



attachment
to
item 67

Attachment 1
Hawkesbury City Council
(Draft) Gifts and benefits Policy

date of meeting: 8 April 2008
location: council chambers
time: 5:00 p.m.

Hawkesbury City Council



Hawkesbury City Council

DRAFT

**Gifts and Benefits Policy -
Guidelines for Councillors and Staff**

25 March 2008

GIFTS AND BENEFITS POLICY - Guidelines for Councillors and Staff

1. INTRODUCTION

- 1.1 In the course of their public duties, both Councillors and staff may encounter situations in which they are offered gifts or benefits.
- 1.2 Where a gift or benefit may be offered to a Council Officer (whether a Councillor or staff member), the Officer must ensure that the person or organisation offering the gift or benefit clearly understands that the offer of a gift or benefit will not influence the Council Officer in the performance of their duty. The Council Officer must also be conscious of the need to ensure that there is no public perception of undue influence, which may arise from the offer of a gift or benefit.
- 1.3 Ratepayers and residents of Hawkesbury City Council have a right to expect that the business of the Council will be conducted efficiently, and with impartiality and integrity. This policy is intended to provide guidelines for Council Officers to ensure that Council operations remain transparent and accountable, and are conducted in a way that prevents both the possibility and perception of corrupt conduct.
- 1.4 To meet this requirement Council Officers should:
 - never solicit gifts and benefits;
 - never accept gifts of money;
 - always consider the value and purpose of a gift or benefit in determining whether the gift or benefit should be accepted;
 - never provide a private service in exchange for a gift or benefit.

2. SCOPE

- 2.1 This policy relates to all gifts and benefits offered to a Council Officer of Hawkesbury City Council. The policy is particularly relevant to Council Officers involved in making decisions or determinations and/or who are required to deal with members of the public and the private sector in such areas as:-
 - providing services;
 - granting leases and licences;
 - regulation, including inspections and granting approvals;
 - assessment of Development Applications;
 - purchasing goods and services;
 - engaging consultants and contractors;
 - considering and assessing Tenders and Expressions of Interest.
- 2.2 It is understood that, wherever possible, staff involved in procurement, the assessment of tenders, and/or enforcing regulatory requirements, should not be given responsibility for handling the ongoing client relationship with that person/organisation or applicant following the determination of a decision with respect to those functions. However due to the small size of each department within the organisation and the corresponding limited number of qualified staff, it is acknowledged that in practical terms that it may be difficult to undertake this separation of functions.
- 2.3 Council Officers who find themselves in this situation e.g. requesting quotes for a particular service and then monitoring progress of the successful organisation undertaking the job, should be extremely mindful of public perception that may colour the acceptance of any gift or benefit from organisations in these situations. The decision matrix table (Attachment 1) should assist decisions made in this regard.

3. DEFINITIONS

3.1 Council Officers - for the purpose of this Policy, a *Council Officer* includes Councillors, employees, contractors and volunteers representing Council in an official capacity.

3.2 Gift - The Independent Commission Against Corruption (ICAC) in its Toolkit (dated June 2006) "*Managing Gifts and Benefits in the Public Sector*" defines a gift as:

"An item of value (eg. gift voucher, entertainment, hospitality, travel, commodity, property etc) which one person or organisation presents to another. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed."

This purpose and how it affects how it should be managed, also relates to Benefits.

Within this broad definition gifts can be further differentiated as follows -

3.2.1 *Gift of Influence* - A gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future. Some examples of these sorts of gifts are: money, alcohol, clothes, products and tickets.

3.2.2 *Gift of Gratitude* – A gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. These could be flowers, a bottle of inexpensive wine or chocolates. Gifts presented to staff and or Councillors who speak at official functions would be considered Gifts of Gratitude.

3.2.3 *Token Gift* - A gift that is offered in business situations to an agency or public official representing an agency. Such gifts are often small office or business accessories (e.g. pens, calendars, folders, coasters, pins) that contain the company logo. They are usually products that are mass-produced and not given as a personal gift but one on behalf of the organisation. The definition of a token gift would also extend to samples within a nominal value (generally less than \$10) that are offered to illustrate what the company could provide. These may include ties, scarves, printed material, pens, magnets, rulers etc usually with the company's logo.

