



Hawkesbury City Council

attachment 1  
to  
item 80

Draft Gifts and Benefits Policy for  
Councillors and Staff

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Hawkesbury City Council  
Policy

**DRAFT**

Gifts and Benefits  
Policy for  
Councillors and Staff

Document Owner: Support Services  
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Hawkesbury City Council

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**HAWKESBURY CITY COUNCIL POLICY**  
**DRAFT Gifts and Benefits Policy for Councillors and Staff**

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**Table of Contents**

<b>1</b>	<b>INTRODUCTION .....</b>	<b>4</b>
<b>2</b>	<b>SCOPE .....</b>	<b>4</b>
<b>3</b>	<b>DEFINITIONS .....</b>	<b>5</b>
<b>4</b>	<b>ROLES AND RESPONSIBILITIES .....</b>	<b>6</b>
<b>5</b>	<b>GOVERNING POLICY/DOCUMENTS/LEGISLATION.....</b>	<b>6</b>
<b>6</b>	<b>INTERNAL CONTROLS .....</b>	<b>7</b>
<b>7</b>	<b>AMENDMENTS AND REVIEW .....</b>	<b>7</b>
<b>8</b>	<b>GIFTS AND BENEFITS - PERCEPTION AND INTENTION .....</b>	<b>7</b>
<b>9</b>	<b>APPROPRIATE GIFTS AND BENEFITS THAT CAN BE ACCEPTED.....</b>	<b>8</b>
<b>10</b>	<b>GIFTS ASSOCIATED WITH SISTER CITY ACTIVITIES .....</b>	<b>9</b>
<b>11</b>	<b>GIFTS AND BENEFITS NOT CONSIDERED TO BE APPROPRIATE .....</b>	<b>9</b>
<b>12</b>	<b>CONSEQUENCES OF ACCEPTING AN INAPPROPRIATE GIFT OR BENEFIT.....</b>	<b>9</b>
<b>13</b>	<b>BRIBES .....</b>	<b>10</b>
<b>14</b>	<b>GUIDE TO DECISION MAKING PROCESS.....</b>	<b>10</b>
<b>15</b>	<b>GIFTS AND BENEFITS REGISTER .....</b>	<b>10</b>
<b>16</b>	<b>GENERAL .....</b>	<b>11</b>
<b>17</b>	<b>ATTACHMENTS .....</b>	<b>11</b>



## HAWKESBURY CITY COUNCIL POLICY

### DRAFT Gifts and Benefits Policy for Councillors and Staff

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#### 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 Accepted - A gift or benefit is deemed to have been accepted where it is received by a Council Officer or a personal associate of a Council Officer (in accordance with Clause 6.4 of the Code of Conduct).

3.2 Council Officer(s) - for the purpose of this Policy, a Council Officer includes Councillors, employees, contractors and volunteers representing Council in an official capacity.

#### 3.3 Gift or Benefit

According to Council's Code of Conduct, a gift or benefit is something offered to or received by a Council Official or someone personally associated with them for their personal use and enjoyment.

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

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

3.3.2 *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.

3.3.3 *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 token value (less than \$50) 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.

3.3.4 *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 (e.g. history book, fan, instrument, decorative ornament, plaque etc.). These gifts may, although not always be above the token value in worth.

3.3.5 *Cash-like Gift* – A type of gift that can easily be exchanged for or used in place of money, for example gift vouchers, credit cards, debit cards with money on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

3.3.6 *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; e.g. offering of money or a holiday, employment and political favours.



## HAWKESBURY CITY COUNCIL POLICY

### DRAFT Gifts and Benefits Policy for Councillors and Staff

- 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.
- 3.7 Personal Associate – Any person who has an association with a Council Officer outside of a normal working relationship that is particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship. This also includes “relatives” within the definition provided in the Local Government Act 1993 and Section 4.4 of Council's Code of Conduct.
- 3.8 Token Value – Less than \$50 in value, inclusive of GST. Examples may include pens, calendars, diaries, folders, mugs, ties, scarves. Gifts of alcohol or food, flowers, or chocolates are required to be under \$50 in value to be considered Token gifts. The value of Token Gifts is considered cumulatively over a period of 12 months, so multiple gifts or benefits received from the same person or organisation over a 12 month period must not exceed a total value of \$50.
- 3.9 High Value - Greater than \$50 in value.

