

 <p><b>Mackay</b> REGIONAL COUNCIL</p>	<b>COUNCIL POLICY</b>	
	<b>Gifts and Benefits</b>	
	POLICY NO	041
	DEPARTMENT	Organisational Services
	PROGRAM	Governance & Safety
ENDORSED BY COUNCIL	13 February 2019, Folio 60996	

## 1.0 Scope

This Policy applies to all Councillors and employees of Mackay Regional Council (MRC) who may be offered or may receive gifts and/or benefits whilst undertaking their duties and/or while representing MRC.

This Policy does not apply to electoral gifts to Councillors as defined in the Electoral Act 1992.

## 2.0 Purpose

The purpose of this policy is:

- to provide Councillors and employees guidance on appropriate responses to offers of gifts or benefits in connection with their duties while representing MRC or otherwise related to their association with the MRC.
- to provide Councillors and employees with principles to consider when determining the appropriateness of accepting a gift or benefit.
- to provide Councillors and employees with a process to be followed where a gift or benefit is accepted;
- to support MRC's commitment to open and transparent governance; and
- to minimise the risk of Councillors and employees being exposed to an actual or perceived conflict of interest.

## 3.0 Reference

- *Local Government Act 2009*
- *Local Government Regulations 2012*
- *Public Sector Ethics Act 1994*
- Employee Code of Conduct
- Public Service Commission Directive Number 22/09
- Entertainment and Hospitality Policy

#### 4.0 Definitions

To assist in interpretation, the following definitions shall apply:

**CEO** shall mean the person appointed to the position of Chief Executive Officer under the *Local Government Act 2009* (the Act) and anyone acting in that position.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**Councillor** shall mean the Mayor and elected Councillors.

**Electoral Gifts** shall mean gifts offered to candidates relating to an election and separately governed by the *Electoral Act 1992*.

**Employee** shall mean all employees of Council, including volunteers and contractors.

**Gifts and/or benefits** shall mean a present given voluntarily to show favour toward someone, honour an occasion, or make a gesture of assistance or goodwill, which is offered outside of normal open contractual arrangements. This could include but is not limited to the following examples.

- Cash or the transfer of money;
- Transfer of property of presentational or charitable nature or otherwise;
- Preferential treatment such as the provision or use of property, equipment or services free of charge, at a reduced rate, for a period of time or unspecified period;
- Corporate offers of transportation, accommodation, tickets, meals and functions as part of a major event;
- Loans of money, or equipment including provision of overdraft facilities (e.g. credit card) or guarantor for a loan;
- 
- Catering received or given as part of a meeting, conference, trade display or other event attended which are not part of official duties;
- The sale of property with a sale price below proper valuation;
- Hospitality, including restaurant meals, beverages and entertainment;
- Travel or accommodation (all overseas travel requires disclosure);
- Any bargain deal;
- Alcohol, clothes or products;
- Tickets to the theatre, cultural events, sporting and other events or access to a private spectator box at a sporting or other venue;
- Sports team sponsorship;
- Artworks;
- Souvenirs;
- Awards or prizes including lucky door prizes or similar

**MRC** shall mean Mackay Regional Council.

**The Act** shall mean the *Local Government Act 2009*.

## 5.0 Background

The community expects Councillors and employees to discharge their responsibilities impartially and with integrity. The acceptance of gifts and/or benefits outside of a controlled and transparent process risks creating negative perceptions.

In determining whether acceptance of a gift and/or benefit is appropriate, the two major considerations are:

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

Consequently, it is not appropriate for Councillors or employees 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.

## 6.0 Policy Statement

Councillors and employees must be mindful at all times of their obligation to maintain public confidence in the integrity of MRC's administration and must be aware that acceptance of any gifts and/or benefits from an external party may or may be seen to affect the performance of their official duties, or influence, or be seen to influence their decision-making or behaviour.

Councillors and employees must not ask for or encourage the giving of any form or gift and/or benefit in connection with the performance of their official duties or their association with the MRC.

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

Any offers of gifts and/or benefits from a supplier or tenderers must be immediately reported to the Chief Executive Officer.

This Policy sets out the principles that apply to the offer and acceptance of gifts and/or benefits.

### 6.1 Soliciting Gifts and/or Benefits

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

If a Councillor or employee 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 by Councillors or employees.

## 6.2 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.

## 6.3 Prizes (i.e. lucky door prizes, gifts from conferences or functions, raffles)

On occasions Councillors and employees may enter a competition while representing MRC on official business, for example a door prize at a community event or a business card prize draw at a conference.

If the winning of such a prize does not influence or compromise the integrity and impartiality of the recipient, create a conflict of interest or compromises MRC's position in any way, it is deemed reasonable for such prize to be retained by the prize winner.