3.2.4 *Ceremonial Gift* – An official gift from one agency to another agency. 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 and not a particular individual. These are more commonly given by delegations of Sister City or international exchange groups providing something, which is representative of the Town or City where the visitors come from (eg. history book, fan, instrument, decorative ornament, plaque etc). These gifts may, although not always be above the nominal value in worth.

3.3 Benefit - A non-tangible item of value that one person or organisation confers on another. A benefit is something, which is believed to be of value to the receiver, such as a service.

Examples include:

- Access to a private spectator box at a sporting venue.
- A new job or a promotion.
- Preferential treatment, such as queue jumping.

3.4 Bribe - A gift or benefit offered to or solicited by a public official to influence that person to act in a particular way; eg. offering of money or a holiday, employment and political favours.

3.5 ICAC - The Independent Commission Against Corruption is a public authority created by the NSW Parliament under the [Independent Commission Against Corruption Act 1988](#). ICAC was established to promote the integrity and accountability of public administration. Its functions are to investigate, expose and prevent corruption involving or affecting public authorities or public

officials, and educate public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and on the community.

4. ROLES AND RESPONSIBILITIES

Authorised Officer	Roles and Responsibilities
Council Officer - Councillors, employees, contractors and volunteers representing Council in an official capacity	<ul style="list-style-type: none"> ▪ Follow Policy guidelines on accepting, reporting, recording and disposing of offers and receipt of gifts and benefits. ▪ Follow the ICAC's guidelines in regards to reporting offers or actual bribes directed at themselves or other Council Officers. ▪ If involved in a regulatory, inspectorial, assessment of development applications or tenders, granting leases, purchasing products or services, engaging contractors and consultants, take extra care regarding public perception of the acceptance of any gifts.
General Manager's Personal Assistant	<ul style="list-style-type: none"> ▪ Maintain and report on the contents of the Gifts and Benefits Register.
Director Support Services	<ul style="list-style-type: none"> ▪ Review Policy at appropriate times and within 12 months of an Ordinary Local Government Election.
General Manager	<ul style="list-style-type: none"> ▪ Follow the ICAC's guidelines on reporting offers or actual bribes. ▪ Sign off on all entries to the Gifts and Benefits Register. ▪ Make decisions on appropriateness of keeping gifts, whether gifts are personal or to be received on behalf of Council and of disposal in the cases where the gift is accepted on behalf of the organisation.

5. GOVERNING POLICY/DOCUMENTS/LEGISLATION

5.1 This Policy should be read in conjunction with:

- (i) The Provisions of Chapter 14 - Honesty and Disclosure of Interests of the Local Government Act 1993.
- (ii) Hawkesbury City Council's Code of Conduct.

5.2 Further information or guidance in association with this issue can be obtained from the following Independent Commission Against Corruption publications:-

- *Gifts, Benefits or Just Plain Bribes? – Guidelines for Public Sector Agencies and Officials.*
- *Bribery, Corrupt Commissions and Rewards - June 2006 ICAC Newsletter.*
- *Managing Gifts and Benefits in the Public Sector Toolkit – ICAC - June, 2006.*

Copies of the above documents may be obtained from the ICAC web site at www.icac.nsw.gov.au.

6. INTERNAL CONTROLS

6.1 Specification of "token" and "nominal" values are outlined in this policy to provide guidance to Council Officers on monetary values appropriate for gifts and benefits to be accepted.

- 6.2 Recording and signing off by the General Manager of "nominal value" gifts and benefits are to be undertaken through the Gift and Benefit Register, so that there is an authorisation and acknowledgement of the acceptance. These will be reported to Senior Management at regular intervals.

7. AMENDMENTS AND REVIEW

- 7.1 Due to the nature of this Policy and the possible implications that may flow from any gift or benefit received, this Policy may be reviewed at any time. However the Policy will be reviewed within 12 months of an Ordinary Election of the Council. Suggested amendments should be forwarded to the Director Support Services.

