

Gifts and Benefits Policy



Policy Number:	KASC-STAT-041
Responsible Manager:	Chief Executive Officer
Legislation:	Local Government Act 2009 (QLD) Local Government Regulation 2012 (QLD) Public Sector Ethics Act 1994 (QLD)
Associated Documents:	Employee Code of Conduct Disciplinary Policy Conflict of Interest Declaration of Receipt of Gift/Benefit
Approval Date:	23 August 2023

1. Purpose

- 1.1. The purpose of this policy is to outline Kowanyama Aboriginal Shire Council's (Council) obligations and compliance for the treatment of gifts and benefits.

This policy aims to:

- Provide Councillors and employees instruction on appropriate ways to deal with offers of gifts and/or benefits in connection with their duties whilst representing Council.
- Provide Councillor's and employees with principles and processes when gifts or benefits are accepted.
- Support Council's commitment to open and transparent governance.
- Minimise risks of Councillors' and employee's exposure to an actual or perceived Conflict of Interest or damage to reputation.

2. Scope

- 2.1. This policy governs the treatment of gifts and benefits offered to and/or received by Councillors and employees in the execution of their duties. It applies to all Councillors and Council employees, including permanent, casual, and temporary employees, contractors, volunteers, apprentices, trainees, and work experience students.
- 2.2. This is a discretionary policy, resolved by Council under its powers in accordance with the Queensland Local Government Act (2009) Chapter 2, Section 9.
- 2.3. This policy does not apply to electoral gifts to Councillors as defined in the Electoral Act 1992 or Local Government Electoral Act 2011.

3. Terms and Definitions

3.1. In this policy definitions

Council:	means Kowanyama Aboriginal Shire Council
Councillors:	means the elected Councillors of Kowanyama Aboriginal Shire Council
Council Employees:	means all permanent, casual, and temporary employees, contractors, volunteers, apprentices, trainees, and work experience students.
Conflict of Interest:	is an issue about a conflict between a person's personal interest and the persons official duties with council.
Donor:	refers to the person or organisation making the offer of a gift/benefit to Council, a Councillor or employee.
Fair market value:	the reasonable retail value of something.
Gift/Benefit:	shall mean gift given voluntarily to show favour toward someone, honour or occasion, or make a gesture of assistance or goodwill which is good outside of normal open contractual arrangements.

4. Acronyms and Abbreviations

4.1. In this policy:

KASC:	means Kowanyama Aboriginal Shire Council.
Chief Executive Officer:	means CEO

5. Principles

Disclosure of offers or receipt of gifts and benefits are guided by the following principles:

- The Community expects Councillors and employees to discharge their responsibilities impartially and with integrity.
- Accordingly, the acceptance of gifts and/or benefits outside of a controlled and transparent process can result in negative perceptions and damage to Council's reputation.
- Major considerations in determining whether acceptance of a gift/ benefit is reasonable include:
 - The intent in which the gift/benefits were given
 - The public perception of acceptance of the gift/benefit.
- It is not appropriate for Councillors or employees to be offered or to accept a gift or benefit if that gift or benefit was intended to be in exchange for a benefit from Council to the giver of the gift or benefit.
- There can be circumstances where the offering or acceptance of a gift or benefit is reasonable, and a transparent process for consideration and disclosure in a Register is outlined in the following subsections.

6. Policy

6.1. Acceptance of gifts or benefits

If a Councillor or employee is offered a gift, they must consider why the gift is being given and whether acceptance is appropriate. Each type of gift carries with it different risks that must be considered when deciding whether acceptance is appropriate.

The following must be considered:

- Relevant legislation
- Why the offer or gift was made
- The value and type of the gift/benefit
- The likely public perception of acceptance
- Whether a tender or quotation or contract negotiations are pending or underway

6.2. Circumstances where the acceptance of a gift or benefit is not appropriate

Councillors and employees must not accept a gift or benefit irrespective of value, if any of the following apply:

- It is considered as a gift of influence – that is, it is seen or maybe seen to affect the performance of an individual's duties or could be seen as to influence a decision-making process.
- The donor or any reasonable observer would interpret that the recipient may be under an obligation to the donor because of receiving the gift.
- It is not offered openly.
- It is an offer of money.

