

# Wagga Wagga City Council

## GIFTS AND BENEFITS POLICY

<b>REFERENCE NUMBER</b>	POL 107		
<b>ORIGINAL APPROVAL DATE</b>	November 2007		
<b>RESPONSIBLE MANAGER</b>	Manager Audit, Risk and Governance		
<b>RESPONSIBLE DIRECTORATE</b>	Governance		
<p>This document is to be reviewed: every four years or in the first twelve months of the new term of Council, whichever is the earliest.</p> <p>Next Review Date: September 2020</p>			
<b>Revision number</b>	<b>Issue Date</b>	<b>Council Resolution</b>	<b>Council Meeting Date</b>
1	5 November 2007	Res No: 07/460.6	19 November 2007
2	25 July 2011	Res No: 11/165.2	25 July 2011
3	May 2013	Res No: 13/187	29 July 2013
4	August 2013	Res No: 13/224.1	26 August 2013
5	July 2016	General Manager approval	August 2016
6	August 2017	Res No: 17/279	28 August 2017

## PART 1: INTRODUCTION

Council is committed to preventing corruption in all its forms. One form of corruption that can seriously damage the credibility of an organisation is bribery.

Council recognises that gifts and benefits of nominal value are frequently offered and accepted and that there is little risk of harm in permitting this to occur. However, the Policy also recognises that on occasions, gifts and benefits are offered to influence the attitudes or decisions of Council officials in favour of the giver. In this case the gifts or benefits must be regarded as bribes and the giving and acceptance of them is a criminal offence.

### 1.1 Policy Objectives

The purpose of this Policy is to establish guidelines for dealing with gifts and benefits and establish transparent processes so that the integrity and independence of the individual and the Council is not compromised.

The objectives of this Policy are to:

- explain gifts and benefits, including token gifts and benefits and gifts and benefits of value
- provide clear guidelines on how to deal with gifts and benefits
- ensure that Council officials understand and meet their obligations under Council's *Code of Conduct and Conflict of Interests Policy* so as not to be compromised or appear to be compromised because of a gift or benefit
- demonstrate that Council has a fair, transparent and accountable mechanism for dealing with gifts and benefits

### 1.2 Scope of Policy

This Policy applies to all Council Officials as defined within this Policy.

This Policy does not deal with political donations and gifts that are dealt with under the *Environmental Planning and Assessment Act 1979*.

This Policy operates in addition to all other obligations under the *Local Government Act 1993* (the Act), any other legislation, or relevant codes and policies regarding the disclosure of any interests.

## 1.3 Definitions

Benefit	<p>A non-tangible item of value (eg a new job or promotion, preferential treatment or access to confidential information) that one person or organisation confers on another. Some examples include:</p> <ul style="list-style-type: none"> <li>• Tickets to sporting events or other entertainment;</li> <li>• use of facilities such as a gymnasium or holiday home;</li> <li>• free or discounted travel, Frequent Flyer points;</li> </ul>
Bribery	<p>Is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity.</p>
Council Official	<p>An individual who carries out public official functions or acts in the capacity of a public official. These include Councillors, members of staff, members of Council committees, conduct reviewers and delegates of Council.</p>
Corruption	<p>The abuse of public office (ie public trust) for private or personal advantage.</p>
Cumulative gifts	<p>A series of small gifts, each of which is of minimal value, may have an aggregate value that exceeds Council's stipulated nominal value. Such circumstances need to be treated in the same way as gifts which exceed nominal value.</p>
Delegate of Council	<p>A person or body, and the individual members of that body, to whom a function of Council has been delegated.</p>
Relative(s)	<p>Shall mean, but not be limited to a partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece or an adopted child of the person</p>

<b>Gift</b>	
<i>Cash-like gift</i>	Includes, but is not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
<i>Gift of influence</i>	A gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.
<i>Gift of gratitude</i>	A gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.
<i>Token Gifts</i>	<p>Items of minimal value that are given in gratitude for services provided such as speaking at a conference or training seminar, end of year functions or local social or cultural events. Some examples of token gifts include:</p> <ul style="list-style-type: none"> <li>• Modest bottle of wine</li> <li>• Chocolates</li> <li>• Ties/scarves</li> <li>• Stationery - pens or diaries</li> <li>• Coffee mugs, coasters - tie pins</li> <li>• Clothing – caps T-shirts, Polo's etc</li> </ul>
<i>Ceremonial gift</i>	An official gift from one agency to another agency eg commemorative plaque from an overseas delegation. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual.
<b>Gift &amp; Benefits Register</b>	An official agency record that details gifts and benefits received by staff and how they were managed.