8. GIFTS AND BENEFITS - PERCEPTION AND INTENTION

- 8.1 The intentions of the gift giver and the possible "public perception" which may arise from a decision to accept a gift or benefit should be considered by a Council Officer prior to a decision to accept a gift or benefit.
- 8.2 If the likely perception of the gift-giving relationship is that the gift could influence the intended recipient's performance of his or her official function, then the gift should not be accepted.
- 8.3 If the public official is a regulator of the person offering the gift or benefit or is about to make a decision which could affect the interests of the person offering the gift or benefit, it is more than likely that the gift or benefit would be perceived as inappropriate, eg. if a Councillor was to be deciding on a Development Application in which the person offering the gift (applicant or legal representative) was associated, it would not be acceptable for the Councillor to take the gift even if it was considered by the person to be receiving as harmless and within the nominal value.
- 8.4 If a gift or benefit is offered to a public official in a public forum, it is less likely to be perceived as a gift of influence than if it were offered in a private context, e.g. a bunch of flowers as a thank you.
- 8.5 Expensive gifts or benefits are more likely to be perceived as gifts to win favours. eg. While the acceptance of alcohol of a "nominal value" may be considered appropriate to receive in the right circumstances, an expensive bottle (vintage champagne or scotch) or a large quantity of alcohol (case of beer) would not be appropriate.
- 8.6 Council Officers should take all reasonable steps to ensure their immediate family members are not the recipients of gifts and benefits that could be perceived as an attempt to influence the behaviour of the public official. Gifts from work related contacts offered to or received by immediate family members of staff are to be brought to the General Manager's attention in written form.
- 8.7 The cumulative effect of previous gifts given by an agency or individual to a public official should also be considered. While the perception that one gift may not be considered sufficient to cause a Council Officer to act outside his or her official duty, the sum of multiple gifts (even "token" in value) over a period of time may be considered sufficient to do so. The number of cumulative gifts given within a 12 month financial period may in total constitute more than the "nominal value" and therefore should be considered within the guidelines and be handled carefully by reporting and rejecting ongoing gifts.
- 8.8 While Council Officers should be aware that giving and exchanging gifts, and hospitality play an important part in the lives of individuals from diverse linguistic and cultural backgrounds; these cultural considerations should not be viewed as exempting Council Officers from the requirements of this Policy. Similarly, Christmas and other cultural or religious occasions should not be viewed as falling outside the parameters of this Policy. The Policy applies at all times of the year to all those classed as Council Officers, without exception.

9. APPROPRIATE GIFTS AND BENEFITS THAT CAN BE ACCEPTED

- 9.1 A Council Officer must not by virtue of his or her official position accept a gift or benefit where the Officer derives or acquires a personal profit or advantage of value. It may be appropriate however for a Council Officer to:
- 9.1.1 Accept a token gift or benefit (low value i.e. <\$10) without having to register it. i.e. small office or business accessories that are usually mass produced and usually contain a company logo. Examples include: pens, calendars, folders, mugs, ties, scarves, plaques etc, and/or personal items such as gifts of chocolates, soaps, etc.
 - 9.1.2 Accept a nominal value gift or benefit (value \$10 > \$50) by recording it in the gift and benefit register and with the General Manager's approval (by written authorisation). – examples include:
 - a. gifts of alcohol or food traditionally given to Directorates / Sections of Council or individual staff. If possible these should be shared amongst staff rather than accepted by one staff member.
 - b. inexpensive pens or stationery, flowers, chocolates above a nominal value.
 - c. items of mass produced clothing such as t-shirts, aprons, etc.
 - d. free or subsidised meals and/or beverages provided infrequently (and/or reciprocally) by representatives of State or Federal government departments or agencies and clients of the Council who do not have an application or tender either before the Council or proposed.
 - e. free meals and/or beverages provided to Councillors and/or employees who formally represent the Council at social or local government related functions, meetings, etc.
 - 9.1.3 Accept a non-token (high value >\$50) gift or benefit in special circumstances, eg. an item left to you in someone's will (other than a relative), with the approval of Council. The General Manager is to be consulted for a determination.
 - 9.1.4 Accept a gift or prize as a result of entering a competition while engaging in official duties. For example, a raffle or lucky door prize drawn at a meeting or conference, or winning a prize that was promoted as an incentive to complete a survey. (Note, if the agency has business dealings with the organisation that provided the prize or discretionary power that could be exercised in the prize giver's favour, accepting the prize may lead to perceptions of improper influence. In the circumstances where these prizes are over the nominal value, the prize should become the property of the Council and a decision made by the General Manager as to whether the gift is given to the Social Club to be raffled off to its members, donated to a local charity or dispersed in another transparent and accountable way).
 - 9.1.5 Accept a gift or benefit obtained through a purchase incentive scheme i.e. a free computer to clients after they have purchased a certain quantity of product. It is important that the agency does not compromise any duty of impartiality in order to obtain such bonuses and these should be handled as per prizes over a nominal value i.e. become the property of Council and dispersal at the discretion of the General Manager. It is important that the acceptance of gifts or benefits through incentive schemes do not provide a private benefit to anyone directly in the area purchasing the products.
 - 9.1.6 Accept on behalf of Council, a ceremonial gift which is to be registered and approved by the General Manager who will decide the appropriate location for storage or display of the gift.

