10.00	Accepted	Shared with staff