

COUNCILLORS GIFTS AND BENEFITS POLICY

SCOPE

This policy applies in relation to all gifts and/or benefits offered to or received by Councillors from external sources in connection with their official role or duties. This policy is intended to highlight the legal and ethical issues that should be taken into consideration when deciding whether to accept a gift or benefit.

This policy does not apply to electoral gifts to Councillors as defined in the *Local Government Electoral Act 2011*.

LEGISLATION

Local Government Act 2009

Local Government Regulation 2012

Public Sector Ethics Act 1994

Public Service Commission Directive No. 22/09

OBJECTIVE

This policy provides guidelines for Councillors for occasions where they are offered gifts and/or benefits or receive awards and prizes in connection with their duties while representing Council.

This policy is intended to support Councillors to avoid conflicts of interest, maintain high levels of integrity and public trust and to display behaviours which are consistent with the Councillors Code of Conduct and the local government principles of:

- Transparent and effective processes and decision making in the public interest
- Good governance of, and by, local government; and
- Ethical and legal behaviour of councillors and local government employees

DEFINITIONS

Benefit	A benefit includes travel, accommodation, meals, tickets, discounts or other like benefits. A sponsored hospitality benefit for the purposes of a Register of Interest includes travel and accommodation.
CEO	Chief Executive Officer of the 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 at Banana Shire Council, including the Mayor.
Councillor Gift and/or Benefit Declaration Form	The Councillor Gift and/or Benefit Declaration Form approved and issued by the Chief Executive Officer.
Gifts	A gift includes a transfer of money, property or benefit without consideration or for consideration that is less than the full value of the gifts. A loan of money or other property.
Related Person	<p>A Related Person has the meaning as defined in the <i>Local Government Regulation 2012</i> Section 289</p> <p>2) A person is related to a councillor, chief executive officer, councillor advisor or senior executive employee (the primary party) if—</p> <ol style="list-style-type: none"> a) the person is the primary party's spouse; or b) the person is totally or substantially dependent on the primary party and— <ol style="list-style-type: none"> 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
Council Related Sponsored Travel or Accommodation	<p>A Councillor receives a Council Related Sponsored Travel or Accommodation Benefit if:</p> <ol style="list-style-type: none"> (a) the Councillor in an official capacity, <ol style="list-style-type: none"> (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

The community expects Councillors to discharge their responsibilities impartially and with integrity. Consequently, it is not appropriate for Councillors to accept gifts and/or benefits that affect or may be seen to affect the performance of their official duties or be seen to influence their decision-making.

Councillors must always be mindful of their obligation to maintain and enhance public confidence in the integrity of public administration.

In determining whether acceptance of a gift and/or benefit is appropriate, Councillors should consider:

- the intent in which the gift and/or benefit is given; and
- the public perception of acceptance of the gift and/or benefit

Any gift or benefit accepted, regardless of monetary value, implies, or may imply a relationship which may interfere with objectivity and independence.

If Councillors are unsure whether to accept a gift and/or benefit, they should courteously decline the offer by explaining that acceptance would be against Council policy.

Care should be taken in handling circumstances where there are cultural differences. In some circumstances it is recognised that declining a gift may be difficult, inappropriate or offensive.

However, the overriding concern in considering whether to accept a gift or benefit is whether the gift or benefit is likely or could reasonably be perceived to affect the independent and impartial performance of duties.

Gifts and/or benefits are broken into three (3) categories:

1. Gifts and/or benefits valued under \$100,
2. Gifts and/or benefits valued at \$100 or more (including gifts and/or benefits of a lesser value totalling more than \$100), and
3. Gifts and/or benefits that must NEVER be accepted.