10. GIFTS ASSOCIATED WITH SISTER CITY ACTIVITIES

- 10.1 Gifts generally regarded as "ceremonial gifts" presented to the Mayor/Councillors/staff for the Council in association with Sister City activities must also be entered into the Gift and Benefits Register. The receiver of the gift must lodge the gift with the General Manager's Personal Assistant as soon as possible after its receipt. The gift will then be recorded and placed in an appropriate location.
- 10.2 Gifts for the Council (normally presented to the Mayor or head of a delegation) are generally non-token gifts, i.e. painting, plaque, work of art or craft, other items of significance to a specific occasion (items relating to the formal signing of a Sister City Relationship) of a reasonable monetary value, or any other item that more than one person in the delegation would not receive.

11. GIFTS AND BENEFITS NOT CONSIDERED TO BE APPROPRIATE

- 11.1 Gifts which are more than the stated nominal value and from which a Council Officer could derive or acquire a personal profit or advantage should not generally be accepted. The following gifts and benefits would be likely to have more than the stated nominal value and are not appropriate to be accepted:

- (i) Tickets to sporting events or other entertainment
- (ii) Jewellery
- (iii) Works of art
- (iv) Discounted products for personal use
- (v) Use of facilities such as gyms and holiday homes
- (vi) Free or discounted travel

- 11.2 Gifts of money. Accepting gifts of money carries the highest risk that a Council Officer will be compromised or appear to be compromised. It doesn't matter how small the amount of money is or how it is presented or offered. Accepting gifts of money is strictly prohibited in all cases. If any staff member or Councillor is offered a gift of money, it should be refused and the incident reported immediately to the General Manager.

12. CONSEQUENCES OF ACCEPTING AN INAPPROPRIATE GIFT OR BENEFIT

- 12.1 There are numerous consequences which may emanate through the provision of a gift or benefit. It is important to consider the public perception of the acceptance of a gift or benefit which could be deemed as inappropriate.

- 12.2 The consequences for individual Officers may be:

- Embarrassment
- Disciplinary action
- Being the subject of an internal or external inquiry
- Criminal prosecution.

- 12.3 The consequences for the organisation may be:

- Embarrassment for the organisation
- Loss of public trust
- Being the subject of a external enquiry
- Legal action.

13. BRIBES

- 13.1 A gift or benefit offered or solicited by a Public Officer in order to influence that Officer's behaviour is a bribe and persons offering or seeking such gift or benefit may be guilty of an offence under Section 249B of the Crimes Act 1900 (NSW).

- 13.2 If a Council Officer is offered a bribe, the incident must be immediately reported to the General Manager. The ICAC, and where relevant the Police, must be informed immediately.
- 13.3 Soliciting personal gifts or benefits is strictly prohibited under all circumstances. If a Council Officer becomes aware of another Council Officer soliciting gifts and benefits, he or she should report it immediately to the General Manager. The General Manager should also inform the ICAC.
- 13.4 Gifts that may not be outright bribes but are nevertheless suspected of being offered for the purposes of influencing a Council Officer's behaviour in his or her official capacity should always be declined. In such circumstances the General Manager should be notified of the incident and will consider whether to advise the ICAC.
- 13.5 Accepting gifts of money are be strictly prohibited in all cases, since in all likelihood such a gift would be perceived as an attempt at bribery. This includes offers of money to cover expenses for trips to view samples of work, or to expedite the work of the agency. Any such gift that is received (eg in the mail) must immediately be declared and every effort must be made to return it. If an Officer is offered a gift of money, it should be refused and the incident reported immediately to the General Manager.

14. GUIDE TO DECISION MAKING PROCESS

- 14.1 A decision making guide has been developed to assist Council Officers to determine if it is appropriate to accept a gift and is appended to this policy (Attachment 1).
- 14.2 If there is any concern regarding the appropriateness of accepting a gift or benefit it is best to refuse it.

