



# BANANA SHIRE COUNCIL

## Policy and Procedure

TITLE	<b>COUNCILLORS GIFTS AND SPONSORED HOSPITALITY BENEFITS POLICY AND PROCEDURE</b>
POLICY NUMBER	<b>46</b>
COUNCIL FUNCTION	<b>ADMINISTRATION, EXECUTIVE AND GOVERNANCE</b>
RESPONSIBLE DEPARTMENT	<b>EXECUTIVE</b>
LEGISLATION	<b>Local Government Act 2009 Local Government Regulation 2012 Section 291 &amp; Schedule 5 Section 12 to 13</b>
ADOPTED	<b>December 2004 Ordinary Meeting - Minute No. 29777</b>
REVIEWED/AMENDED	<b>26 September 2012 Ordinary Meeting – Minute OM002044 28 April 2015 Ordinary Meeting – Minute OM003095 22 March 2017 Ordinary Meeting – Minute OM003715 24 October 2018 Ordinary Meeting – Minute OM004205</b>
NEXT REVIEW DUE	<b>July 2022</b>

### SCOPE

All gifts and sponsored hospitality benefits offered to or received by Councillors from external sources in connection with their official role or duties.

### OBJECTIVE

To establish the processes to be followed when Councillors are offered gifts and sponsored hospitality benefits or receive awards and prizes in connection with their duties while representing Council.

### DEFINITIONS

#### Approved Form

The form approved by the Department's chief executive under the *Local Government Act 2009 Section 266*

#### CEO, Chief Executive Officer

Chief Executive Officer of Banana Shire Council

#### Conflict of Interest

Any private or personal interest, which could prejudice, influence or be perceived to influence a person in their public or professional duties.

## Council

Banana Shire Council

## Councillor

A person elected or appointed to the position of councillor of Banana Shire Council including the mayor.

## Gift

A gift has the meaning as defined in the *Local Government Regulation 2012 Part 2 Schedule 5 Section 12 (4)*

(4) A **gift** is—

- (a) the transfer of money, other property or other benefit—
  - (i) without consideration; or
  - (ii) for a consideration substantially less than full consideration; or
- (b) a loan of money or other property made on a permanent or indefinite basis, other than an overdraft facility.

## Councillor Gift and Sponsored Hospitality Benefit Declaration Form

The Councillor Gift and Sponsored Hospitality Benefit Declaration Form approved and issued by the Chief Executive Officer.

## Related Person

A Related Person has the meaning as defined in the *Local Government Regulation 2012 Section 290*:

- (2) person is **related** to a councillor, chief executive officer or senior executive employee (the **primary party**) if—
  - (a) the person is the primary party's spouse; or
  - (b) the person is totally or substantially dependent on the primary party and—
    - (i) the person is the primary party's child; or
    - (ii) the person's affairs are so closely connected with the affairs of the primary party that a benefit derived by the person, or a substantial part of it, could pass to the primary party.

## Relevant Person

A Relevant Person has the meaning defined in *Local Government Regulation 2012 Part 2 Schedule 5 Section 1*.

**relevant person** means any of the following persons—

- (a) a councillor;
- (b) a chief executive officer;
- (c) a senior executive employee;
- (d) a person who is related to a councillor, chief executive officer or senior executive employee.

## Sponsored Hospitality Benefit

Sponsored Hospitality Benefit has the meaning as defined *Local Government Regulation 2012 Part 2 Schedule 5 Section 13 (2) to (3)*:

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- (2) A person receives a **Sponsored Hospitality Benefit** if—
- (a) the person, other than in an official capacity—
    - (i) undertakes travel; or
    - (ii) uses accommodation; and
  - (b) a contribution, whether financial or non-financial, for the cost of the travel or accommodation is made by another person.
- (3) However, a person does not receive a sponsored hospitality benefit if—
- (a) the contribution mentioned in subsection (2)(b) was made by the person's spouse, other family member or friend; and
  - (b) there could not be a perception of a conflict of interest, financial or otherwise, relating to the contribution.

### **Council Related Sponsored Hospitality Benefit**

A Councillor receives a **Council Related Sponsored Hospitality Benefit** if:

- (a) the Councillor in an official capacity,
  - (i) undertakes travel; or
  - (ii) uses accommodation; and
- (b) a contribution, whether financial or non-financial, for the cost of the travel or accommodation is made by another person other than Council.

## **POLICY**

### **Gifts valued under \$100 Dollars**

A **Councillor** who receives a gift valued under \$100, including gifts of a lesser value providing the total value remains less than \$100 is not required to advise Council.

