

# GIFTS & BENEFITS

## Policy | Governance

To supplement the Code of Conduct by providing a common understanding of appropriate conduct expected in relation to dealing with gifts, benefits and/or bribes

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## **1 Background**

### **1.1 Title of the Policy and Commencement Date**

The Gifts & Benefits Policy takes effect upon adoption by Council.

### **1.2 Purpose of the Policy**

This policy aims to provide guidance to Council officials in identifying, assessing and managing the provision or offer of any gift, benefit or bribe in accordance with Council's Code of Conduct and statutory requirements, and to enhance the reputation of Council as an organisation with the highest standards of ethical governance. This can only be achieved and maintained if the community is confident that Council officials are not influenced by gifts, benefits and bribery.

## **2 Objective**

### **2.1 Objectives and Coverage of the Policy**

This policy states Council's requirements regarding the management of gifts and benefits, which protects Council officials and their reputation and minimises potential negative consequences for both Council and the Council official.

Council officials must not give or accept gifts or benefits that may compromise, or appear to compromise, their integrity and objectivity in performing their duties, or cause, or appear to cause a conflict of interest. The giving or acceptance of gifts and benefits may affect the public perception of the integrity and independence of Singleton Council. Council officials must be able to demonstrate that they cannot be improperly influenced in the performance of their duties by offers of gifts and benefits.

This policy outlines what gifts and benefits may and may not be accepted and alternatives to offering gifts and benefits to Council officials.

This policy complies the Model Code of Conduct for Local Councils in NSW and guidelines issued by the Independent Commission Against Corruption (ICAC).

## **3 Application**

### **3.1 Application of this Policy**

This policy applies to persons covered by the Code of Conduct including Councillors, administrators and members of staff of Council.

The term "you" used in this policy refers to Council officials.



## 4 Definitions

For the purposes of this policy:

Term	Meaning
Gift or Benefit	Something offered to or received by a Council official or someone personally associated with them for their personal use and enjoyment.
Bribe	A gift or benefit offered to or solicited by a Council official to influence that person to act in a particular way.
Corruption	The abuse of public office for private or personal advantage.
Gifts & Benefits Register	An official record that details gifts and benefits that have been offered to and/or received by Council officials and how they are managed.
Cash-like Gifts	For the purposes of clause 5.4.4.1(e), “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.

## 5 Principles/Body

### 5.1 Bribes

Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor. Council will take steps to report the matter to ICAC and the NSW Police immediately.

Receiving a bribe is an offence under both common law and NSW legislation.

The common law offence of bribery is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity.

#### 5.1.1 What to do if you receive an offer of a bribe.

If you think you have been offered a bribe, your supervisor (or appropriate senior officer) must inform the Coordinator Governance or a member of the Executive Leadership Team. If your supervisor (or appropriate senior officer) does not do this, you should inform the Coordinator Governance or a member of the Executive Leadership Team yourself.

If you have been offered a bribe, the ICAC and the NSW Police must be notified immediately. This will ordinarily be done by Council. However, if this action is not taken expeditiously the Council official may do so themselves.

Singleton Council is committed to promoting ethical behaviour. Reports of unethical behaviour, fraud, corruption, maladministration or waste can be made to your supervisor, Director, General Manager or the Coordinator Governance.



External reporting can also be made to:

- Independent Commission Against Corruption
- NSW Ombudsman
- NSW Office of Local Government

Public officials reporting corrupt conduct, maladministration or waste can be protected by the *Public Interest Disclosures Act, 1994* if formally requested. This Act protects public officials who are disclosing corrupt conduct from reprisal or detrimental action and ensures disclosures are properly investigated. Singleton Council has an adopted policy on Internal Reporting under the *Public Interest Disclosures Act, 1994*.

## **5.2 Improper and undue influence**

You must not use your position to influence other Council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the proper exercise of their role as prescribed under the *Local Government Act, 1993*.

You must not take advantage (or seek to take advantage) of your status or position with Council, or of functions you perform for Council, in order to obtain a private benefit for yourself or for any other person or body.

