



## Policy: Gifts, Benefits and Hospitality

### Head of Power

Crime and Corruption Act 2001  
Criminal Code Act 1899  
Local Government Act s280  
Public Sector Ethics Act S6

### 1. Objective

The Community expects high standards of integrity and impartiality from Councillors and Employees. This Policy is to ensure that Councillors and Employees understand that they must discharge their official duties impartially and with integrity to meet the Community's expectations.

It is inappropriate for Councillors or Employees to accept gifts, benefits or hospitality that affect, or may be seen to affect the performance of their official duties, or influence, or be seen to influence them in doing so. In fact, asking for or receiving gifts, benefits or hospitality is a serious matter and can be a criminal offence.

This policy does not apply to electoral gifts to Councillors as defined in the *Local Government Act 2009*.

### 2. Definitions

"Benefit" means property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute (Section 1, *Criminal Code Act 1899*, Schedule 2, *Crime and Corruption Act 2001*)

"Bribery" means the offer, payment or provision of a benefit to someone to influence the performance of a person's duty and/or to encourage misuse of their authority.

"Chief Executive Officer (CEO)" means the person appointed to the position of Chief Executive Officer of Pormpuraaw Aboriginal Shire Council under the *Local Government Act 2009* and anyone acting in that position.

"Council" means the Pormpuraaw Aboriginal Shire Council.

"Employee" means a person appointed as a local government employee under Section 196 of the *Local Government Act 2009* and includes a person appointed as a "councillor advisor" under Section 197A of the *Local Government Act 2009*.

"Gift" means an item of value (money, voucher, entertainment, hospitality, travel, commodity, property) that one person gives to another. Gifts may be offered as an expression of gratitude with no obligation to repay or given to create a feeling of obligation.

"Hospitality" means the provision of food and beverages by a person to another where the



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recipient does not pay for the food and beverages. It does not mean the provision of tea, coffee, cold drinks and sandwiches (light refreshments) that are part of normal business conduct.

“Nominal value” means the value of the gift offer. It is used to determine whether an offer, if accepted, is a reportable gift and therefore recorded on the gift register. Irrespective of the value, a gift offer must be refused if it could create a reasonable perception that an employee or Councillor could be influenced by accepting the gift. In this Policy the nominal value is \$20.

“Reportable gifts” means those gifts that must be recorded on Council’s “Gift Register” (Attachment A). At a minimum, reportable gifts include accepted gifts, benefits and hospitality that exceed the nominal value. They could also include gift offers of any value, whether they are accepted or not. The gifts may have been offered to an employee or Councillor directly or extended to them as a guest of their partner or other close relation.

“Soliciting” means a person communicating by word, letter, electronic means (e.g. text, email) or deed (physical gestures) a request for a person to give or provide them with a benefit for the purpose of influencing their decisions in the course of them discharging their duties as a Councillor or Employee.

### 3. Application

This Policy applies to Councillors and Employees of Pormpuraaw Aboriginal Shire Council.

### 4. Policy Statement

- 4.1 Under Section 199(3) of the Act it is an offence for an Employee to ask for, or accept, a fee or other benefit for doing something as a local government employee. Section 199(3) does not apply to remuneration paid by Council or a benefit that has only a nominal value.
- 4.2 There are risks of fraud and corruption associated with Councillors and Council Employees being offered and accepting gifts, benefits and hospitality in the course of their official duties, such as:
  - a) Signify taking a bribe or secret commission;
  - b) Cause a perception of undue influence;
  - c) Provoke a sense of obligation in the donor or the recipient;
  - d) Consciously or unconsciously influence decisions made by Council;
  - e) Benefit some individuals or organisations through influenced or unjust decisions, while unfairly disadvantaging others;
  - f) Compromise independence, impartiality or the reputation of the Council.
- 4.3 Some Employees perform roles that call for greater scrutiny, such as those involved in procurement, recruitment or grants processes. These Employees must not accept gifts, benefits or hospitality from contractors under any circumstances.

#### **Soliciting (asking for) gifts, benefits or hospitality**

- 4.4 Soliciting is asking someone for, gifts, benefits or hospitality and it is prohibited.



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4.5 If a Councillor or Employee becomes aware of a situation where someone has asked for gifts, benefits or hospitality, then he/she must report it immediately to the Chief Executive Officer.

4.6 The Chief Executive Officer must immediately report the allegation of solicitation to the Crime and Corruption Commission.

### What happens if I am offered a gift, benefit or hospitality?

4.7 A gift, benefit or hospitality must not be accepted if:

- a) the recipient believes that the offer has been made with the intention of affecting the discharge of the recipient's official duties, whether or not the giver has expressly communicated this intention – that is, the offer is made “with strings attached” or “being owed”;
- b) the recipient believes that the public perception is that the offer is intended to affect the discharge of their official duties; or
- c) the recipient asks themselves the following questions:

#### Giver

- (i) Who is providing the gift, benefit or hospitality and what is their relationship to me?
- (ii) Does my role require me to select contractors, award grants, or determine policies?
- (iii) Could the person or organisation benefit from a decision I make?