However, the recipient person must be satisfied there cannot 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 *Local Government Act 2009*.

### **Gifts valued \$100 or more up to \$500 (including gifts of a lesser value totalling more than \$100 up to \$500)**

Within seven (7) days of receipt of a gift valued at \$100 or more up to \$500, including gifts of a lesser value totalling \$100 or more up to \$500, a **Councillor or a related person** who receives the gift is to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form for inclusion in Council's Register of Gifts and Sponsored Hospitality Benefits.

### **Gift valued more than \$500 (including gifts of a lesser value totalling more than \$500)**

- 1 Within seven (7) days of receipt of a Gift valued at more than \$500, including gifts of a lesser value totalling more than \$500, a **Councillor or a related person** who receives the gift is to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form for inclusion in Council's Register of Gifts and Sponsored Hospitality Benefits.
- 2 Within 30 days of the receipt of a gift valued more than \$500, or gifts of a lesser value totalling more than \$500, a **relevant person**, must, in the approved form, advise the Chief Executive Officer, or the Mayor in the case of the Chief Executive Officer, of the receipt of the gift.

### **Sponsored Hospitality Benefits (received other than in an official capacity)**

1. Within seven (7) days, of receipt of the sponsored hospitality benefit a **Councillor or a related person** who receives a sponsored hospitality benefit is to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form for inclusion in Council's Register of Gifts and Sponsored Hospitality Benefits.
2. Within 30 days of the receipt of a Sponsored Hospitality Benefit, a **relevant person**, must in the approved form, advise the Chief Executive Officer, or the Mayor in the case of the Chief Executive Officer, of the receipt of the Sponsored Hospitality Benefit.

### **Council Related Sponsored Hospitality Benefit (received in an official capacity)**

1. Within seven (7) days, of receipt of the Council Related Sponsored Hospitality Benefit a **Councillor or a related person** who receives a Council Related Sponsored Hospitality Benefit is to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form for inclusion in Council's Register of Gifts and Sponsored Hospitality Benefits.

### **Gifts made by Council**

Gifts may be presented at the discretion of the Mayor or Chief Executive Officer to visiting delegations of political, cultural, commercial, educational, sporting or social nature.

Gifts may be presented to Councillors at the discretion of the Mayor. Gifts may be made to the Mayor at the discretion of the Deputy Mayor and Chief Executive Officer in consultation.

1. A **Councillor or a related person** who receives a **gift made by Council** up to a value of \$500 is not required to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form.
2. Within seven (7) days of receipt of a Gift made by Council valued at more than \$500, including gifts of a lesser value totalling more than \$500, a **Councillor or a related person** who receives the gift is to submit Council's Gift and Sponsored Hospitality Benefit Declaration Form for inclusion in Council's Register of Gifts and Sponsored Hospitality Benefits.
3. Within 30 days of the receipt of a gift made by Council valued more than \$500, or gifts of a lesser value totalling more than \$500, a **relevant person**, must, in the approved form, advise the Chief Executive Officer, or the Mayor in the case of the Chief Executive Officer, of the receipt of the gift.

### **Display & Recording of Gifts**

Gifts received by Council, particularly where they have an historical, cultural or protocol value should be displayed in an area accessible by the general public during business hours.

Details of these gifts are to be recorded in Council's Register of Art Works.

### **Disposal of Gifts**

From time to time a gift item may be received by Council which does not fall within the Display of Gifts category or is otherwise unsuitable for Council to retain.

### **Sale to Recipient**

The Councillor receiving the gift, on behalf of Council may, at the discretion of the Chief Executive Officer, buy the gift from Council.

The purchase price will be determined as the manufacturer's wholesale value at the time of purchase less \$100.00, or in accordance with a valuation from an appropriately experienced person, less \$100.00.

#### **Disposal other than by sale to Recipient**

The Chief Executive Officer may dispose of gifts, having regard to the *Local Government Act 2009* and Council's Procurement Policy, in the following manner:

- Transfer to other public agencies or authorities
- Transfer as a gift to a recognised charitable or non-profit organisation or for archival by the Queensland Museum or State Library.

## **PROCEDURE**

### **GIFT VALUES**

#### **Gifts valued under \$100 Dollars**

- 1 Recipient satisfied there is no possible perception of conflict of interest
  - No action required.
- 2 There is a possible perception of conflict of interest
  - A Councillor Gift and Sponsored Hospitality Benefit Declaration Form is to be completed and submitted to the Chief Executive Officer within seven (7) days of receipt of the Gift.