15. GIFTS AND BENEFITS REGISTER

- 15.1 For the purposes of this Policy, a Gifts and Benefits Register has been established to enable Council Officers to record gifts and benefits offered or received by them and/or to the Council, above "token value".
- 15.2 It is appropriate that the Officer who receives a gift or benefit, fill out a Gift and Benefit Declaration Form (Attachment 2) and this be returned to the General Manager's Personal Assistant to be entered into the Gifts and Benefits Register.
- 15.3 Councillors and members of staff are required to record items through these forms into the Gifts and Benefits Register and the General Manager will then consider the contents of this document and the requirements of the Act prior to determining action to be taken, i.e. allowing acceptance by the individual, or acceptance on behalf of Council, or other dispersal method.
- 15.4 The form and data in the Register will contain the following:
- Name and title of person receiving the gift, either personal or on behalf of Council.
 - Name, title and organisation (or group) of person giving the gift.
 - Description of gift.
 - Display/storage location of gift (if appropriate).
 - Value of gift (if known), or approximate value.
 - Reason for presentation of gift.
 - Date of offer.
- 15.5 The Register will be maintained by the General Manager's Personal Assistant and the contents reported to the Senior Management Team on a regular basis.
- 15.6 The inclusion of an entry in this Register does not relieve Council Officers from their obligations to make disclosures in association with annual Disclosure of Interest Returns required of Councillors and Designated Persons under Section 449 of the Local Government Act 1993.

15.7 Gifts not required to be recorded in the Gift Register are token/personal gifts (low value i.e. <\$10). Token/personal gifts can be viewed as being:

- of no significant monetary value ;
- presented to a number of persons in the delegation;
- inconsequential or trivial and are not offered on a regular basis;
- not likely to be seen to be compromising.

15.8 In addition, should Council Officers find themselves in a position where they have received a gift or benefit which they consider not to be of a "token" or "nominal value" and are unable to return this gift or benefit, they should declare the gift to the General Manager for an appropriate entry to be made in the Gifts and Benefits Register and surrender the gift or benefit to the custody of the Council therefore removing any perception of undue influence being exerted upon that Councillor or member of staff. The General Manager will then determine the most appropriate action to take.

16. GENERAL

16.1 If there is doubt as to whether a gift is for the Council or is a personal gift, the General Manager must be consulted for a determination.

16.2 Council acknowledges that the Gifts and Benefits Policy is in addition to the Council's Code of Conduct as amended from time to time and the requirements placed on Councillors and Designated Persons through the Disclosure of Interest Returns under Section 449 of the Local Government Act 1993.