1. Gifts and/or benefits valued under \$100

For the purposes of this policy, a gift or benefit valued under \$100 includes, but is not limited to:

- A gift of a nominal value (\$100 or less) that are infrequently offered.
- Gifts of single bottles of reasonably priced alcohol or flowers as acknowledgement e.g., being a guest speaker.
- Free meals and/or beverages of a modest nature provided to councillors who are formally representing Council and the meal/beverage is not provided within the registration costs of the activity/trave/event.
- Marketing or corporate mementos such as ties, scarves, pens, coasters, tie pins, diaries or chocolates.
- Invitations to appropriate out of hours functions or social events organised by groups such as council committees and community organisations that Councillors attend in their role of representing Banana Shire Council.

A Councillor who receives a gift and/or benefit 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 and/or benefit that could conflict with a duty the person has under *the Local Government Act 2009*.

Councillors should be aware that the cumulative nature of gifts and benefits, from the same donor, is considered to be from the first day a Councillor is officially sworn into office until the last day of elected representation following the retirement/defeat of the said Councillor, regardless of the number of terms that the Councillor serves.

While one-off gifts and benefits are not required to be recorded on Council's Gifts and Benefits Register Disclosure Form, it is recommended that all Councillors who regularly attend community meetings/functions/events keep a personal record of attendance at all events where gifts and/or hospitality are offered to ensure that the cumulative effect can be recognised and recorded on the appropriate form.

2. Gifts and/or benefits valued at \$100 or more (including gifts and/or benefits of a lesser value totalling more than \$100)

For the purposes of this policy, gifts and/or benefits valued at \$100 or more (including gifts and/or benefits of a lesser value totalling more than \$100) include but are not limited to:

- Invitations to a corporate box at a sporting event or other entertainment.
- Free or discounted tickets to major sporting or community events, corporate hospitality at a corporate facility at a major sporting event, products for personal use, the frequent use of facilities such as gyms, use of holidays homes, travel or vehicles, free training excursions, gift hampers or vouchers.
- Payment by suppliers for Councillors to attend training seminars, conferences or other promotional or educational activities.
- Free or subsidised meals and/or beverages provided by a potential supplier or contractor.
- Free or subsidised meals and/or beverages provided infrequently and/or reciprocally, that have been arranged primarily for, or in connection with, discussion of official business.

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

3. Gifts or Benefits that must never be accepted

For the purpose of this policy, gifts and benefits that are considered inappropriate and should never be accepted or given include, but are not limited to:

- Money, regardless of the amount.
- Any item which may be readily converted into cash (e.g. shares).
- Access to confidential information.
- Promise of a new job.
- Preferential treatment (may include reciprocal favours given in return for a service provided by Council).
- Disposition of property or bequest, not necessarily land, can include goods and chattels (furniture, vehicles, tools etc.) by one person to another without payment.

All gifts and benefits offered of a prohibited nature, as outlined above, are to be recorded on the Gifts and Benefits Register Disclosure Form.

Where uncertainty exists as to what action to take regarding the offer of a gift and benefit, regardless of the occasion or purpose, refer to the decision-making guide (Attachment A) to help inform decisions.

Prizes

On occasions, Councillors may enter a competition while representing Council on official business, for example a door prize at a community event.

If the winning of such a prize is valued at less than \$100, does not influence or compromise the integrity and impartiality of the recipient, create a conflict of interest or compromise Council's position in any way, it is deemed reasonable for such a prize to be retained by the prize winner.

Raffle winnings from tickets that a Councillor has paid for privately during an official function are not considered a gift or benefit and will not need to be declared.

Individual Awards Received in an Official Capacity

If a Councillor receives an individual award in recognition of work undertaken in an official capacity which includes components that could be deemed a gift or benefit, then the award must be declared.

Generally, it is deemed reasonable for such a gift or benefit to be retained by the award recipient if it does not compromise the integrity or impartiality of the recipient, create a conflict of interest or compromise Council in any way.

If the award is received in a personal capacity for work unrelated to their elected member duties with Council, then the award does not need to be declared.

