

**FILE NO:** A2004-0984  
**TITLE:** GIFTS AND BENEFITS POLICY  
**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 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 A gift or benefit does not include:

- a) a political donation for the purposes of the Electoral Funding Act 2018.
- b) a gift provided to the Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them.
- c) attendance by a Council official at a work-related event or function for the purposes of performing their official duties.
- d) free or subsidised meals, beverages or refreshments of token value provided to Council officials in conjunction with the performance of their official duties such as, but not limited to.
  - i) the discussion of official business.
  - ii) work-related events such as Council-sponsored or community events, training, education sessions or workshops.
  - iii) Conferences.
  - iv) Council functions or events.
  - v) social functions organised by groups, such as Council committees and community organisations.

### 3.4 A Council official 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 your part or may be perceived to be intended or likely to influence you in carrying out your 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.
- f) subject to clause 6.7 of the Code of Conduct (Code), accept any gift or benefit of more than token value as defined by clause 6.9 of the Code.
- g) accept an offer of cash or a cash-like gift as defined by clause 6.13 of the Code, regardless of the amount.
- h) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser.
- i) personally benefit from reward points programs when purchasing on behalf of the Council.

3.5 Where a Council official receives a gift or benefit of any value other than referred to in clause 3.3 of this Policy, it must be promptly disclosed to Council in accordance with the Code of Conduct.

3.6 Where a gift or benefit of more than token value cannot reasonable be refused or returned, it must be surrendered to Council.

- 3.7 A Council official may accept a gift or benefit of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50.
  - b) gifts of alcohol that do not exceed a value of \$50.
  - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like.
  - d) prizes or awards that do not exceed \$50 in value.
- 3.7 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) of the Code and, subject to clause 6.7 of the Code, must not be accepted.
- 3.8 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 3.9 Where a Council official accepts a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 3.10 The value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.
- 3.11 A Council official must never accept money as a gift, it is to be refused and reported immediately to the General Manager, the relevant Group Manager, Governance Section Manager or the Mayor where the bribe relates to the General Manager.
- 3.12 Any Council official offered any type of bribe in an effort to gain favourable treatment, must report the incident to the General Manager, Governance Section Manager or the Mayor where the bribe relates to the General Manager. All such situations will be reported to the ICAC and/or the NSW Police.

3.13 All reported gifts and benefits will be recorded in Council's Gifts and Benefits Register.

**4. DEFINITIONS:**

Benefit	May include, but is not limited to, hospitality, preferential treatment, access to confidential 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.
Cash-like gift	Includes but are not limited to, gift vouchers, credit cards, debit cards with credit 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.
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.
Hospitality	Means the provision of a meal, refreshments to other forms of entertainment.
ICAC	Independent Commission Against Corruption.
Immediate family	Ordinarily means grandparents, parents, spouses, partners, children or siblings.

**5. POLICY 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. POLICY 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 Port Stephens Council Code of Conduct, as amended.
- 7.3 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, as amended.

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### Version History

Version	Date	Author	Details	Minute No.
1.0	25.8.2015	Governance Manager	New policy adopted by Council	256
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	<p>Reviewed the policy, included numbering to each paragraph and updated the version control.</p> <p>Updated title of policy owner to Governance Section Manager.</p> <p>After 3.2, delete the reference to token or nominal gifts.</p> <p>3.3 – new paragraph added.</p> <p>After 3.3, delete reference to sporting events.</p> <p>3.4 – add clauses f, g, h and i.</p> <p>3.5 to 3.10 – new paragraphs added.</p> <p>3.11 and 3.12 – update title to Governance Section Manager.</p> <p>4 – update ‘cash-like gift’ definition and delete ‘token/nominal value gifts’ definition.</p> <p>6.2 - updated Governance Section Manager title.</p> <p>7.2 and 7.3 –‘as amended’ added.</p>	062
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