## 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"><li>Follow Policy guidelines on accepting, reporting, recording and disposing of offers and receipt of gifts and benefits.</li><li>Follow the ICAC's guidelines in regards to reporting offers or actual bribes directed at themselves or other Council Officers.</li><li>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.</li></ul>
General Manager's Executive Assistant	<ul style="list-style-type: none"><li>Maintain and report on the contents of the Gifts and Benefits Register annually to Senior Staff.</li></ul>
Manager Corporate Services & Governance	<ul style="list-style-type: none"><li>Review Policy at appropriate times and within 12 months of an Ordinary Local Government Election.</li></ul>
General Manager	<ul style="list-style-type: none"><li>Follow the ICAC's guidelines on reporting offers or actual bribes.</li><li>Sign off on all entries to the Gifts and Benefits Register.</li><li>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.</li></ul>

## 5 GOVERNING POLICY/DOCUMENTS/LEGISLATION

- 5.1 This Policy should be read in conjunction with:

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

Further information or guidance in association with this issue can be obtained from the Independent Commission Against Corruption (ICAC) and the Office of Local Government (OLG). The ICAC and OLG websites are:

- [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)
- [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)





**6 INTERNAL CONTROLS**

- 6.1 Specification of "token" value is 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 "token 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 or Manager Corporate Services & Governance.

**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 Council Officer 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, e.g. if a Council Officer 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 Council Officer 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 Council Officer 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, e.g. while the acceptance of alcohol of a "token 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 personal associates 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 personal associates 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 Council Officer 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 "token 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 free or subsidised meals, beverages or refreshments of token value provided to Council Officers in conjunction with the performance of their official duties such as, but not limited to:

- a) the discussion of official business
- b) work-related events such as council-sponsored or community events, training, education sessions or workshops
- c) conferences
- d) council functions or events
- e) social functions organised by groups, such as council committees and community organisations.

9.1.2 Accept a token value gift or benefit (having a value of \$50 or less) 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 diaries or stationery, flowers, chocolates above a token value.
- c) items of mass produced clothing such as t-shirts, aprons, etc.

9.1.3 Accept a gift or benefit of high value (being more than \$50) in special circumstances, e.g. 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 with a value less than \$50, 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. However, 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 token 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 of a high value (being more than \$50) 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.



## HAWKESBURY CITY COUNCIL POLICY

### DRAFT Gifts and Benefits Policy for Councillors and Staff

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9.1.7 Accept a ticket to an event or function that Council is sponsoring, whereby part of the sponsorship agreement entered in between the organisation and Council includes a set number of tickets for the attendance of Council Officers.

9.1.8 Accept a ticket to an event or function hosted by an external organisation or agency, whereby Council has entered into a written partnership agreement with the organisation or agency that includes a set number of tickets for the attendance of Council Officers.

## 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 Executive Assistant as soon as possible after its receipt. The gift will then be recorded and placed in an appropriate location.

10.2 This section does not apply to gifts of any value provided to the Council as part of a cultural exchange or Sister City activity (normally presented to the Mayor or head of a delegation), which are not converted for the personal use or enjoyment of any individual Council Official or someone personally associated with them. Examples include paintings, plaques, works of art or craft, or other items significant to a special occasion. These types of gifts are usually stored and publicly displayed at Council facilities.

## 11 GIFTS AND BENEFITS NOT CONSIDERED TO BE APPROPRIATE

11.1 Gifts which are of a high value (being more than \$50) 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 a high value and are not appropriate to be accepted:

- a) Tickets to sporting events or other entertainment
- b) Jewellery
- c) Works of art
- d) Discounted products for personal use
- e) Use of facilities such as gyms and holiday homes
- f) Free or discounted travel.

11.2 Gifts of money. Accepting gifts of money or cash-like gifts 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 or cash-like gifts is strictly prohibited in all cases. If any Council Officer is offered a gift of money or cash-like gift, 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 Council 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



## HAWKESBURY CITY COUNCIL POLICY

### DRAFT Gifts and Benefits Policy for Councillors and Staff

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- Loss of public trust
- Being the subject of an external enquiry, for example an ICAC investigation
- Legal action

#### 13 BRIBES

- 13.1 A gift or benefit offered or solicited by a Council 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 for themselves or on behalf of a personal associate, 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 or cash-like gifts is 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 (e.g. in the mail) must immediately be declared and every effort must be made to return it. If a Council Officer is offered a gift of money or a cash-like gift, 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 their personal associates, and/or to the Council. This includes gifts and benefits within "token value" (\$50 or less).
- 15.2 It is appropriate that the Council Officer who receives a gift or benefit, fill out a Gift and Benefit Declaration Form (Attachment 2) and this Form signed by the General Manager, be returned to the General Manager's Executive Assistant to be entered into the Gifts and Benefits Register. A Council Officer whose personal associate has received a gift or benefit that may have a relationship to Council business should complete a Declaration Form on their associate's behalf.
- 15.3 Council Officers 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.



## HAWKESBURY CITY COUNCIL POLICY

### DRAFT Gifts and Benefits Policy for Councillors and Staff

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- 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 Executive 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 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 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 to be read 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.