Soliciting Gifts and/or Benefits

Soliciting personal gifts and/or benefits is strictly prohibited under all circumstances.

If a Councillor becomes aware of a situation of soliciting gifts and/or benefits, they must report it to the CEO immediately.

The CEO is required to notify the Crime and Corruption Commission of any soliciting of gifts and/or benefits.

Bribery

Acceptance of money or any other gifts and/or benefits perceived as bribery is strictly prohibited in all cases and the offer must be reported immediately to the CEO.

The CEO is required to notify the Crime and Corruption Commission of any offer of money as soon as practicable after the offer has been made.

Council Related Sponsored Travel and Accommodation Benefit (received in an official capacity)

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

Register of Interests

Councillors have a legal requirement to include any gifts and/or benefits of more than \$500 (or multiple gifts and/benefits totalling \$500) in their Register of Interests. Councillors must notify the CEO, using the approved department form, of any changes to their register of interest (or related person register of interest) within 30 days after the interest is acquired or the change happens.

Gifts of cultural or historical significance

Any gifts of cultural or historical significance must be surrendered to Council, regardless of their value.

ATTACHMENTS

Attachment A – Decision Making Flowchart

Attachment B – Councillors Gifts and Benefits Information Sheet

PROCEDURE

Procedures as approved and issued by the Chief Executive Officer, and subject to further revision, amendment and issue under the authority of the Chief Executive Officer.