More than nominal value	Is any gift or benefit that has a value of more than \$50 including, but not limited to, tickets to major sporting events, discounted products for personal use or corporate hospitality at major sporting events.
Nominal Value	A value that usually does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties. For the purpose of this Policy, Council has determined that \$50 is the maximum nominal value of any gift or benefit.
Official duties	The work done by a public official as defined by relevant or governing legislation (and regulations), the official's position description or lawful directions given by a supervisor.
Staff	All employees of Wagga Wagga City Council (full-time, part-time, temporary or casual). It also includes, for the purposes of this Policy only, all volunteers and contractors (who principally provide their labour).

## 1.4 Legislative Context

Corruptly receiving a gift or benefit is an offence under both the common law and NSW legislation.

### (1) Crimes Act 1900 (NSW)

Section 249B(1) of the Crimes Act 1900 (NSW) creates an offence if any employee corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person any benefit as an inducement to do, or not do, something in relation to their official duties. This also pertains to receiving benefits for showing favour or disfavour to any person in relation to their official duties.

### (2) Local Government Act 1993

Section 440 of the Act requires that councils adopt a code of conduct. –The section states that serious corrupt conduct, of which bribery is an example, may lead to the dismissal or temporary suspension from office of a Councillor or of a staff member.

### (3) Independent Commission Against Corruption Act 1988 (ICAC Act)

Under s11 of the ICAC Act, the General Manager has a duty to inform the ICAC about any matter that he or she suspects on reasonable grounds concerns or may concern corrupt conduct.

## 1.5 Related Documents

- Code of Conduct
- POL 112 - Conflict of Interests Policy
- Statement of Business Ethics
- POL 100 - Fraud and Corruption Policy
- POL 099 - Good Governance Policy
- POL 097 – Protected Public Interest Disclosures Policy
- CS.GR.31 - Gifts and Benefits Procedure

## 1.6 Code of Conduct

Gifts and Benefits are dealt with under Part 5 of the *Code of Conduct (Personal Benefit)*. This Policy expands on the provisions of the Code of Conduct and establishes a procedure for disclosing and, where necessary, surrendering certain gifts and benefits.

## PART 2: POLICY CONTENT

### 2.1 General Provisions

- 1) Council generally discourages the acceptance of gifts or benefits by Councillors, Council staff or Council delegates (Council Officials) unless such gifts are made to the Council as a corporate body rather than to an individual.
- 2) Council Officials must not:
  - a) Seek or accept a bribe or other improper inducement;
  - b) Seek gifts or benefits of any kind
  - c) Accept any gift or benefit 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
  - d) Accept any gift or benefit of more than token value
  - e) Accept an offer of cash or a cash-like gift, regardless of the amount
- 3) No gifts **of any value** (including nominal value) are to be accepted by Councillors, Council staff or Council delegates (Council Officials) in any circumstances during the course of a tender period.
- 4) If a gift or benefit is received in the course of a Council Official's duties and relates to the work of Council, or has a public benefit, it may be accepted. All such gifts

become the property of Council and must be recorded in Council's Gifts and Benefits Register. Such gifts may be disposed of as provided for by clause 2.3.11 of this Policy.

- 5) No gifts or benefits of more than nominal value may be accepted by Council Officials, except in the circumstances set out in paragraph 2.3.1.(3) below.
- 6) Under no circumstances are offers of money, including items that can be redeemed for money such as gift vouchers, lotto/lottery/scratchie tickets, tickets to events, travel tickets, or cash-like gifts such as memberships, entitlements to discounts, goods and/or services, to be accepted.
- 7) You must always consider the purpose, intent and value of the gift or benefit being offered before making a decision to accept such gift or benefit regardless of value or circumstance.