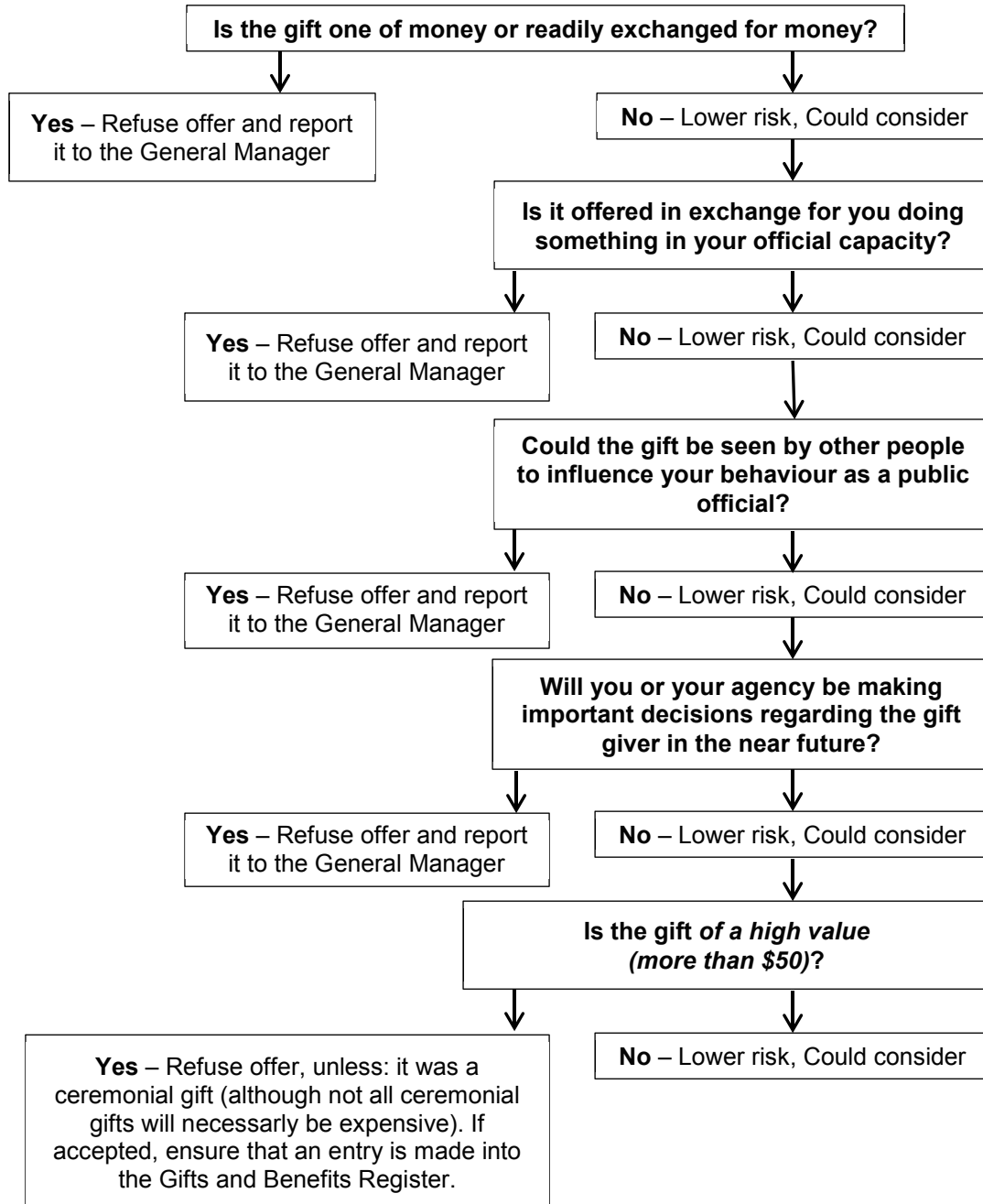
**HAWKESBURY CITY COUNCIL POLICY**  
**DRAFT Gifts and Benefits Policy for Councillors and Staff**

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**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.







**HAWKESBURY CITY COUNCIL POLICY**  
**DRAFT Gifts and Benefits Policy for Councillors and Staff**

**Attachment 2**

Gifts and Benefits Declaration Form

**Hawkesbury City Council**  
*Internal Use Only*



**Gifts and Benefits declaration**

In accordance with the requirements of Council's Code of Conduct, 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.

Council Officers are required to record gifts and benefits on this form, and return the form to the General Manager's Executive Assistant to enter into the Gifts and Benefits Register. The General Manager will consider the contents of this document and the requirements of the Code of Conduct prior to determining the action to be taken, i.e. allowing acceptance by the individual, acceptance on behalf of Council, or other dispersal method.

The Gifts and Benefits Register is a public register and may be inspected at any time by members of the public.

**Person receiving the gift**

Name  Position

Branch  Division

Reason for receiving the gift ☐ Personal ☐ On behalf of Council

Was the gift received by a personal associate/relative  
(If yes, please provide details below) ☐ Yes ☐ No

**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

☐ Other Details of Decision

General Manager (name)

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 and may be available for public access and/or disclosure under various NSW Government legislation.

March 2019