#### Influence

- (iv) Are they seeking to influence my decisions or actions?
- (v) Has the gift, benefit or hospitality been offered to me publicly or privately?
- (vi) Is it a courtesy, a token of appreciation or highly valuable?
- (vii) Does its timing coincide with a decision I am about to make?

#### Favour

- (viii) Are they seeking a favour in return for the gift, benefit or hospitality?
- (ix) Has the gift, benefit or hospitality been offered honestly?
- (x) Has the person or organisation made several offers over the last 12 months?
- (xi) Would accepting it create an obligation to return a favour?

#### Trust

- (xii) Would accepting the gift, benefit or hospitality diminish public trust?
- (xiii) How would I feel if the gift, benefit or hospitality became public knowledge?
- (xiv) What would my colleagues, family, friends or associates think?



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### **Guidelines for accepting gifts, benefits or hospitality**

- 4.8 In some restricted situations some types of gifts, benefits or hospitality may be accepted **but** Councillors and Employees should consider
- a) the intent in which the gift is offered; and
  - b) the public perception of acceptance of the gift.
- 4.9 Councillors and Council Employee must ask themselves two questions:
- a) “Does the person offering expect something from me, now or sometime in the future, when I am doing my job for Council?”
  - b) “What would people think of me if they were aware that I had accepted this gift, benefit or hospitality? Am I comfortable people knowing?”
- 4.10 Councillors and Council Employees may keep token gifts that are of a nominal value (less than \$20). All gifts over this amount remain the property of Council and should be recorded on the Gift Register (Attachment A).
- 4.11 Ceremonial gifts from an international, or interstate delegation must be recorded on the Gift Register and become Council’s property.

### **Determining values**

- 4.12 Recipients must assign a “fair market value” to each gift, benefit or hospitality accepted.
- 4.13 Deliberately undervaluing a gift or benefit to avoid reporting it or fraudulently keeping it constitutes official misconduct. Advice about the value of a gift or benefit should be sought from the Chief Executive Officer.

### **Gifts of cultural or historical significance**

- 4.14 All gifts of cultural or historical significance remain Council property regardless of their value.
- 4.15 The Council will determine the location of the gift or decide how it is displayed or disposed of.

### **Recording the acceptance and/or keeping of a gift**

- 4.16 Acceptance of token gifts (\$20 or less) or reasonable hospitality does not need to be formally registered. Similarly, hospitality provided by other government departments or governments does not need to be recorded.
- 4.17 Gifts of nominal value include but are not limited to examples such as – pens, lanyards, small items of stationery, drink bottles.
- 4.18 Gifts over nominal value that must be registered include but are not limited to – wine, caps or hats, shirts, jackets, shoes, branded clothing, electronic equipment including apps, phones, phone covers, bags, and diaries.



## Gift Register

- 4.19 When gifts, benefits or hospitality are received, it is important that Council has a process that is consistent and appropriate.
- 4.20 For transparency, the receipt of gifts and benefits must be recorded in the Gift Register.
- 4.21 The Gift Register will be maintained by the Chief Executive Officer and will include the following information:
- a) date of the offer
  - b) details of the person and/or organisation making the gift
  - c) the name of the recipient
  - d) description of the gift
  - e) estimated value of the gift
  - f) decision regarding whether the gift should be retained by the recipient or otherwise
  - g) name of the person who made the decision

## 5. Related Documents

Code of Conduct for Councillors  
Gift Register  
Staff Handbook (Code of Conduct)

## 6. Review Triggers

This Policy is reviewed internally for applicability, continuing effect and consistency with related documents and other legislative provisions when any of the following occurs:

- a) The related documents are amended.
- b) The related documents are replaced by new documents.
- c) Amendments are made to the head of power which affect the scope and effect of this Policy.
- d) Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this Policy is to be reviewed at least once every two years for relevance and to ensure that its effectiveness is maintained.

## 7. Responsibility

This Policy is to be:

- a) implemented by the CEO; and
- b) reviewed and amended in accordance with the "Review Triggers" by the CEO.

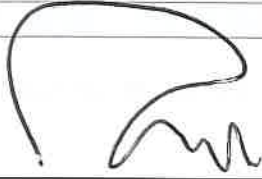


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## 8. Version Control

Policy:		Official Version:
Version	Adoption (Council Resolution Number)	Date
Jly 2021	Resolution:2021/07/12	28 Jly 2021

Approved by CEO:

  
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*Signature*



**ATTACHMENT A: GIFT REGISTER**

Date of offer	Details of person offering the gift	Name of recipient	Description of Gift	Value of Gift	Decision to retain gift	Person who made the decision

