

GUIDELINES FOR OFFICIALS BEING OFFERED A GIFT OR BENEFIT

(Dated March 2016)

1. PREAMBLE

The policy is aimed at providing guidelines for officials being offered a gift or benefit.

2. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the applicable legislation.

3. LEGAL FRAMEWORK

Municipal Systems Act 2000.

4. SCOPE AND APPLICATION

This policy applies to all employees of Municipality and / or prospective employees (appointees).

5. OBJECTIVES OF POLICY

The purpose of this policy is to outline guidelines for officials being offered a gift or benefit.

6. POLICY CONTENT

6.1 The offer of gifts

Officials may be offered a gift in the course of their work. The gift could be offered innocently or it could be an attempt to influence, or affect a decision or action.

In a business context, gifts are rarely offered to an individual for purely charitable or hospitable reasons. It may be the case if the gift or benefits is of little or no commercial value such as corporate memento or marketing trinket.

However in cases where the gift or benefit has more than a nominal value, its is possible that it is being offered to create a sense of obligation and even an expectation that something will be given in return. Feelings of obligation can arise from incidents such as the acceptance of a meal, tickets to a sporting event or discounts on purchases. Once a gift or benefit is accepted, an official can be compromised.

Individuals attempting to corrupt officials often start with small inducements that appear to have no improper motive behind them. From here, they gradually grow in nature until the official is compromised. At this point the corrupter asks the official to perform a corrupt action. When the official declines, the corrupter threatens to reveal the previous inducements given in return for small "favours."

6.2 **Making Excuses**

Rationalising acceptance of a gift or benefit is common and examples include:

- everybody else does it
- the motivation of the giver is generosity, kindness or friendship
- the exchange of gifts and benefits harms no-one
- gifts and benefits foster the development of business relationships
- gifts and benefits are practice and to refuse may cause offence
- public officials are not paid enough, so they deserve a little extra

Acceptance of gift or benefits in the course of work may result in feelings of obligation which may undermine impartiality

Be inappropriately accepting a gift or benefit, officials risk:

- becoming the subject of an enquiry
- disciplinary action
- loss of employment
- anxiety, shame and embarrassment
- criminal prosecution

6.3 **What to do if offered a bribe, gift or benefit**

1. Consult Council's Code of Conduct or relevant policies for guidance. The Code of Conduct prohibits the receipt of gifts or benefits.
2. Reject the offer if it is for something of more than nominal value. Use discretion in deciding how to refuse.
3. You could inform the person offering the gift or benefit that acceptance would be inappropriate. If you feel uncomfortable with an out-and-out rejection, you could try and disengage from the conversation and use an excuse for not accepting the offer straight away. This type of strategy can be used if you fear that a blunt rejection could place you at risk. Regardless of the type of strategy you adopt, the important point to remember is that you should not accept the offer.
4. Make notes immediately after the conversation has occurred. Try and frame the notes in the first person using "I said and he/she said to ensure clarity. You must inform your supervisor of the offer, and all relevant details as soon as possible. If your supervisor is involved in the offer, report the incident to an appropriate senior officer.
5. If the gift or benefit was of more than nominal value, provide your supervisor with a note outlining the incident. Include in the note:
 - date, time and place of the incident
 - to whom the gift or benefit was offered
 - who offered the gift or benefit and contact details (if known)
 - the response to the offer
 - other details of the offer
 - your signature and the date
6. Supervisor must inform Senior Management immediately.

7. Supervisors in consultation with Senior Management must then determine how future relations with the person who offered the gift or benefit should be conducted.
8. All employees will be required to complete a declaration within seven days of receiving any gifts or benefits accruing to them.
9. All declarations will be recorded in a central register and employees will be required to sign an annual declaration confirming that all gifts and benefits specified above have been declared.

6.4 **Consultancies and retainerships**

Designated employees are required to disclose the following details with regard to consultancies and retainerships:

- The nature of the consultancy or retainership of any kind
- The name and type of business activity, of the client concerned, and
- The value of any benefits received for such consultancy or retainerships

6.5 **Sponsorships**

Designated employees are required to disclose the following details with regard to sponsorships:

- The source and description of direct financial sponsorship or assistance; and
- The value of the sponsorship or assistance

6.6 **Gifts and hospitality from a source other than a family member**

Designated employees are required to disclose the following details with regard to gifts and hospitality:

- A description and source of a gift with a value in excess of R 350.00
- A description and the value of gifts from a single source which cumulatively exceed the value of R 350.00 in the relevant 12 month period and,
- Hospitality intended as a gift in kind.

6.7 **Land and Property**

Designated employees are required to disclose the following details with regard to their ownership and other interest in land and property (residential or otherwise both inside and outside the Republic):

A description and extent of the land or property
The area in which it is situated; and
The value of the interest

7. **IMPLEMENTATION AND MONITORING**

This policy will be implemented and effective once recommended by the Local Labour Forum and approved by Council.

8. **COMMUNICATION**

This policy will be communicated to all Municipal employees using the full range of communication methods available to the municipality.

9. **POLICY REVIEW**

This policy will be reviewed and revised as necessary.

10. **BUDGET AND RESOURCES**

The financial and resource implication/s related to the implementation of this policy should be qualified and quantified.

11. **ROLES AND RESPONSIBILITIES**

The Municipal Manager or his/her delegate assignee accepts overall responsibility for the implementation and monitoring of the policy.

12. **PENALTIES**

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code.

13. **DISPUTE RESOLUTION**

Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to the Local Labour Forum for adjudication. Resolutions from the Local Labour Forum must be incorporated in to the policy.

Signed at on this day of

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MUNICIPAL MANAGER

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IMATU CHAIRPERSON

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SAMWU CHAIRPERSON