## **5.3 Personal Benefit**

Council officials, at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently in good faith or could be an attempt to influence. Feelings of obligation can arise if council officials accept a gift or benefit. Once such a gift is accepted, a council official can be compromised.

Individuals attempting to corrupt council officials often start with small inducements that appear to have no improper motive behind them.

Corruptly receiving a gift or benefit is an offence under both common law and NSW legislation. The offence extends to the offering or seeking of a gift or benefit.

## **5.4 Gifts and Benefits**

You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.

A gift or benefit is deemed to have been accepted by you for the purposes of this policy, where it is received by you or someone personally associated with you.

### **5.4.1 Gifts and Benefits of Token Value**

You may accept gifts and benefits 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 \$100. They include, but are not limited to:

- Invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100.



- Gifts of alcohol that do not exceed a value of \$100.
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like.
- Prizes or awards that do not exceed \$100 in value.

#### 5.4.2 Gifts and Benefits of More Than Token Value

- 5.4.2.1 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 5.4.4.1(d) and, subject to clause 5.4.4.3, must not be accepted.
- 5.4.2.2 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 \$100, 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.
- 5.4.2.3 Where you have accepted 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 \$100 in value.
- 5.4.2.4 For the purposes of this policy, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

#### 5.4.3 Exemptions

A reference to a gift or benefit in this policy does not include:

- Items with a value of \$10 or less.
- A political donation for the purposes of the *Electoral Funding Act, 2018*.
- 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.
- A benefit or facility provided by the council to an employee or Councillor.
- Attendance by a Council official at a work-related event or function for the purposes of performing their official duties.
- Free or subsidised meals, beverages or refreshments provided to Council officials in conjunction with the performance of their official duties such as, but not limited to:
  - The discussion of official business.
  - Work-related events such as Council-sponsored or community events, training, education sessions or workshops.
  - Conferences.
  - Council functions or events.



- Social functions organised by groups, such as Council committees and community organisations.

#### 5.4.4 **How are offers of gifts and benefits to be dealt with?**

##### 5.4.4.1 You 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) Subject to clause 5.4.4.3, accept any gift or benefit of more than token value as defined by clause 5.4.2.1.
- (e) Accept an offer of cash or a cash-like gift, regardless of the amount.
- (f) 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.
- (g) Personally benefit from reward points programs when purchasing on behalf of the Council.

5.4.4.2 Where you receive a gift or benefit of any value other than one referred to in clause 5.4.3, this must be disclosed promptly to the Coordinator Governance or General Manager in writing. The recipient, Coordinator Governance, or General Manager must ensure that any gifts or benefits that are received are recorded in the Gifts and Benefits Register.

5.4.4.3 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Council, to be disposed of in accordance with clause 5.4.5, unless the nature of the gift or benefit makes this impractical.

##### 5.4.5 **Disposal of Gifts**

Gifts which have been surrendered to Council will be disposed of using one of the following methods:

- donated to a charity within the Singleton Local Government Area
- shared amongst all staff
- retained and used as part of Council's operations
- returned to the giver
- during the Christmas period gifts will be placed under one of the Christmas trees located in each service location for donation to charity in accordance with the Mayoral Christmas Tree Appeal

The disposal method will be recorded in the Gifts and Benefits Register.





## **5.5 Gifts and Benefits Register**

The Gifts and Benefits Register is an official Council record that details gifts and/or benefits offered to Council officials and how these items were managed by Council. At a minimum, the following details are recorded in Council's Register:

- The nature of the gift or benefit;
- The estimated monetary value of the gift or benefit;
- The name of the person who provided the gift or benefit; and
- The date on which the gift or benefit was received.

The Gifts and Benefits Register will be reviewed every six months by the Leadership Team to identify and manage any potential emerging risks.

## **5.6 Provision of gifts and benefits to others**

It is acceptable practice for Council officials to:

- Offer modest hospitality to individuals and representatives of other agencies who visit the organisation for work related activities.
- Give tokens of appreciation to individuals who have given non-paid presentations to Council.
- Give ceremonial gifts to visiting delegations from overseas and other agencies.

Such gifts must be arranged through the Executive Assistant to ensure consistency and suitability for purpose.