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

## 6.5 Individual Awards received in an official capacity

If an employee or 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 subject to the provisions in section 6.9. 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 comprises MRC in any way.

If the award is received in a personal capacity for work unrelated to their employment with MRC, then the award does not need to be declared.

## 6.6 Sponsorship (i.e. Corporate box and event invitations)

- a) MRC Sponsored - Tickets which have been gifted because of some form of sponsorship from MRC will become the property of MRC and will be distributed in accordance with a suitable method as determined by the CEO or Mayor.
- b) General invitations - Any invitations in relation to corporate box, sporting events, concerts or other events issued to a Councillor or employee personally must be declared, even when the invitation appears to be issued on a personal basis, this includes personal invitations for events which MRC sponsors.

## 6.7 Small Tokens of Thanks

These types of gifts (i.e. bottles of wine, box of chocolates) can normally be accepted as a matter of social convention, however the value of the gift, sensitivity of the recipient's position and perception should be considered and declared in accordance with clause 6.9.1

## 6.8 Register of Interests

In accordance with the requirements of the *Local Government Act 2009* and *the Local Government Regulation 2012*, Councillors and Senior Contract Employees must also ensure that any gifts and/or sponsored hospitality benefits received are included in their individual Registers of Interests.

## 6.9 Principles for acceptance of gifts/benefits

Each type of gift and/or benefit carries a level of risk that should be considered when deciding whether it should be accepted or declined.

In determining whether acceptance of a gift and/or benefit is appropriate, the two major considerations are:

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

As gifts and/or benefits can create obligations and expectations, if it can be considered in any way that the gift and/or benefit is given with the intention of influencing a decision or action of the recipient, it must be declined.

Acceptance of a gift and/or benefit may be considered only if it complies with the following principles:

- It does not influence, or have the potential or perceived potential to influence, in any way the integrity and impartiality of the recipient;
- It does not, create a conflict of interest, or a perception of a conflict of interest;
- It does not affect the performance of the recipient's official duties, or be seen to influence the decision-making or behaviour of the recipient, such as but not limited to:
  - granting licences;
  - inspecting and regulating businesses;
  - giving approvals; and
  - letting of contracts.
- MRC does not incur any costs.
- It must not involve money, or anything easily converted to money such as shares.

### 6.9.1 **Gifts and/or Benefits of Nominal Value (less than \$150)**

Where a Councillor or employee is offered a gift and/or benefit of nominal value (less than \$150) MRC deems it reasonable for the recipient to accept and keep the gift and/or benefit, provided that doing so does not breach any part of this Policy or the Act.

This gift and/or benefit is not required to be recorded in the Gifts Register, however may need to be recorded in the Councillor's and Senior Contract Employee's Register in accordance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

**Note: Cash is excluded and should not be accepted under any circumstances.**

Any gift and/or benefit received by a Councillor or employee as appreciation of a task or service carried out by a group of employees or Councillors should be shared with the members of that respective team.

Cumulative gifts and/or benefits received from the same giver which when combined exceed the nominal value threshold of \$150 in a twelve-month period must be disclosed to the CEO. In the case of the CEO and Councillors, disclosure will be to the Mayor. In the case of the Mayor, disclosure will be to the Deputy Mayor. The offer of cumulative gifts and/or benefits which exceed the threshold of \$150 over a period of 12 months must also be entered on the Gifts Register.

### 6.9.2 **Gifts and/or Benefits with a Value of \$150 - \$350**

Any gift and/or benefit received by a Councillor or employee with a value between \$150 - \$350 will become the property of MRC in the first instance. The gift and/or benefit must be entered in the Gifts Register or in the Councillor's and Senior Contract Employee's Register in accordance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

Retention of a gift and/or benefit by the recipient will be at the discretion of either the CEO, Mayor or Deputy Mayor.

Should the decision be that the gifts and/or benefits will not be retained by the recipient, it must be disposed of in an appropriate and transparent manner. For example:

- return the gifts and/or benefits to the giver;
- share the gifts and/or benefits amongst the recipient's team and/or department;
- auction the gifts and/or benefits with the proceeds being donated to charity;
- donate the gifts and/or benefits to a charitable or community facility;
- ownership passed to MRC allowing the gifts and/or benefits to go on public display where appropriate.

### 6.9.3 **Gifts and/or Benefits with a Value of Greater than \$350**

Any gift and/or benefit received by a Councillor or employee with a value greater than \$350 must be reported, and acceptance of the gifts and/or benefits by the recipient will be at the discretion of the CEO, Mayor or Deputy Mayor.

Unless there are specific reasons to support acceptance, approval is unlikely to be given for gift and/or benefit with a value greater than \$350 to be retained by the individual. Retention will only be granted in exceptional circumstances.