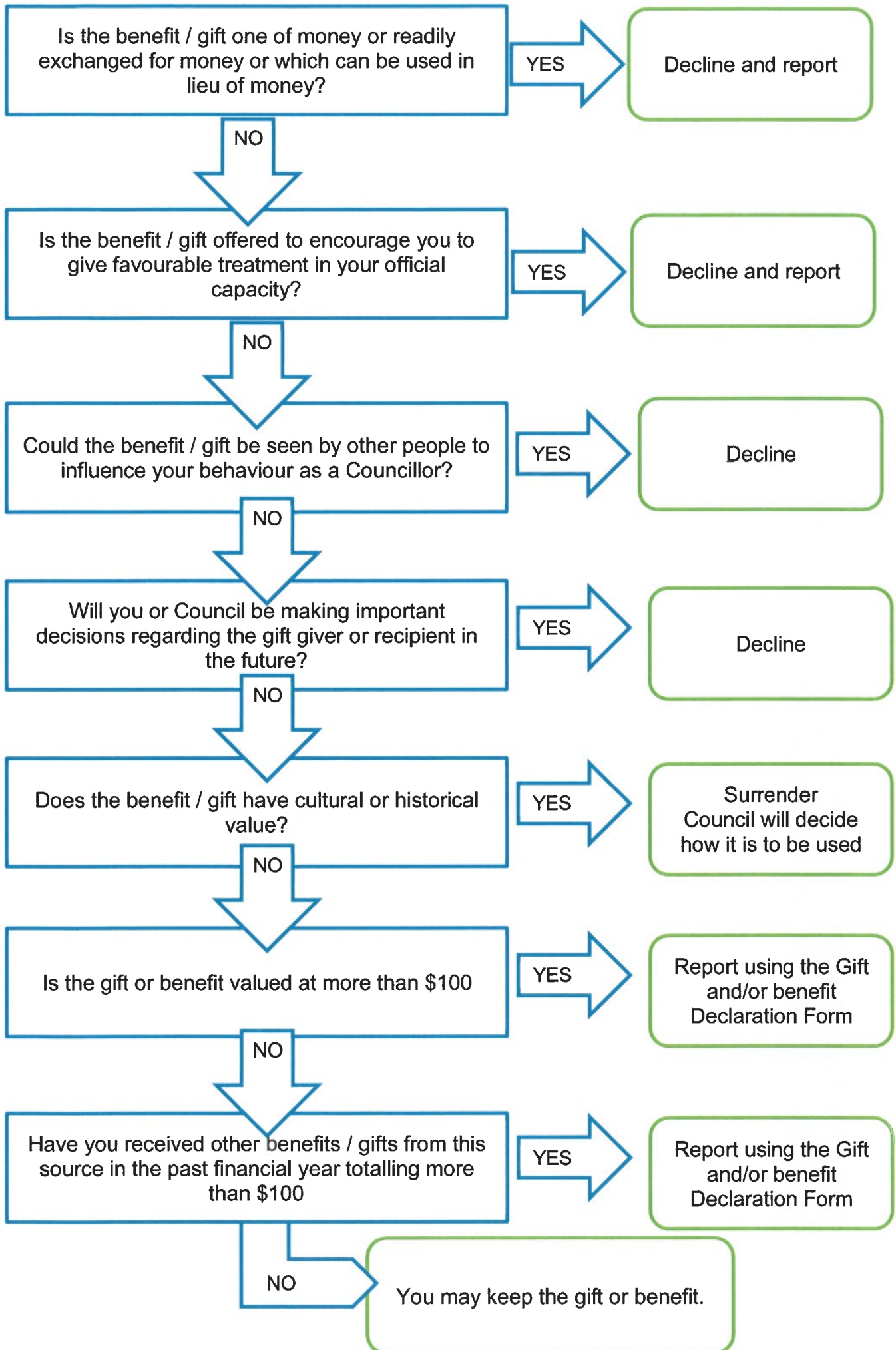
CERTIFICATION



.....
CHIEF EXECUTIVE OFFICER
BANANA SHIRE COUNCIL

5/12/24
.....
DATE

Attachment A - Decision Making Flowchart



Attachment B - Councillors Gifts and Benefits Information Sheet

GIFT or BENEFIT	FORM	TIMEFRAME for lodging form	REGISTER	WEB SITE	OPEN TO INSPECTION BY
<u>Under \$100</u> No perception of conflict of interest	No Action Necessary <i>however be cautious and if there is any doubt, declare</i>				
<u>Under \$100</u> Possible perception of a conflict of interest	Councillors Gift and Benefits Declaration Form	7 days	Register of Gifts and Benefits	No	CEO Councillors
<u>\$100 or more up to \$500</u>	Councillors Gift and Benefits Declaration Form	7 days	Gifts and Benefits Register	No	CEO Councillors
<u>More than \$500</u>	Councillors Gift and Benefits Declaration Form	7 days	Gifts and Benefits Register	No	CEO Councillors
	Form 3 - Register of Interests Update Councillors, Councillor Advisors, CEOs and Senior Executive Employees	30 days	Councillors Register of Interests	Yes	CEO Councillors Public
	Form 4 Related Persons register of Interests Update Related Person	30 days	Related Person Register of Interests	No	CEO Councillors
<u>Sponsored Travel or Accommodation Benefit</u> Other than in an official capacity i.e. 1. NOT exclusively Council business, or 2. a combination of Council business and other.	Councillors Gift and Benefits Declaration Form	7 days	Register of Gifts and Benefits	No	CEO Councillors
	Form 3 - Register of Interests Update Councillors, Councillor Advisors, CEOs and Senior Executive Employees	30 days	Councillors Register of Interests	Yes	CEO Councillors Public
	Form 4 Related Persons register of Interests Update Related Person	30 days	Related Person Register of Interests	No	CEO Councillors
<u>Council Related Sponsored Hospitality Benefit - Any Value</u> In an Official Capacity i.e. exclusively council business	Councillors Gift and Benefits Declaration Form	7 days	Register of Gifts and Benefits	No	CEO Councillors
	<i>Does not have to be registered in the Register of Interests however be cautious and, if there is any doubt, declare.</i>				

Note:

- All registers may also be inspected by "Another person permitted by law to have access to information in the register" e.g. CCC
- Registers must be updated within 5 business days of the Councillors Gifts and Benefits Declaration Form being received