

Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
Doc Controller: **Director Corporate and Commercial Services**

Document Code: **CP-CCS-CG-028**

Version: **5.0**

Approved Date: **22 Feb 2022**

File: **4/14/2**

Next Review Date: **22 Feb 2025**

1 PURPOSE

The purpose of this policy is to provide a framework for compliance with Part 5A of the *Local Government Act 1993*, and to manage the perception of undue influence and avoid exposure to criminal liability.

2 OBJECTIVE

This policy

- a) sets clear guidelines for Councillors and employees to enable them to deal with any offer of a gift or benefit;
- b) protects Councillors and employees from being compromised and to avoid a perception of bias;
- c) provides a safe working environment by minimising situations that can cause unnecessary stress and anxiety; and
- d) demonstrates that Council will deal with all matters in an impartial, equitable and transparent manner.

3 SCOPE

This policy applies for all Councillors and employees of Burnie City Council. Where specific provisions apply to Councillors only, these are clarified in each section. For the purpose of this policy, the term *employee* includes staff engaged on a labour hire contract.

Councillors	Covered by Part 5A <i>Local Government Act 1993</i> and Part 3A <i>Local Government (General) Regulations 2015</i> ; and the Councillors' Code of Conduct
Employees	Covered by this Policy and the Employees' Code of Conduct

The scope of this policy also extends to other workers who partner with the Council who may face the prospect of gifts and benefits when operating on behalf of the Council. These include volunteers, contractors, members of special committees and members of the Audit Panel, and this policy holds these individuals to the same account as an *employee*.

4 POLICY

4.1 Policy Position

A Councillor or employee must not:

- a) seek or accept a bribe, or other improper inducement;
- b) take advantage of his or her official position to improperly influence other Councillors, employees or contractors in the performance of their public or professional duties, for the purpose of securing a private benefit for himself or herself or for some other person; and/or

Receipt of Gifts, Benefits and Inducements

- c) generally by virtue of his or her official position, accept or acquire a personal profit or advantage of a pecuniary value.

4.2 Gifts and Benefits

Gifts and benefits are those items offered or given to individuals or a group as a token of appreciation and gratitude for services or tasks performed.

Regulation 29A of the *Local Government (General) Regulations 2015* lists prescribed classes of gifts and benefits that apply to Councillors:

Councillors	For the purposes of section 56A(1)(b) of the Act, the following classes of gift or donation are prescribed: <ul style="list-style-type: none"> (a) an item, service, loan of money, loan of property or any other benefit with a monetary value of \$50 or more; (b) an item, service or other benefit that is part of a series of gifts or donations received by a councillor from the same donor, where the aggregate monetary value of the series of gifts or donations in a financial year is \$50 or more.
Employees	Gifts or donations are those items offered or given to individuals or a group as a token of appreciation and gratitude for services or tasks performed

The receipt of a gift or benefit may be perceived as creating influence or obligation, therefore to manage this perception, a clear framework is provided:

- a) One-off gifts and benefits of token or nominal value (determined at \$50) may be accepted without declaration;
- b) Gifts and benefits that are greater than a token or nominal value (\$50) must be declared to the General Manager who then has discretion to allow the gift to be passed on to the intended recipient(s) or declined. All notifications will be recorded in the Gifts and Benefits Register.

Gifts and benefits are not to be solicited by Councillors or employees under any circumstances.

A Councillor or employee must not accept any gift or benefit if:

- a) the person offering it, or a fair person, would expect them to be influenced in the way they do your job or carry out their duties; and/or
- b) they would feel a sense of obligation or debt to the person offering the gift or benefit; and/or
- c) they or the Council are likely to be compromised.

A Councillor or employee must never accept an offer of money, regardless of the amount.

Councillors and employees must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits greater than a token or nominal value as a result of the Councillor or employee's position. Immediate family members include parents, spouse, children and siblings.

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4.3 What is Token or Nominal Value?

Gifts and benefits of a token or nominal value usually do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his or her official duties.

For the purposes of this policy, ***token or nominal gifts and benefits are defined as non-monetary gifts and benefits up to the value of \$50 (fifty dollars) that do not occur on a regular basis.***

Examples of token gifts and benefits include:

- a) single bottles of reasonably priced alcohol to individuals at end of year functions, public occasions or in recognition of work undertaken;
- b) meals of a modest nature and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business;
- c) meals of a modest nature and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops etc or provided at conferences where they are a speaker;
- d) chocolates or flowers in recognition of work undertaken;
- e) marketing trinkets or corporate mementos (such as key rings, notepads, pens and pencils) and ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverage;
- f) books given to individuals at functions, public occasions, or in recognition of work undertaken;
- g) invitations as a representative of Council to cocktail parties, Christmas parties, civic or social functions.

