

GIFTS AND BENEFITS POLICY

1. INTRODUCTION

This policy was developed in recognition that the conduct of Council business may give rise to gifts or benefits being offered to Council officials.

The offer or acceptance of gifts and other benefits has the potential to influence the behaviour of Council officials in the performance of their duties and/or affect the public perception of the integrity and reputation of Council and Council officers.

The objective of this policy is to protect Council officials so that they are not influenced, or perceived that they are being influenced, in the performance of their duties by providing guidance on the procedures to be followed if a gift or other benefit is offered or received.

2. POLICY STATEMENT AND SCOPE

Council officials will act with integrity at all times. The offer and acceptance of gifts and other benefits has the real and perceived opportunity for undermining integrity.

This Policy sets out the basis of how Port Macquarie-Hastings Council will manage offers of gifts and other benefits in accordance with Council's Code of Conduct and Statement of Business Ethics.

This policy applies to all Council officials as defined in this policy.

2.1 General Obligations

As a general rule it is prudent to refuse any gifts or other benefits offered. However, circumstances may arise where refusal may be difficult or inappropriate. The details of gifts and benefits accepted or refused shall be entered into the Gifts and Benefits Register by the completion of a Gift and Benefit Declaration as soon as practical. Gifts and benefits of a token value are excluded from the requirement to include in the Gifts and Benefits Register.

Council official's involved in procurement; tendering or sales activities for Council must not accept any gift or benefit from potential or current suppliers.

Council official's that have discretionary roles in regulatory and approval functions must not accept any gift or benefit from individuals or companies seeking the exercise of Council's decision making discretion or where an individual or company has sought the exercise of Council's decision making discretion in the previous 12 months.

Soliciting gifts or benefits by a Council official is prohibited under all circumstances. If a Council official is aware of another Council official soliciting gifts or benefits, the circumstances should be immediately reported to the General Manager.

Offers of cash or cash-like gifts should never be accepted as they would be likely to be perceived as an attempted bribe. 'Bribery' is defined as inducement by offering undue reward by, or to, any person in public office in order to influence his or her behaviour in that office and to influence that person to act contrary to the known rules of honesty and integrity.

Council officials must not offer or seek a bribe. Receiving or offering a bribe is an offence under the Crimes Act 1900 (NSW). Any Council official who believes they have been offered a bribe should refuse it and report the matter immediately to the General Manager. The General Manager will then assess

whether to report the matter to the Independent Commission Against Corruption (ICAC) in accordance with the ICAC legislation. The General Manager will also inform the NSW Police Service of the incident.

Councillors and designated persons must, under section 449(3) of the *Local Government Act 1993*, disclose any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less on the Disclosure of Interest Return.

2.2 Gifts and Benefits Register (Register)

All offers of gifts or benefits exceeding \$50, or a cumulative value of \$50 in a six month period from one person or organisation to the same Council official must be recorded in the Register via the completion of a Gift and Benefit Declaration.

Gifts or benefits which appear to be associated with a Council official's role at Council and are offered to a family member of the official are also subject to this Policy and must be recorded in the Register via the completion of a Gift and Benefit Declaration.

The Register acts as a record of gifts and other benefits, accepted or refused by Council officials and demonstrates Council is open and transparent in dealing with gifts and other benefits.

The Register will be available for public inspection.

The Gifts and Benefits Declaration form is available for electronic lodgement and can be accessed via clicking on the [hyperlink](#), Council's network drive I drive\Executive\Gift Register\ or from the Divisional Executive Assistants. All required fields are to be completed and the form to be appropriately approved.

2.3 Types of Gifts and Other Benefits

2.3.1 Token gifts and benefits - value not exceeding \$50

For the purposes of this policy, a token gift and benefit is defined as not exceeding a value of \$50. Gifts and benefits of token value that do not create a sense of obligation may be accepted and are therefore not required to be recorded in the Register.

Examples of token gifts and benefits include:

- free or subsidised meals, beverages or refreshments provided infrequently in conjunction with:
 - the discussion of official Council business
 - Council work related events such as training, education sessions, workshops and conferences
 - Council functions or events
 - social functions organised by groups, such as Council committees and community organisations
- invitations to and attendance at local social, cultural or sporting events
- gifts of single bottles of reasonably priced alcohol
- ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- prizes of token value .

2.3.2 Cumulative token gifts and benefits

Where a series of token gifts or benefits given by the same person or organisation to the same Council official within a six month period which have an aggregate value in excess of \$50, they must be treated as gifts or benefits that exceed the token value and recorded in the Register.

2.3.3 Gifts and Benefits of Value

All offers (whether accepted or refused) of gifts or benefits exceeding \$50, or a cumulative value of \$50 in a six month period from one person or organisation to the same Council official or a family member of a Council official must be declared in the Register.

Examples of gifts and benefits of value include:

- tickets to major sporting events;
- corporate hospitality at a corporate facility or at a sporting venue;
- discounted products for personal use;
- use of holiday homes or free or discounted travel;

- a prize as a result of entering a competition, raffle or lucky door while engaged in official duties (e.g. whilst at a conference); and
- a prize that was promoted as an incentive associated with the Council official's role (e.g. procurement sales incentive).

