	<b>Function:</b> EXECUTIVE SERVICES (GOVERNANCE)	Adopted: 7 <sup>th</sup> December 2022 Resolution No.: C439:1222
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	<b>Version Number:</b> 1	Next Review: As Required
<b>GIFTS AND BENEFITS POLICY</b>		

## POLICY STATEMENT

Copper Coast Council (Council) is committed to acting in the best interests of the community and upholding the principles of honesty, integrity and transparency; all key components of good governance.

### 1. Introduction

- 1.1. The Gifts and Benefits Policy (Policy) aims to provide the framework where a gift or benefit:
  - 1.1.1. Can be received by Council, a Council Member or Council Employee
  - 1.1.2. Can be provided by Council to a Council Member or Council Employee; and
  - 1.1.3. Must be refused by Council, a Council Member or Council Employee; and
  - 1.1.4. Must be recorded in a transparent and accountable manner.

### 2. Scope

- 2.1. This Policy applies to all Council Members and Council Employees when performing official duties and functions, including those outside of normal business hours.
- 2.2. Council Members and Council Employees must be accountable and responsible for their actions at all times, and must ensure that the methods and procedures they use to arrive at decisions in relation to gift and benefits are consistent with the legislation, this Policy and can withstand audit processes and public scrutiny.
- 2.3. The acceptance of gifts or benefits of any kind is generally discouraged, however Council recognises that in certain circumstances gifts and benefits may be offered and accepted, with little risk in permitting this to occur.
- 2.4. As a matter of law, and Councils Policy, any gift or benefit must be refused if it is given in an attempt to influence, or if receiving it would, in the mind of a reasonable person, be perceived that it would prevent the receiver's ability to act impartially.

### 3. Legislative Framework

- 3.1. The following legislation applies to this Policy:
  - 3.1.1. Local Government Act 1999
  - 3.1.2. Local Government (General) Regulations 2013
  - 3.1.3. Local Government (General) (Employee Code of Conduct) Variation Regulations 2018
  - 3.1.4. Public Interest Disclosure Act 2018
  - 3.1.5. Independent Commissioner Against Corruption Act (SA) 2012
- 3.2. This Policy is not a mandatory requirement but essential for good governance.

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*Lifestyle location of choice*

#### 4. Integration with Corporate Objectives

4.1. This Policy supports Council's Strategic Plan 2019 - 2029

- Governance Objective – Leadership

Goal 5 - To provide leadership and ensure resources are managed efficiently and effectively.

5.3 Legislation – To adhere to the requirements of the Local Government Act 1999, regulations and other legislation that influences the operations of Council.

#### 5. Related Council Policies and Documents

5.1. This Policy is designed operate in conjunction with other Policies, including:

5.1.1. Code of Conduct for Council Members (Clause 3.10)

5.1.2. Code of Conduct for Council Employees

5.1.3. Public Interest Disclosure Policy

5.1.4. Fraud and Corruption, Misconduct and Maladministration Policy

5.1.5. Complaints Policy

#### 6. Definitions

For the purposes of this Policy, definitions apply:

6.1. **Benefit** means something which is believed to be of value to the receiver, such as a service. Examples of benefits include food and drink, use of facilities (gymnasium/holiday home), discounted travel and discounted meals.

6.2. **Bribe** means a gift or benefit given with the direct intention to influence behaviour.

6.3. **Council** means the Copper Coast Council and any delegate of the Council.

6.4. **Gift(s) of Gratitude** means a gift of minor value such as for excellent customer service, for speaking at a function etc.

6.5. **Register or Registers** means Council's Register of Gifts and Benefits summary.

#### 7. Application

7.1. This Policy applies to Council Members and Council Employees who act on behalf of Council, must not seek or accept any gifts or benefits that may be construed as a bribe by way to provide, coerce or extract information to gain an advantage, either directly or indirectly, for themselves, their family or a person with whom the employee is closely associated.

7.2. The acceptance of gifts or benefits of any kind by Council Members or Council Employees is discouraged at all times.

7.3. Council Members and Council Employees must not seek gifts or benefits of any kind, or accept any offer of gifts or benefits:

7.3.1. In the form of cash or gift card;

7.3.2. That may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;

7.3.3. From Council contractors or persons wishing to enter into a contractual relationship with Council;

7.3.4. Offered in relation to the regulatory functions of Council;

- 7.3.5. That may influence, or may reasonably be seen to influence, decision making at any level;
  - 7.3.6. That could give rise to the appearance of a past, present or future conflict with that person’s Council responsibilities;
  - 7.3.7. Where the offer of a gift or benefit could be interpreted as having been made with the objective of securing, or in return for favour or preference;
  - 7.3.8. In the form of gratuities or discounts that relating to personal use, from any person, company or organisation with whom the Council does or could do business, where such gratuity or discount would not be available to any member of the general public.
- 7.4. Council Members and Council Employees may accept hospitality provided in the context of performing their duties, including free or subsidised meals, beverages, or refreshments where there is no possibility of the attendance being construed as creating a sense of obligation, an advantage to the provider of the hospitality or an influence, provided in conjunction with:
- 7.4.1. The discussion of official business;
  - 7.4.2. Council work related events such as training, education sessions workshops and conferences;
  - 7.4.3. Council functions or events;
  - 7.4.4. Social functions organised by groups such as Council committees and community organisations;
  - 7.4.5. Invitations to and attendance at local social, cultural or sporting events;
  - 7.4.6. Local Government/Government functions and/or events.
  - 7.4.7. Hospitality must not be accepted from any person(s) involved in a current tender process with Council.
- 7.5. Prize or Winnings during Official Duties
- 7.5.1. Any prize or winnings obtained at a conference or seminar, attended as part of official duties and paid for by Council can be accepted, as the Council Member or Council Employee has not been directly targeted as the recipient.
  - 7.5.2. A prize or winnings up to the value of \$100 may be retained by a Council Member or Council Employee.
  - 7.5.3. A prize or winnings in excess of \$100 will become the property of Council and must be reported to the Chief Executive Officer.
- 7.6. Gifts and Benefits Disclosure
- 7.6.1. Council have determined that any gift or benefit received by Council Members are recorded and disclosed as follows:

Gift Value	Accepted/ Not Accepted	Added to Gift and Benefits Register	Register of Interest - Ordinary Return	Included in Annual Report	Receipt of Gift or Benefit
Cash, Gift Card or Voucher (any value)	Not Accepted				
Under \$750	Maybe Accepted	Yes	No	Yes	Yes
\$750 and over	Maybe Accepted	Yes	Yes	Yes	Yes

7.6.2. The Council Members Gifts and Benefits Register (Internal and External) is in addition to and does not replace the Council Members Allowances and Benefits Register.

7.6.3. Council have determined that any gift or benefit received by Council Employees are recorded and disclosed as follows:

Gift Value	Accepted / Not Accepted	Added to Gift and Benefits Register	Register of Interest - Ordinary Return	Included in Annual Report	Receipt of Gift or Benefit
Cash, Gift Card or Voucher (any value)	Not Accepted	N/A	N/A	N/A	N/A
Under \$50	Maybe Accepted	Yes	No	No	Refer clause 7.7
\$50-\$749	Maybe Accepted	Yes	No	Yes	Refer clause 7.7
\$750 and over	Maybe Accepted	Yes	Yes	Yes	Refer clause 7.7

7.6.4. Any Council Member or Council Employee who is awarded or gifted from Council (eg on retirement, recognition of service gift) must also be included in the relevant register.

7.7. Gifts and Benefits Recipient

7.7.1. Council has determined that gifts and benefits (other than Prize or Winnings during official duties in Clause 7.5), with a total value of \$50 or greater, will be forwarded to the Chief Executive Officer (or Director) for a determination, which may include:

- Gift or benefit to be retained by Council and distributed as directed by the Chief Executive Officer;
- An auction or raffle with proceeds donated to a registered charity as determined by the Chief Executive Officer, with local charities taking priority. In the event that an auction or raffle has no bids or tickets sold received, the item will be donated or distributed by the Chief Executive Officer at his discretion.

7.7.2. The Chief Executive Officer’s determination must be recorded into the appropriate gifts and benefits register.

7.8. Refusal of a Gift or Benefit

7.8.1. If there is any doubt as to whether a gift or benefit contains an implied obligation of the Council Member or Council Employee, or an intention to influence a decision, the gift or benefit must be refused.

7.8.2. Refusing a gift or benefit offered may cause offence. If this is the case, the:

- Council Employee must refer the matter to the Chief Executive Officer;
- Chief Executive Officer must refer the matter to the Mayor;
- Council Members must refer the matter to the Mayor.

7.8.3. The Chief Executive Officer may determine it appropriate to write to the person offering the gift or benefit to formally inform them of the reason for refusal.

**8. Complaints**

- 8.1. Complaints under this Policy must be in writing to the Chief Executive Officer and lodged in accordance with Council’s Complaints Policy.
- 8.2. Any breaches under the Council Members Code of Conduct or Council Employee Code of Conduct will require evidence to support the allegation(s).
- 8.3. In the case of a complaint against the Chief Executive Officer, complaints must be in writing to the Mayor and will require evidence to support the allegation(s).

**9. Delegation**

- 9.1. Pursuant to Section 44 of the Local Government Act 1999, Council delegates to the Chief Executive Officer authority to administer Council’s policies.
- 9.2. In terms of this Policy, the Chief Executive Officer sub-delegates to the Director Corporate and Community Services in his or her absence.

**10. Adoption and Review**



- 10.1. This Policy shall be reviewed every four (4) years, or more frequently, if legislation or Council requires by the Executive Committee and a report shall provide to Council for consideration and adoption.

**11. Records Management**

- 11.1. Official records will be maintained in accordance with Council’s Records Management Policy pursuant to Section 125 of the Local Government Act 1999.

**12. Availability of Policy**

- 12.1. Policies will be available for inspection without charge at the Council’s Principal Office and on Council’s website [www.coppercoast.sa.gov.au](http://www.coppercoast.sa.gov.au).
- 12.2. A copy of this Policy may be obtained on payment of a fee in accordance with Councils’ Schedule of Fees and Charges.

Signed		
	Mayor	Chief Executive Officer
Date	7th December 2022	