#### **Gifts valued \$100 or more up to \$500 (including gifts of a lesser value totalling more than \$100 up to \$500)**

- 1 A Councillor Gift and Sponsored Hospitality Benefit Declaration Form is to be completed and submitted to the Chief Executive Officer within seven (7) days of receipt of the Gift.

#### **Gifts valued \$500 or more**

- 1 A Councillor Gift and Sponsored Hospitality Benefit Declaration Form is to be completed and submitted to the Chief Executive Officer within seven (7) days of receipt of the Gift.
- 2 Within 30 days of the receipt of a gift a **relevant person**, must, in the approved form, advise the Chief Executive Officer, or the Mayor in the case of the Chief Executive Officer, of the receipt of the gift.

#### **Sponsored Hospitality Benefits - any value (Excluding benefits received in an official capacity)**

1. A Councillor Gift and Sponsored Hospitality Benefit Declaration Form is to be completed and submitted to the Chief Executive Officer within seven (7) days of receipt of the Gift.
2. Within 30 days of the receipt of a Sponsored Hospitality Benefit, a **relevant person**, must in the approved form, advise the Chief Executive Officer, or the Mayor in the case of the Chief Executive Officer, of the receipt of the Sponsored Hospitality Benefit.

*Sponsored Hospitality Benefits relates to hospitality benefits that are received "other than in an official capacity". This implies that benefits received where the Councillor was engaged in activities that are exclusively Council Business are not necessarily Sponsored Hospitality*

*Benefits however a **cautious approach is advised** as any entertainment or other benefit supplied in conjunction may not be regarded as exclusively Council Business. Councillors are advised to declare an interest if there is any doubt.*

### **Council Related Sponsored Hospitality Benefits (any value)**

1. A Councillor Gift and Sponsored Hospitality Benefit Declaration Form is to be completed and submitted to the Chief Executive Officer within seven (7) days of receipt of the Gift.

## **DECLARATIONS**

### **Gifts and Sponsored Hospitality Benefits Declaration (Council form)**

Minimum details to be recorded in a Gifts and Sponsored Hospitality Benefits Declaration are:

- Date of receipt of Gift or Sponsored Hospitality Benefit;
- Name of recipient;
- Description of Gift or Sponsored Hospitality Benefit;
- Market value (or reasonable estimate if market value not known);
- Name of donor (including where appropriate the company, the contact person and contact details); and
- Reason or relevant circumstances.

### **Register of Interests Declaration (Department's Approved form)**

- 1 The particulars required for each **gift**, or all gifts totalling, more than \$500 in amount or value given to a relevant person by another person (**donor**) are—

- (a) the donor's name; and
- (b) a description of the gift.

*This section 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.

*However, the relevant person must be satisfied there cannot 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 Local Government Act 2009.*

- 2 The particulars required for each **sponsored hospitality benefit** received by a relevant person are—
  - (a) the source of the contribution for the travel or accommodation; and
  - (b) the purpose of the benefit.

## **REGISTERS**

### **Register of Gifts and Sponsored Hospitality Benefits**

Details from all Gift and Sponsored Hospitality Benefits Forms are to be recorded in the Register of Gifts and Sponsored Hospitality Benefits within seven (7) days of receipt by the Chief Executive Officer.

### **Register of Interests**

All Register of Interest forms are to be recorded in the relevant Register of Interests no later than 5 business days after receipt subject to Section 295 (2) (a) of the *Local Government Regulation 2012*.

## INSPECTION

- 2 A Register of Interests of a Councillor is open to be inspected by the public.
- 2 A Register of Interests of persons who are related to a councillor are only open to inspection by:
  - the Chief Executive Officer,
  - Councillors, and
  - another person permitted by law to have access to information in the register e.g. CCC

## CHECKSHEET

### Gift and Sponsored Hospitality Benefit Check Sheet

A check sheet may be used to assist in assessing whether reporting under this policy is required. However where there is any inconsistency between the check sheet and this policy, the policy will take precedence.

The Chief Executive Officer is delegated power to approve, issue and amend the Gift and Sponsored Hospitality Benefit check sheet.

## FORM

### Councillor Gift and Sponsored Hospitality Benefit Declaration Form

The Chief Executive Officer is delegated power to approve, issue and amend the Councillor Gift and Sponsored Hospitality Benefit Declaration Form.

## CERTIFICATION



CHIEF EXECUTIVE OFFICER  
BANANA SHIRE COUNCIL

7-11-18  
DATE