

Receipt of Gifts, Benefits and Inducements

1 PURPOSE

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

2 OBJECTIVE

This policy

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

3 SCOPE

This policy applies for all aldermen and employees of Burnie City Council. Where specific provisions apply to aldermen only, these are clarified in each section.

Aldermen	Covered by Part 5A Local Government Act and Part 3A Local Government (General) Regulations 2015; and the Aldermen's Code of Conduct
Employees	Covered by this Policy and the Employees' Code of Conduct

For the purpose of this policy, the term *employee* includes staff engaged on a labour hire contract arrangement.

4 POLICY

4.1 Policy Position

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

Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
 Doc Controller: **Executive Manager**
Corporate Governance
 File: 4/14/2

Document Code: **CP-CBS-SG-028**
 Version: **4.0**
 Approved Date: **18 Sep 2018**
 Next Review Date: **18 Sep 2021**

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 Aldermen:

Aldermen	For the purposes of section 56A(1)(b) of the Act, the following classes of gift or donation are prescribed: (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 may be accepted without declaration;
- b) Gifts and benefits that are greater than a token or nominal value 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 rejected. All notifications will be recorded in the *Gifts and Benefits Register*.

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

An alderman 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.

An alderman or employee must never accept an offer of money, regardless of the amount.

Aldermen and employees must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits of a non-token nature or gifts or benefits above the nominal value as a result of the alderman or employee's position. Immediate family members include parents, spouse, children and siblings.

Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
 Doc Controller: **Executive Manager**
Corporate Governance
 File: 4/14/2

Document Code: **CP-CBS-SG-028**
 Version: **4.0**
 Approved Date: **18 Sep 2018**
 Next Review Date: **18 Sep 2021**

4.3 What is Token or Nominal Value?

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.

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 done;
- 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, flowers in recognition of work done;
- 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 done;
- 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, discounted products for personal use.

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

An alderman 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).

Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
 Doc Controller: **Executive Manager**
Corporate Governance
 File: 4/14/2

Document Code: **CP-CBS-SG-028**
 Version: **4.0**
 Approved Date: **18 Sep 2018**
 Next Review Date: **18 Sep 2021**

- 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 approval.

The Mayor should declare a gift to*:	General Manager
Aldermen should declare a gift to:	General Manager
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 not approved to be kept, 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 an alderman 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 alderman or employee fails to provide information in accordance with this policy, the following action may result:

Aldermen	Penalties may apply under s56A of the Local Government Act 1993.
Employees	Disciplinary action may be taken.

4.5 Disposal of Gifts

The General Manager, Mayor or 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.

Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
 Doc Controller: **Executive Manager**
Corporate Governance
 File: 4/14/2

Document Code: **CP-CBS-SG-028**
 Version: **4.0**
 Approved Date: **18 Sep 2018**
 Next Review Date: **18 Sep 2021**

Aldermen and employees must not offer or seek a bribe.

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:

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

5 LEGISLATION

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

6 RELATED DOCUMENTS

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



Receipt of Gifts, Benefits and Inducements

Approved By: **Council**
 Doc Controller: **Executive Manager
 Corporate Governance**
 File: 4/14/2

Document Code: **CP-CBS-SG-028**
 Version: **4.0**
 Approved Date: **18 Sep 2018**
 Next Review Date: **18 Sep 2021**

Policy Endorsement

Responsibility:	In relation to the receipt of gifts or benefits by aldermen, it is the responsibility of individual aldermen 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, managers and the General Manager to ensure that the integrity of the policy is maintained. It is the responsibility of the Governance Unit to administer this policy and maintain the <i>Gifts and Benefits Register</i> for the General Manager; and to maintain this policy in the Corporate Document Framework.
Minute Reference:	Item AO246-18
Council Meeting Date:	18 September 2018
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 3.2 dated 30 Oct 2017 (v3.0 AO181/12, 19 May 2015; v3.1 AC176-16 13 Dec 2016 and v3.2 30 Oct 2017).
Date of Commencement:	19 September 2018
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)