## 2.2 Corporate Complimentary Invitations

- 1) Notwithstanding the above, corporate complimentary invitations (complimentary invitations) may be accepted where:
  - Council is a significant financial sponsor (in cash or kind) of an event;
  - the terms of such sponsorship as resolved by Council, to provide for the provision of complimentary invitations;
  - it is appropriate and would be expected that Council be represented in an official capacity at an event at Councillor and/or Executive Team level,
  - the acceptance of such complimentary invitation does not bind by virtue of creating a sense of obligation or commitment, or imply such binding of the organisation to an individual or body.
- 2) However, complimentary invitations cannot be accepted in any circumstances if there is a matter before the Council for consideration and determination, or during a tender period. Discretion also needs to be exercised if it is known that a matter is or may be coming to Council in the near future for determination.
- 3) For the purposes of this clause, acceptance of any complimentary invitation(s) is at the discretion of the Mayor, with advice from the General Manager, as far as they pertain to Councillors, at the Mayor's sole discretion when they apply to the General Manager and at the General Manager's sole discretion where they pertain to members of the Executive Team or other appropriate members of staff.
- 4) The offer of all such complimentary invitations (whether accepted or not) must be recorded in the Gifts and Benefits Register.
- 5) If acceptance of the complimentary invitation(s) is deemed to be inappropriate and the invitation(s) or the contents thereof cannot be returned, then the provisions of clause 2.3.11 apply.

## **2.3 Specific Provisions**

### **2.3.1 Special Circumstances**

- 1) Gifts to relatives – Council staff must take all reasonable steps to ensure that their relatives are not the recipients of gifts and benefits that could be perceived to be an attempt to influence the behaviour of that Council Official.
- 2) Prizes and gifts - On occasions Council officials may receive a prize or gift as a result of entering a competition while engaging in official Council business. Any such gifts/prizes that are received shall be deemed to be the property of Council, not the individual, and may be disposed of as provided under clause 2.3.11 of this Policy.
- 3) Gifts that cannot be returned – There may be circumstances where a gift, unacceptable under Council’s Policy, is inadvertently accepted by a Council official or may not be easily returned. For example, in some cultures where non-acceptance or returning a gift may cause offence, insult or embarrassment. Or the value of such gift is unknown at the time of receipt. Such gifts shall be deemed to be the property of Council and disposed of appropriately as set out in clause 2.3.11 of this Policy. Gifts of more than token value that cannot be reasonably refused or returned must be disclosed promptly to the General Manager, Mayor or your supervisor.

### **2.3.2 Forms of Gifts**

Gifts come in many forms and are given for a variety of reasons, some reasons being appropriate, whilst others inappropriate. Gifts may be categorised as ones of influence, gratitude, token or ceremonial – each providing a different perspective of its intent.

The intent of the gift giving provides some basis for decision making in determining whether a gift should be accepted or declined, and should be considered in consult with the other parameters provided in this Policy.

### **2.3.3 Nominal value**

One factor in determining whether a particular gift or benefit may be accepted is its value. The value of a gift or benefit will determine how it is dealt with. Council has a nominal value of \$50. Examples of gifts and benefits of nominal value would be:

- Inexpensive pen or stationery
- Box of chocolates
- Modestly priced bottle of wine

By contrast, the following gifts and benefits would be likely to have more than the stated nominal value of \$50:

- Tickets to sporting events or other entertainment eg football matches, cocktail parties, concerts\*

- Works of art
- Jewellery
- Free or discounted travel
- Use of holiday homes

\*In circumstances set out in clause 2.2 above, the application of nominal value does not apply.

### **2.3.4 Token gifts**

Token gifts and moderate acts of hospitality include:

- Free or subsidised meals and/or beverages provided infrequently (and/or reciprocally) by representatives of other public sector agencies or at corporate training or conferences
- Free meals and/or beverages provided to public officials who formally represent Council at government-related functions or events

If a Council Official attends any business meeting or a meeting with community members at which food and/or beverages are purchased, any costs incurred for that Council Official should be borne by that individual so as to avoid a perception of indebtedness, even though such amount may not exceed the nominal value.

### **2.3.5 The Giving of Gifts by Council**

There may be occasions when it is appropriate for Council to give gifts or benefits to individuals from other public or private agencies. Such gift or benefit is to be of a value appropriate to the circumstances and with endorsement from the General Manager. Appropriate caution should be exercised when the proposed recipient or organisation has a continuing business relationship with Council.

All such gifts will be recorded in Council's Gifts and Benefits Register.

### **2.3.6 Reporting of Offering of Gifts or Benefits**

Council officials who receive a gift or benefit, *regardless of the value*, must complete the Gifts and Benefits Register Form attached as Appendix A (see attached) as soon as practical after receiving the gift or benefit. Such gift or benefit is not to be used, consumed or disposed of prior to finalisation of the approval process including the General Manager's authorisation.

