

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 or anybody personally associated with them, including (but not limited to) family members.
- 3.2 Council officials must ensure all reasonable steps are taken to avoid situations that would 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 secure or gain favourable treatment from a Council official or the Council.
- 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 refused 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 cash or cash-like gifts.
- 3.7 Any offers of cash or cash-like gifts are to be refused and reported to either the General Manager, relevant Group Manager, the Public Officer and/or the Mayor, regardless of the amount. 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 of token value to an aggregate of \$100 over a 12 month period). Any gifts or benefits unable to be declined and/or exceed \$100 in value, during the same 12 month period, must be declared and surrendered to Council.
- 3.9 Council officials must not participate in competitions for prizes where eligibility is based on Council being in, or entering into, a customer-supplier relationship with the organiser.
- 3.10 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.
- 3.11 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.

3.12 All gift and/or benefits with a value of \$100 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 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.
Associated persons	Anybody a reasonable and informed person would perceive that a personal association could exist. Ordinarily this can include grandparents, parents, spouses, partners, children, siblings, friends, business partners, volunteer associates.
Cash-like gifts	“Cash-like gifts” include, 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.
Money	Credit or cash-like gifts.

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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EDRMS container No.	A2004-0984	EDRMS record No.	26/21067
Audience	Council officials		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	4 years	Next review date	25 November 2029
Adoption date	25 August 2015		

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

Version	Date	Author	Details	Minute No.
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	Policy reviewed, including the version control: 3.3 to 3.13 – delete clauses 3.3 to 3.11 – insert new clauses Definitions – insert “money”, delete “cash like gifts” and “hospitality”. Renumber 7.1 to 7.6 7.2 – insert “Local Government (General) Regulation 2005”. 7.5 – insert “Payment of Expenses and Provision of Facilities to Mayor and Councillors”. 7.6 – insert “Internal Reporting Policy”.	192
1.4	23 August 2022	Governance Section Manager	Policy review includes updating version control: 2.2 – insert “as a minimum”. 7 – updated related documents. Amended minor grammatical errors throughout policy.	224
1.5	25 November 2025	Governance Section Manager	Policy review includes updating version control: 3.1 – updated wording to be more consistent with Code of Conduct and ICAC. 3.2 – removal of clause and embed within 3.1. 3.5 to 3.9 - updated wording to be more consistent with Code of Conduct and ICAC. 3.12 – Updated amount to \$100 as per Code of Conduct. 4.1 – updated definitions of ‘cash-like gifts’, ‘associated persons’ and ‘money’.	281

Policy

			Amended review timeframe to 4 years in accordance with Council's policy review timeframe.	
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