The same provisions apply for the giving of gifts as for their acceptance, including taking into account how the offer of the gift may be perceived. Council officials should exercise particular caution when the proposed recipient or organisation has a continuing business relationship with Council.

## **5.7 Alternatives to gifts and benefits and recognition of Council staff**

Council is committed to ensuring our staff are remunerated appropriately and receive recognition and reward for exceptional performance.

At all times Council welcomes feedback and members of the public are encouraged to express their gratitude and appreciation of staff in one of the following ways rather than by offering gifts or benefits:

- In person.
- A card or letter to the staff member.
- An email or letter to the General Manager to ensure that staff members receive appropriate recognition

It is far more appropriate that staff performance be recognised through Council's formal staff awards program. This awards program celebrates employee and team excellence with regard to work outputs and living our organisation values.

As an organisation Council also rewards staff performance that goes above and beyond that of the salary of a position with an annual bonus scheme.



## 6 Relevant Legislation

- *Crimes Act, 1900 (NSW)*
- *Independent Commission Against Corruption Act, 1998 (NSW)*
- *Local Government Act, 1993 (NSW)*
- *Local Government (General) Regulation, 2021 (NSW)*
- *Public Interest Disclosures Act, 1994 (NSW)*

## 7 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

### 7.1 Related Documents

Related documents, listed in *Error! Reference source not found.* below, are internal documents directly related to or referenced from this document.

Number	Title
POL/1011	Code of Conduct
POL/1020	Public Interest Disclosures Internal Reporting Policy
POL/6007	Fraud & Corruption Control Policy
20/81972	Statement of Business Ethics

## 8 Responsible Officer / Policy Owner

Ownership of this policy rests with the Coordinator Governance.

## 9 Responsibilities

Parties or Persons	Responsibilities
Council Officials	<ul style="list-style-type: none"> <li>• All Council officials are responsible to ensure that they comply with this policy at all times.</li> <li>• Promptly declaring any gifts or benefits received of any value other than one referred to in clause 5.4.3 via the CRM system.</li> </ul>
Coordinator Governance	<ul style="list-style-type: none"> <li>• The implementation, application and review of the policy and any associated procedures for the organisation;</li> <li>• Management of Council's Gifts and Benefits Register including;</li> <li>• Providing a six monthly report to the Leadership Team in relation to the ongoing management of gifts and benefits; and</li> <li>• Raising awareness of gifts and benefits across Council.</li> </ul>
People Managers	<ul style="list-style-type: none"> <li>• To lead staff in their understanding of, and compliance with, this policy.</li> </ul>



## 10 Approval

As per cover sheet.

## 11 Monitoring

This policy will be monitored by the Coordinator Governance to ensure compliance.

## 12 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every four (4) years to ensure that it meets legislative requirements.

## 13 Last Review Date

This policy was last reviewed and adopted by Council on 19 October 2020.

## 14 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

## 15 Breaches and Sanctions

Failure to comply with this policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions, including dismissal. Any breaches of this Policy will be referred to the General Manager for appropriate action.

## 16 Document History

The below table provides a summary of changes and amendments to this document.

Version.	Date Amended	Author	Comments (e.g. reasons for review)
5	26/08/2020	L Bourke	<ul style="list-style-type: none"> <li>Updated to incorporate amendments as per the Model Code of Conduct for Local Councils in NSW – 2020.</li> <li>Changed business unit to Integrated Risk Management.</li> <li>Changed Director to Organisation &amp; Community Capacity.</li> <li>Responsibilities updated to include CRM system rather than declaration form.</li> <li>Process map updated to include new date and submitting of declaration via CRM system.</li> </ul>
6	16/09/2022	L Britton	<ul style="list-style-type: none"> <li>Updated dates as relevant</li> </ul>



Version.	Date Amended	Author	Comments (e.g. reasons for review)
			<ul style="list-style-type: none"><li>• Updated reference numbers as relevant</li><li>• Updated legislation as relevant</li><li>• Changed review period to every four years</li></ul>



## Appendix A - Gifts & Benefits Process Map