### **2.3.7 The Offering of a Gift or Benefit during a Tender Period**

Under no circumstances are gifts or benefits **of any value** (including nominal value) offered by a tenderer (or any related entity or individual) during the course of a tender period, to be accepted by a Councillor, Council staff or Council delegates (Council Officials).

If a gift or benefit is offered during a tender period the General Manager must be notified immediately.

### **2.3.8 *Improper and undue influence – private benefit***

A Council official must not:

- use their position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for themselves or somebody else.
- take advantage (or seek to take advantage) of their status or position with or of functions they perform for Council in order to obtain a private benefit for themselves or for any other person or body.

### **2.3.9 *Offering of a Bribe***

If a Council Official is offered a bribe, corrupt inducement or reward, such matter must be reported to the General Manager immediately. The offer must not be accepted in any circumstances.

Any Council Official who believes they have been offered a bribe must:

- Immediately reject the offer
- Terminate the interaction with the person
- Keep a record of the events
- Inform their supervisor (or in the case of a Councillor, the General Manager)
- The supervisor must inform the General Manager immediately
- The General Manager must inform ICAC and the Police

The General Manager has a duty under section 11 of the Independent Commission Against Corruption Act 1988 to notify the Independent Commission Against Corruption of any possible corrupt conduct.

### **2.3.10 *Conflict of Interests***

Consideration should also be given by Council officials as to whether or not acceptance of a gift or benefit is, or could be perceived to be, a conflict of interest. Council's Code of Conduct and Conflict of Interests Policy should be applied in these circumstances.

### **2.3.11 *Gifts or benefits that become the property of Council***

The General Manager has the discretion to dispose of gifts or benefits, deemed to be those of the Council, in an appropriate manner. Such disposal may be by way of:

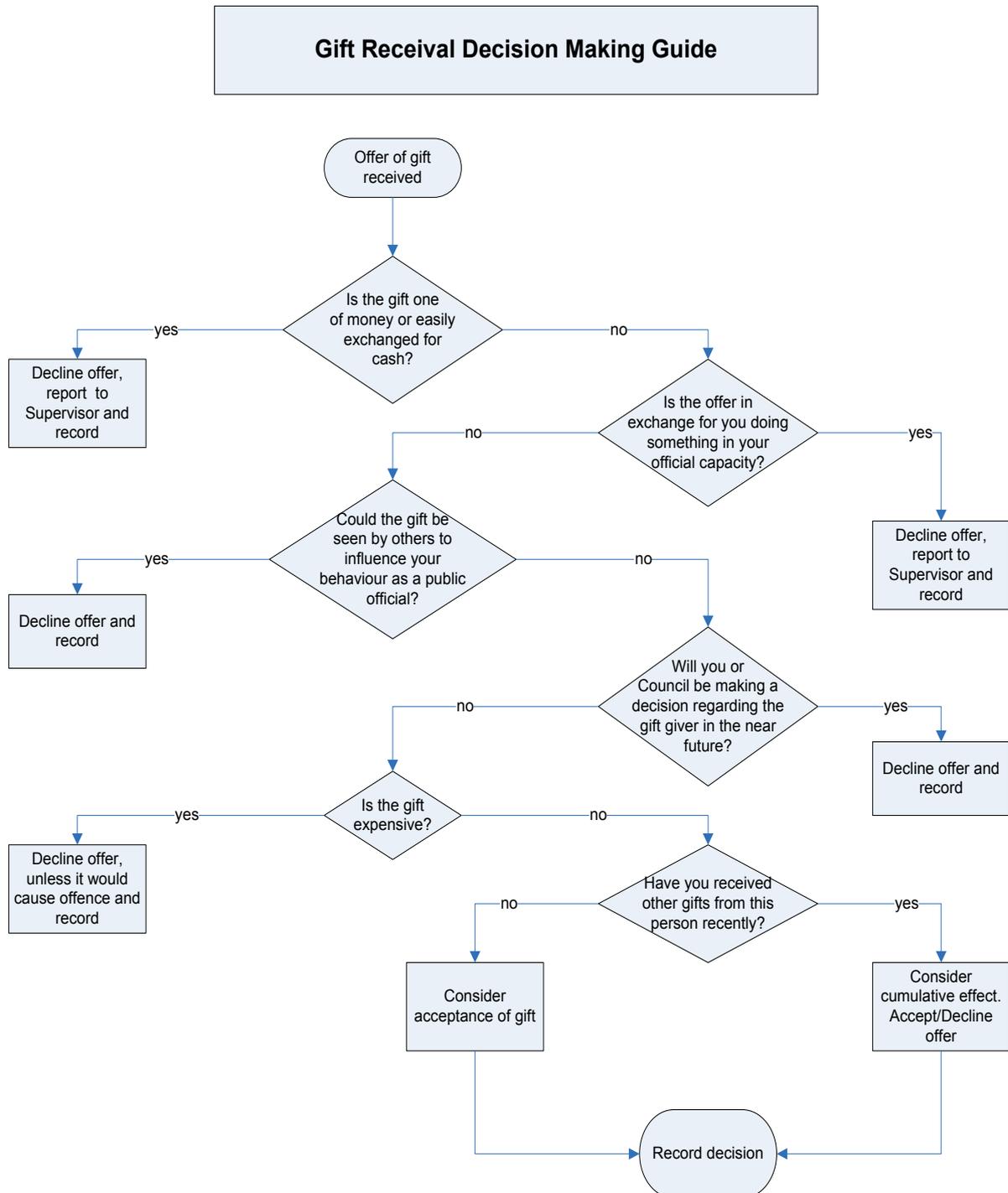
- Holding an auction with all proceeds going to a charity which provides services to the local community;