Examples of gifts and benefits that are **not token** in nature include free or discounted travel, use of holiday homes, tickets to major sporting events, corporate hospitality at a corporate facility or sporting venue, free training excursions, access to confidential information, or discounted products for personal use.

4.4 What to do if you are offered a gift or benefit

A Councillor or employee who is offered or receives a gift or benefit that is more than token or nominal value, should take the following steps:

- a) Consider the option to politely decline the gift. In some cases this may be the appropriate option.
- b) Report the offer of the gift to the relevant Director or General Manager (even if the gift was declined).
- c) If the gift has not been declined, complete a Declaration of Gift Form within 14 days of the offer or receipt of the gift and submit to the General Manager for consideration.

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The Mayor should declare a gift to*:	General Manager
Councillors should declare a gift to:	General Manager
The General Manager should declare a gift to:	Mayor
Employee should declare a gift to:	General Manager

**In cases where the same gift may be offered to the Mayor and General Manager, the notification should be reviewed and approved by the Deputy Mayor.*

- d) The declaration will be entered into the Gifts and Benefits Register. If the gift is declined, it becomes the property of Council and disposal will be arranged by the General Manager or Mayor as relevant, and the Declaration Form maintained on record.

If a Councillor or employee is in doubt about whether a gift is token or nominal in value, they should exercise caution and declare the gift.

Should any gift or benefit be received and the Councillor or employee fails to provide information in accordance with this policy, the following action may result:

Councillors	Penalties may apply under s56A of the <i>Local Government Act 1993</i> .
Employees	Disciplinary action may be taken.

4.5 Disposal of Gifts

The General Manager, Mayor, and where required the Deputy Mayor will determine whether a gift of benefit of a non-token nature should be disposed. Options for disposal include:

- Surrendering the gift to Council for retention;
- Distributing the gift or benefit amongst a selection of Council staff – where a reasonable person would agree that the allocation was appropriate;
- Donating the gift to an appropriate charity.

4.6 Bribes and Inducements

Bribery is defined as inducement by 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.

Acceptance of a bribe creates an assumption that the recipient has undertaken to provide preferential service or outcomes and places that person in a compromised position, being liable to the influence of the person who has given the bribe or inducement.

Councillors and employees must not offer or seek a bribe.

Receipt of Gifts, Benefits and Inducements

A person offered a bribe must refuse it and report the incident as soon as possible to their Director or the General Manager.

An offer and acceptance of a bribe may amount to criminal activity for which Council may take appropriate action.

4.7 Gifts and Benefits Register

The Gifts and Benefits Register will be made available in the following way:

Councillors	The Councillors' Register will be made available to the public in accordance with the instruction of the Director of Local Government. The Councillors' Register will be reviewed annually by the Audit Panel.
Employees	The Employees' Register will be reviewed annually by the Audit Panel.

5 LEGISLATION

Part 5A *Local Government Act 1993*
 Part 3A *Local Government (General) Regulations 2015*

6 RELATED DOCUMENTS

Code of Conduct for Aldermen Policy CP-CCS-CG-024
 Burnie City Council Code of Conduct (Employees)
 Aldermen's Expenses, Allowances and Gifts Policy CP-CCS-CG-001
 Code for Tenders and Contractors Policy CP-CCS-CG-012
 Gifts and Benefits Register REG-CCS-CG-004
 Public Interest Disclosure Policy and Procedures CP-CCS-CG-013

Policy Endorsement	
Responsibility:	In relation to the receipt of gifts or benefits by Councillors, it is the responsibility of individual Councillors to ensure that the integrity of the policy is maintained. In relation to the receipt of gifts or benefits by employees it is the responsibility of employees, leaders and the General Manager to ensure that the integrity of the policy is maintained. It is the responsibility of the Corporate Governance Unit to administer this policy and maintain the Gifts and Benefits Register and to maintain this policy in the Corporate Document Framework.
Minute Reference:	AO027-22
Council Meeting Date:	22 February 2022
Strategic Plan Reference:	Strategy 7.1.1 Formulate policy that is equitable, inclusive and responsive to current needs, and ensure decision-making is informed and accountable.
Previous Policies Replaced:	This policy replaces the previous policy <i>Receipt of Gifts, Benefits and Inducements</i> version 4.0 dated 18 Sep 2018 (Item AO246-18).
Date of Commencement:	23 February 2022
Publication of policy:	Members of the public may inspect this policy at the City Offices, or access it on Council's website (www.burnie.net)