2.3.4 Ceremonial Gifts

A ceremonial gift is an official gift from one agency to another when conducting official business between the two agencies. Although a ceremonial gift may be of a reasonable monetary value, they are usually given with the intention to express welcome or gratitude to the agency as a whole, rather than an individual.

If gifts are offered to individual Council officials within Council's delegation, these gifts should be respectfully declined, unless it is unreasonable to decline due to protocol.

Examples of ceremonial gifts include:

- Plaques;
- Works of art;
- Craft;
- Sister city gifts; and
- Other items of significance that relate to a specific occasion or locality.

Ceremonial gifts received are to be recorded in the Gift and Benefit Register. The General Manager (or Mayor if received by the General Manager) will determine the appropriate location within Council to house the gift.

2.4 Gifts that are Unable to be Refused or Returned

If you receive a gift or benefit of more than token value and the circumstances are such that it cannot reasonably be refused or returned, the gift should be accepted, promptly disclosed to the relevant Director (Council officer), General Manager (Councillor) or Mayor (General Manager) and recorded in the Register.

Where a gift or benefit of more than the token value cannot be reasonably refused or returned, Council must make a decision as to how the gift is disposed of, having regard to the nature of the gift and the circumstance in which it was received.

Options for disposing of gifts and benefits include:

- Displayed in Council offices (plaques, artwork, craftwork, flowers etc);
- Used in Council operations (technical resources, plant and machinery);
- Shared amongst Council Staff (perishable food items);
- Donated to a suitable charity; and
- Conduct a raffle/auction with the proceeds donated to charity.

The method of disposal and the reasons for the decision should be documented in the Register.

2.5 Breaches of the Policy

Each Council official of Council is obliged to comply with this policy. Sanctions may be applied if this policy is breached.

Any person may report an alleged breach of this policy by a Council official to the Group Manager Governance and Procurement, General Manager, or in the case of an alleged breach by the General Manager, to the Mayor.

The General Manager or Mayor as appropriate shall investigate any report received and take such action as is considered necessary including counselling, censure motions, disciplinary action, the laying of charges and the taking of civil action.

3. RESPONSIBILITIES AND AUTHORITIES

The Group Manager Governance and Procurement is responsible and accountable for:

- maintaining the Gifts and Benefits Register;
- undertaking a regular review of this Policy. The review will incorporate changes in relevant legislation, documentation released from relevant state agencies and best practice guidelines;
- investigating breaches of this Policy and refer matters to the General Manager as appropriate; and
- implementation of, monitoring of adherence to this Policy.

Directors, Managers and Supervisors are responsible and accountable for ensuring that their staff are aware of this Policy, its intent and be available to give advice on its interpretation.

All employees are responsible and accountable for complying with this policy.

4. REFERENCES

Clause 184 Gifts, and Schedule 3 Form of return - disclosure of interest)

Code of Conduct

Fraud Prevention Policy

Gifts and Benefits Register

Gifts and Benefits Declaration form

Making of Council Policy Procedure

Statement of Business Ethics

Crimes Act 1900 (NSW)

Local Government Act 1993(in particular Part 2 Duties of Disclosure - s449)

Local Government (General) Regulation 2005 (in particular Part 8 Honesty and Disclosure of Interests,

5. DEFINITIONS

Benefit	Includes, but is not limited to, hospitality, preferential treatment, access to confidential information, free access to services which are normally charged at a fee, or access to a private spectator box at a sporting or entertainment event.
Bribe	Gifts or benefits given 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	Includes gift vouchers or cards (eg iTunes, Spotify, Bunnings or similar), credit card, debit card with credit on it, prepayment such as phone or internet credit, membership or an entitlement to discounted or free services.
Council function or event	A function or event where the Council official has a formal role at the function or event to represent Council.
Council Officer	A member of Council staff
Council Official	Councillors, Council officers, Council Committee or Reference Group members, volunteers or delegated persons as defined in the <i>Local Government Act 1993</i> .
Councillor	Elected Council representatives, including the Mayor
Director	2nd tier management position and titled as such
Family member	Parents, spouses, children and siblings
General Manager	1st tier management position and titled as such
Gift	Includes, but is not limited to, items such as cash or cash-like gifts, alcohol, clothes, products or tickets to a sporting or entertainment event.
Hospitality	The provision of meals, refreshments or other forms of entertainment.

Register	Gifts and Benefits register.
Token value	The monetary limit of the value of gifts or benefits that may be accepted and do not require declaration in the Gifts and Benefits Register. This value is \$50 and therefore any gift or benefit valued at less than \$50 is considered to be of token value in accordance with this policy.

6. PROCESS OWNER

The Group Manager Governance and Executive Services is the nominated process owner for this Policy.

7. AMENDMENTS

The following amendments have been made to this policy to the previous version:

1. Removal of the requirement to record the offer, acceptance, refusal or return of a token gift or benefits in the Register;
2. Inclusion of guidance on ceremonial gifts;
3. Removal of specific examples of gift and benefit situations; and
4. Reformatting to the revised policy template.