Any gifts or benefits offered in this manner must be reported immediately to the relevant Executive Manager or CEO (for employees) or to the Mayor (for Councillors and CEO). If unsure Councillors and employees should decline offers.

6.3. Circumstances where it may be appropriate to accept a gift or benefit

Acceptance of a gift or benefit may be appropriate if it complies with the following:

- It does not influence, or has the potential or perceived potential to influence, to compromise the integrity of the recipient, or create a conflict of interest.
- It is not related to advice or decisions about for example: granting licences, inspecting, and regulating businesses, granting of approvals, letting of contracts, procuring goods/services, the provision of Council services, or the provision of a Council grant.

The following gifts are considered low risk and can be generally by accepted without addition to the Gifts Benefits Register:

- Gifts under a nominal value of \$50 made in gratitude for carrying out a specific task e.g., a small personal gift to a Councillor or employee for speaking at a function.
- Low value corporate gifts made as a marketing initiative, e.g., mass produced as mementos at a conference or course.
- Ceremonial or symbolic gifts from visiting organisations provided to Council e.g., plaque of appreciation or memento.

Gifts made to the Council remain the property of the Council and not the individual.

6.4. Declaring and reporting gifts or benefits on Council's register

When gifts and benefits are received over the nominal value of \$50, it is important that they are dealt with in a consistent and appropriate manner.

All gifts received must be recorded in Council's gift register. An employee who receives a gift or benefit is required to fill out the appropriate form (refer to Attachment A) and forward the completed form to the CEO within five business days of receipt of the gift or benefit.

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

The Gift Register must include:

- The date the gift was offered
- The date the notification was made
- The recipient and donor
- Estimated fair market value
- Determination on how the gift was dealt with

The CEO/Mayor may determine that the gift be retained by the individual; or returned; or retained by Council and distributed for example as a prize at the Council's Christmas Party. Councillors and Employees are encouraged to donate gifts for this purpose to share the benefits and increase openness and transparency.

6.5. Gifts exceeding nominal value of \$500

Councillors are required to record any gift over \$500 or multiple gifts which together total more than \$500 on a Councillor's Individual Register of Interests pursuant to Section 291 of the Local Government Regulation, 2012.

The CEO and Executive Managers must disclose gifts over \$500 or multiple gifts which together total more than \$500 on their Register of Interests pursuant to Section 291 of the Local Government Regulation 2012.

7. Responsibilities

7.1. All Councillors and Council employees

- Must comply with this policy when considering the acceptance of gifts or benefits in the context of their official duties.

7.2. Managers

- Must implement controls within their area of responsibility to ensure compliance with this policy.

7.3. Executive Manager Corporate & Financial Services

- Shall be the custodian of this policy
- Shall ensure the maintenance of a suitable Gifts and Benefits Register.

7.4. Chief Executive Officer, Mayor & Deputy Mayor

Shall make determinations upon receipt of Gift/Benefit Declaration Forms and decide for those determinations to be entered into the Gifts and Benefits Register.

8. Risk

- 8.1. This policy seeks to minimise the risk to Council, Councillors, and employees of actual or perceived Conflict of Interest or damage to reputation through the acceptance of gifts or benefits during their official duties. It provides instruction on appropriate ways to consider, deal with and transparently document offers of gifts and/or benefits in connection with their duties.

9. Policy Review

- 9.1. The policy is to be reviewed in accordance with the Policy Framework.

- 9.2. Kowanyama Aboriginal Shire Council reserves the right to vary, replace, or terminate this policy from time to time.

10. Approval

- 10.1. This policy was duly authorised by the Chief Executive Officer on 23 August 2023 as Kowanyama Aboriginal Shire Council's Gifts and Benefits Policy and shall hereby supersede any previous policies of the same intent.