17. ATTACHMENTS

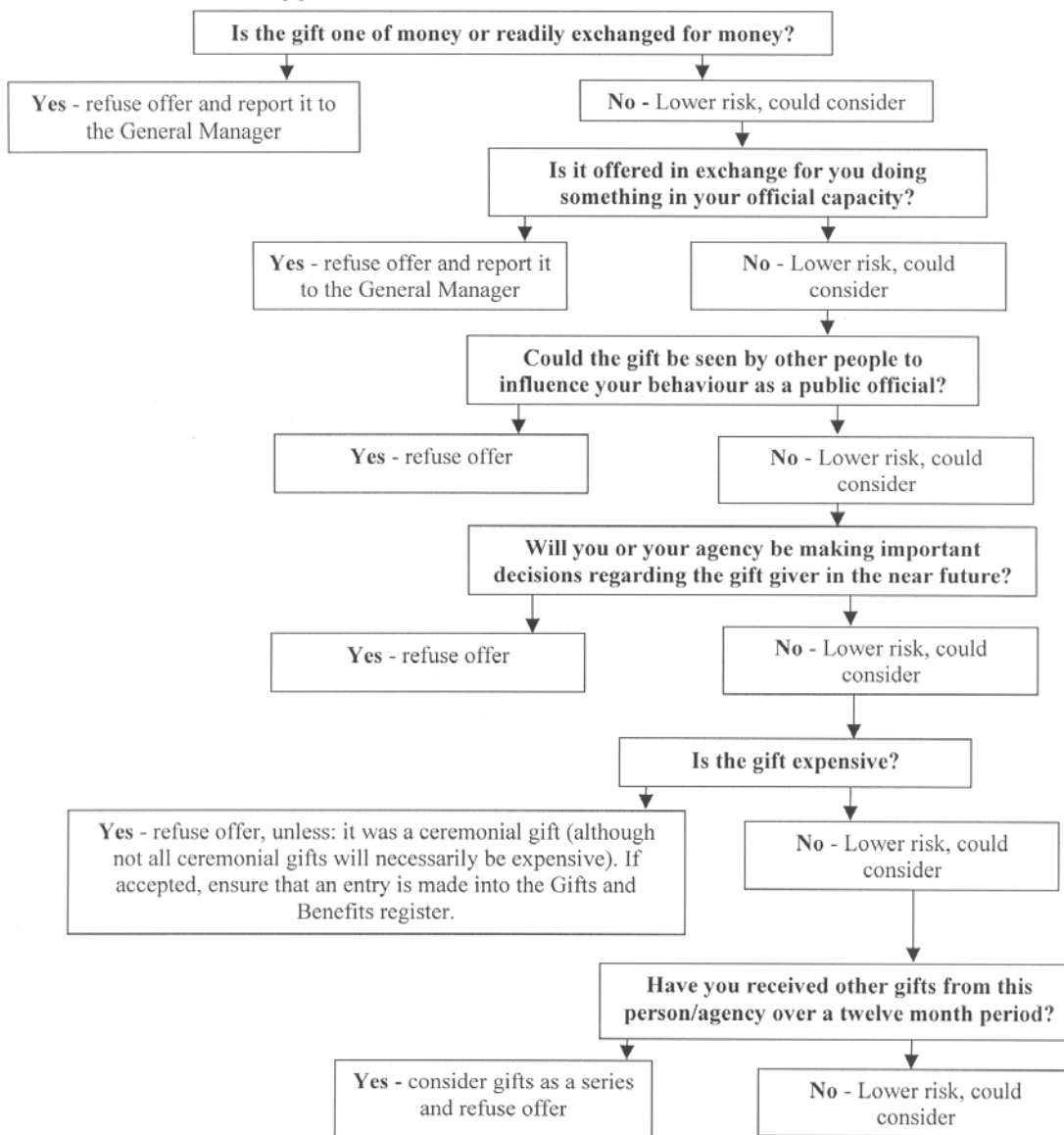
1. Decision Making Guide.
2. Gifts and Benefits Declaration Form.

ADOPTED BY COUNCIL:

Attachment 1

Decision Making Guide

Always check and comply with Council's Gifts and Benefits Policy. In addition, it may be useful to consider the following general issues.



Attachment 2 - See Annexure

Gifts and Benefits Declaration Form

Hawkesbury City Council

366 George Street (PO Box 146) Windsor NSW 2756 DX 8601 WINDSOR
Phone: (02) 4560 4444 Facsimile: (02) 4560 4400 Email: council@hawkesbury.nsw.gov.au



gifts and benefits declaration form

For the purposes of the Gift and Benefits Policy, a Gifts and Benefits Register has been established to enable Council Officers to record, where appropriate, gifts and benefits offered or received by them and/or to the Council, above "token value" i.e nominal value. (See policy for definition of token and nominal value)

Once the form is complete, return to the General Manager's Personal Assistant, to be entered into the Gifts and Benefits Register.

Councillors and members of staff are required to record items through this form into the Gifts and Benefits Register so the General Manager can consider the contents of this document and the requirements of the Act prior to determining action to be taken, i.e. allowing acceptance by the individual or acceptance on behalf of Council for other dispersal method.

Person receiving the gift:

Name: Position:

Branch: Division:

Reason for receiving the gift (please tick box): Personal On behalf of Council

Person giving the gift:

Title: Name:

Organisation / Group:

Description of gift:
.....

Display / storage location of gift: (if appropriate)
.....

Value of gift (if known) or approximate value: Date of offer:

Reason for presentation of gift:
.....

Officer receiving gift (Signature): Date:

Decision Made by General Manager:

Individual to keep Council to accept

Location to be kept:

General Manager (Signature): Date:

PRIVACY NOTICE

Council is bound by the provisions of the Privacy and Personal Information Protection Act 1998, in the collection, storage and utilisation of personal information provided in this form. Accordingly, the personal information will only be utilised for the purposes for which it has been obtained.