Should the decision be that the gifts and/or benefits will not be retained by the recipient, it must be disposed of in an appropriate and transparent manner. For example:

- return the gifts and/or benefits to the giver;
- share the gifts and/or benefits amongst the recipient's team and/or department;
- auction the gifts and/or benefits with the proceeds being donated to charity;
- donate the gifts and/or benefits to a charitable or community facility;
- ownership passed to MRC allowing the gifts and/or benefits to go on public display where appropriate.

Gifts and/or benefits with a value greater than \$350 (whether retained or not) must be entered in the Gifts Register. There may still be a requirement to include receipt of the gifts and/or benefits on an individual Councillors and Senior Contract Employees Register of Interests in accordance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

### 6.9.4 **Ceremonial Gifts**

All ceremonial gifts presented to a Councillor or employee on behalf of MRC will be the property of MRC and **must** be passed to the CEO.

### 6.9.5 **Exceptions - Official Business**

The above limits do not apply in the case of gifts and/or benefits, if the gifts and/or benefits are in relation to official MRC business and/or official duties of an employee or Councillor. The benefit received must relate directly to carrying out official duties and/or fulfilling official responsibilities in relation to the functions and activities of MRC.

The gifts and/or benefits must be reasonable and appropriate to the circumstances and should not be seen as a substitute for general business meetings which would ordinarily be conducted in a workplace.

Reference should also be made to MRC's Entertainment and Hospitality Policy.

## 6.10 Gifts Register

When gifts and/or benefits are received, it is important that they are dealt with in a consistent and appropriate manner. All gifts and/or benefits received over \$150 **must** be recorded in Council's Gifts Register.

Any Councillor or employee who receives a gift and/or benefit is required to fill out the appropriate form and forward the completed form to the CEO within five business days of receipt of the gift and/or benefit.

Should the CEO or Councillor accept a gift and/or benefit he/she is required to submit the form to the Mayor. In the case of the Mayor receiving a gift and/or benefit, this must be reported to the Deputy Mayor.

The Gifts Register will be maintained by the Office of the Mayor and CEO and will include the following information:

- date of the offer;
- details of the person and/or organisation offering the gift;
- the name of the recipient;
- description of the gift;
- estimated value of the gift;
- decision regarding whether the gift should be retained by the recipient or otherwise;
- name of the person who made the decision.

## 7.0 **Review of Policy**

This Policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three years.

---

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendments to Policy	Council	28.09.16
3	Review of Policy	Amendments to Policy	Council	25.10.17
4	Review of Policy	Amendments to Policy	Council	13.02.19



# Notification/Approval of Receipt of a Gift or Benefit

### IMPORTANT NOTES:

1. Do not accept or use a gift and benefit without approval under the Policy.
2. Any gift or benefit offered/received **must** be declared to the CEO (in the case of a Councillor to the Mayor) and **must** be recorded in the Gifts Register. The CEO approves whether a gifts/benefits over the value of \$150.00 may be retained (in the case of the CEO or Councillor this form must be submitted to the Mayor).
3. Please **complete** and **sign** this form within **five (5) business days** of receipt of the gift or benefit.

### SECTION A - EMPLOYEE/COUNCILLOR'S DECLARATION

Employee/Councillor's Name:

Employee Position Number:  
(Leave blank if you are a Councillor)

Department/Program:

Date Gift/Benefit Offered:

Description of Gift/Benefit:

Market Value of Gift/Benefit:

Name of Giver (Organisation or person offering benefit or gift):

Giver's Association to Council:

Giver's Association to Employee/Councillor:

Did you accept the gift or benefit received/offered?  Yes  No

### SECTION B: Employee's/Councillor's advice of all information relevant to matter:

Additional Information or identified conflicts of interest:

#### Employee's/Councillor's Declaration:

1. I have read and understood the Gift and Benefits Council and Administrative Policies.
2. The information submitted by me on this matter is complete and accurate.
3. There is no basis for any actual or perceived conflict of interest.

Date:  Employee/Councillor's Name:  Employee/Councillor's Signature:

### SECTION C: CHIEF EXECUTIVE OFFICER'S/MAYOR'S DECISION

#### Approval Process

1. The Chief Executive Officer approves the notification by an Employee who declares a gift or benefit valued over \$150.00.
2. The Mayor approves the notification by the Chief Executive Officer or Councillor who declares a gift or benefit valued over \$150.00.

Date:  CEO/Mayor's Name:  CEO/Mayor's Signature:

Approved - Retain Gift:  Yes  No

Decision Comments:

Ethics/Declaration  
Mackay Regional Council is collecting your personal information in order to process your application.  
This information will only be disclosed to any other third party with your written authorisation or as we are required to by law.

Office Use Only

Registered ECM - subject Register of Gifts