

**FILE NO: A2004-0984**

**TITLE: GIFTS AND BENEFITS POLICY**

**OWNER: GOVERNANCE SECTION MANAGER**

## **1. PURPOSE:**

- 1.1 The purpose of this policy is to ensure that all Port Stephens Council officials are aware of and adhere to the obligations of a Council official under the adopted Port Stephens Council Code of Conduct, in particular, to gifts and benefits.
- 1.2 The policy will clearly define the behaviour required as a Council official. It will also provide a transparent and accountable process with regard to gifts and benefits that promotes confidence in the good governance of Port Stephens Council.

## **2. CONTEXT/BACKGROUND:**

- 2.1 Port Stephens Council and its Council officials are required to adhere to the requirements of the model Code of Conduct, as a minimum, published by the Office of Local Government. Council has adopted the model Code of Conduct with a number of enhancements, which are not inconsistent with the provisions of the model Code of Conduct.
- 2.2 This policy has been developed in order to recognise that the conduct of Council business may give rise to gifts or benefits of appreciation being offered to Council officials.

## **3. SCOPE:**

- 3.1 This policy applies to all Council officials. Council officials must avoid situations that give rise to the appearance that a person or body, through the provision of gifts, benefits, bribes or hospitality of any kind, is attempting to gain favourable treatment from a Council official or the Council.
- 3.2 Council officials must ensure that all reasonable steps are taken to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

- 3.3 If a Council official is offered a bribe, the incident must immediately be reported to the General Manager, the ICAC and where relevant, the police.
- 3.4 Council officials must not solicit personal gifts or benefits. Any person aware of a Council official soliciting gifts or benefits must immediately report the matter to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor.
- 3.5 Any circumstance where a Council official believes a gift or benefit has been offered for the purpose of influencing the conduct of a Council official in their official capacity, the gift or benefit must be declined and a report must be made to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor.
- 3.6 The Code of Conduct prohibits any gifts or benefits in the form of money.
- 3.7 Any offer of a gift in the form of money is to be refused and reported to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor. Should the gift be received in any other way other than in person (ie by mail), the gift is to be declared and surrendered to Council.
- 3.8 All gifts and benefits offered to a Council official are to be declined and declared to Council, unless otherwise permitted under the Code of Conduct or this policy (ie items with a value of less than \$10). Any gifts or benefits unable to be declined and/or exceeds \$100 in value, during the same 12 month period, must be surrendered to Council.
- 3.9 Should a Council official receive a gift, benefit or prize as a result of entering (or being included) in a competition during the course of their official duties, the gift, benefit or prize is to be surrendered to Council and will become the property of Port Stephens Council.
- 3.10 Any gift or benefit received when procuring products, services or other on behalf of Council are to be declared and surrendered, and will become the property of Port Stephens Council.
- 3.11 All gift and/or benefits with a value of \$10 or more offered to a Council official are to be declared (unless permitted under the Code of Conduct) and surrendered to Council, and entered in the Gifts and Benefits Register.

## 4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Benefit	May include, but is not limited to, hospitality, preferential treatment, access to confidential
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	information, free access to services which are normally charged a fee, or access to a private spectator box at a sporting or entertainment event.
Bribes	Gift or benefits given to specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.
Code	Code of Conduct.
Council	Port Stephens Council.
Council official	Mayor, Councillors, General Manager, Council employees, administrators, Council committee members, delegates of Council (volunteers) and contractors of Port Stephens Council.
Gift	May include, but is not limited to, items such as cash or cash-like gift, alcohol, clothes, products to tickets to a sporting or entertainment event.
ICAC	Independent Commission Against Corruption.
Immediate family	Ordinarily means grandparents, parents, spouses, partners, children or siblings.
Money	Credit or cash-like gifts such as but not limited to; cash cheques, bank deposits, gift vouchers, credit cards, debits cards with credit on them, prepayment such as phone or internet credit, lottery tickets, memberships or entitlements to discounts regardless of the amount of value.

## 5. STATEMENT:

- 5.1 Council is committed to open and transparent government, in particular, ensuring that Council is free from any reputation damage concerning gifts, benefits or bribes.
- 5.2 All Council officials must adhere to the requirements of the Code of Conduct and this policy. Any departure from the Code or this policy will result in consideration of the matter under the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW.

## 6. RESPONSIBILITIES:

- 6.1 All Council officials are required to comply with this policy. The Executive Team and section managers will be responsible for day to day management of compliance within their areas.
- 6.2 The Governance Section Manager will monitor, evaluate, review and provide advice on this policy.

## 7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993.
- 7.2 Local Government (General) Regulation 2021.
- 7.3 Port Stephens Council Code of Conduct, as amended.
- 7.4 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, as amended.
- 7.5 Payment of Expenses and Provision of Facilities to Mayor and Councillors.
- 7.6 Internal Reporting Policy.

## CONTROLLED DOCUMENT INFORMATION:

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<b>Process owner</b>	Governance Section Manager		
<b>Author</b>	Governance Section Manager		
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<b>Adoption date</b>	25 August 2015		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	25.8.2015	Governance Manager	New policy adopted by Council	256

Version	Date	Author	Details	Minute No.
1.1	24.10.2017	Governance Manager	Minor typographical correction. Updated the definition of a council official to include 'Port Stephens Council'	258
1.2	26 March 2019	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner to Governance Section Manager. After 3.2, delete the reference to token or nominal gifts. 3.3 – new paragraph added. After 3.3, delete reference to sporting events. 3.4 – add clauses f, g, h and i. 3.5 to 3.10 – new paragraphs added. 3.11 and 3.12 – update title to Governance Section Manager. 4 – update 'cash-like gift' definition and delete 'token/nominal value gifts' definition. 6.2 - updated Governance Section Manager title. 7.2 and 7.3 –'as amended' added.	062

Version	Date	Author	Details	Minute No.
1.3	22 September 2020	Governance Section Manager	<p>Policy reviewed, including the version control:</p> <p>3.3 to 3.13 – delete clauses</p> <p>3.3 to 3.11 – insert new clauses</p> <p>Definitions – insert “money”, delete “cash like gifts” and “hospitality”.</p> <p>Renumber 7.1 to 7.6</p> <p>7.2 – insert “Local Government (General) Regulation 2005”.</p> <p>7.5 – insert “Payment of Expenses and Provision of Facilities to Mayor and Councillors”.</p> <p>7.6 – insert “Internal Reporting Policy”.</p>	192
1.4	23 August 2022	Governance Section Manager	<p>Policy review includes updating version control:</p> <p>2.2 – insert “as a minimum”.</p> <p>7 – updated related documents.</p> <p>Amended minor grammatical errors throughout policy.</p>	224