- Donating such goods to a charity that provides services to the local community;
- Sharing the gift or benefit amongst all staff for the purposes of performing council operations (eg a computer printer that could be networked);
- Holding a fundraiser with the gifts or benefits as prizes.

## POLICY IMPLEMENTATION GUIDELINES

This Policy will be implemented using Council's Gifts and Benefits Procedure.

Guidance on decision-making is provided below:



## 2.4 Gifts and Benefits Register Form



### GIFTS AND BENEFITS REGISTER

**Privacy and Personal Information Protection Notice** The personal information provided is collected for the purpose as stated on this document. Access is limited to Council employees and other authorised persons. Supply of the personal information is legally required and non-supply could cause delay or inability to proceed in the processing of this form. The personal information will be stored in Council's systems.

EMPLOYEE	
DATE	
NAME	
POSITION HELD & DIRECTORATE	
GIFT OR BENEFIT	
Date Gift or Benefit was offered or given to you	
Who offered or gave you the Gift or Benefit? Full name or Company/Organisation	
Nature of the Gift or Benefit	
Circumstances in which the Gift or Benefit was offered to you – why was it offered?	
Estimated value of the Gift or Benefit (\$)	
What did you do with the Gift or Benefit?	
Employees Signature and Date	
Manager/Director Signature and Date	
GENERAL MANAGER OR DELEGATES CERTIFICATE	
Declaration received by me on (date)	
Recommended Action: (approve/donate)	
Signed and Dated	
Position	

**Please sign and forward to Corporate Governance**

Corporate Governance Only:

Date Received:	ECM Register No:
Governance Officer Name:	Signature:



## GIFTS AND BENEFITS REGISTER

**PERSONAL BENEFIT** For the purposes of this Return, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### **Gifts or benefits**

#### **1 You must not:**

- seek or accept a bribe or other improper inducement
- by virtue of your position, acquire a personal profit or advantage, which has a monetary value, other than one of a token value.

**2 You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:**

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise, deviate from the proper exercise of your official duties.

**3 You may accept gifts or benefits of a nominal or token value up to a monetary amount of \$50 that do not create a sense of obligation on your part.**

### **Token gifts and benefits**

**4 Generally speaking, token gifts and benefits may include:**

- gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- free meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops
- refreshments, of a modest nature, provided at conferences where you are a speaker
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages
- invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as, Council committees and community organisations.

### **Gifts of value**

**5 You must never accept an offer of money or any other item which can be redeemed for cash, regardless of the amount.**

**6 In general, you must not accept gifts and benefits that have more than a nominal or token value. These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training excursions.**

**7 If you receive a gift of more than token value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to your supervisor, or the General Manager. The supervisor or General Manager will ensure that any gifts received are recorded in a Gifts Register.**

**8 You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.**

**9 You must also take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour immediate family members ordinarily include parents, spouses, children and siblings.**

**10 Councillors and designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less (required to be included in the disclosure of interests returns -section 449)**

### **Improper and undue influence**

**11 You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.**

**12 You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body**