



# GIFTS, BENEFITS AND HOSPITALITY POLICY

COUNCIL POLICY	
Document ID:	608496
Effective Date:	18 December 2019
Last Review:	
Current Review:	
Approved by Audit Committee:	22 November 2019
Adopted by Council:	17 December 2019
Next Review Date:	December 2021
Responsible Officer/s:	Group Manager Corporate & Community

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## 1. INTRODUCTION

This policy outlines the process for the acceptance, declaration and allocation of gifts, benefits and hospitality received by Strathbogie Shire Councillors, staff and contractors.

It will assist when Councillors, Shire staff, volunteers and contractors are:

- assessing whether acceptance of the gift, hospitality or benefit is appropriate
- ensuring that a declarable indirect conflict of interest is not created through the acceptance of gifts, hospitality or benefits
- declaring and recording the offer of the gift, hospitality or benefit.

It ensures Strathbogie Shire Council:

- registers the receipt of the gift, benefit or hospitality
- where appropriate, distributes the gift in an appropriate manner
- records all declined gifts, benefits or hospitality for maximum transparency and accountability
- has a system of review and reporting in place to assess compliance with this policy and to identify any potential issues of concern that require further action.

## 2. POLICY POSITION

This policy has been developed to ensure transparency and the principles of good governance and accountability are practiced by Councillors, staff and contractors when being offered gifts, benefits or hospitality in the course of their duties.

As a guiding principle, Councillors, staff or contractors must not accept a gift, benefit or hospitality if it could be perceived as being intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of their duties as a Councillor or staff member.

Councillors, staff and contractors must take measures to avoid the generation of a conflict of interest as defined by the *Local Government Act 1989* through the acceptance of one or more gifts, benefits or hospitality that combine to an Applicable gift as defined by this policy. Everyone must be mindful that a five year timeframe is applied by the Act for the acceptance of gifts from a person, company or body who has a direct interests in the activities or work undertaken by the Council (see Attachment 1).

The Chief Executive Officer (where the gift, benefit or hospitality is received by a Councillor or Group Manager) or Departmental Manager (where the gift, benefit or hospitality is received by a staff member or contractor) is responsible for authorising whether or not the gift, hospitality or benefit is to be returned to the donor, retained by the recipient or retained and placed in a 'pool' to be shared by other staff and/or Councillors. Other options may include donating the gift to a local charity or not for profit organisation.

### 3. DEFINITIONS

Applicable gift

Pursuant to Section 78C of the Local Government Act 1989, applicable gift means one or more gifts with a total value of \$500 or more received from a person or persons (or their agent) such as a director, consultant, contractor, agent or employee of a person, company or body that the staff member knows has a direct interest within 5 years preceding the decision regarding each Council matter.

This excludes:

- reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
- a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.

Benefit

means something which is believed to be of value to the receiver, such as access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, and pleasure/vacation trips.

Conflict of Interest

means that a Councillor or staff member has a conflict of interest when they have a personal or private interest that might compromise their ability to act in the public interest. A conflict of interest can exist even if no improper action results from it.

Council staff

means people employed by Council and all volunteers registered with Council.

Estimated value

means the face value or estimated retail value.

Gift

means an item, entertainment or other token of appreciation that is not deemed to be of a modest value.

The following constitutes a gift:

- goods and services given of a commercial value
- property (real or otherwise)
- transfers of money
- loans of money or property
- free services (tickets to events/conferences, accommodation, entertainment, sporting

	events etc)
	<ul style="list-style-type: none"> <li>• goods and services made available at heavily discounted prices.</li> </ul>
Gift disclosure threshold	means \$500 or a higher amount or value prescribed by the regulations supporting the <i>Local Government Act 1989</i>
Gifts of appreciation	means a gift that is presented to an individual to express thanks, such as flowers, chocolates or moderately priced alcohol and the like. These gifts are generally a one-off occurrence and below nominal value.
Hospitality	means a meal or service which is offered, has a value greater than the nominal value and is not viewed as being connected to official Council business or part of a meal accepted as part of a conference or seminar.
Indirect interest	means the source of an indirect conflict of interest for a Councillor, Council officer or member of a special committee under sections 77A and 78C of the <i>Local Government Act 1989</i> (see Attachment 1)
Monetary gifts	means cash, cheques, money orders, travellers' cheques, direct deposits or items which can be easily converted to cash. This also includes loans of money. It also includes gift cards, lottery ticket, scratch and win cards and the like.
Nominal value	means an item with a face or estimated value of less than \$50.
Official gift	means a gift presented to the Shire or the Council and include gifts received from a Sister/Friendship City, organisations or corporations that are bestowing a corporate gift (plaques, plates, vases, trophies and artwork) or souvenirs.
Reasonable hospitality	means a meal or service provided by an organisation to a Councillor, member of Council staff or contractor who attends a function or event in an official capacity and who receives the same hospitality offered to other guests.
the Act	means the <i>Local Government Act 1989</i> .
Token gift, benefit or hospitality	means a gift, benefit or hospitality of nominal value and infrequently received (up to two times in a 12-month period). Token gifts, benefits or hospitality may include low-priced promotional items, souvenirs or

corporate gifts such as pens, mugs, gifts of single bottles of reasonable priced alcohol, free or subsidised meals of a modest nature, invitations to appropriate corporate or social functions organised by community groups or organisations, door prizes at conferences, trade shows etc.

#### **4. EXTERNAL REFERENCES**

*Local Government Act 1989*

Fraud and Corruption Controls – Local Government, Victorian Auditor General of Victoria, June 2019

#### **5. RELATED COUNCIL DOCUMENTS**

Procurement Policy 2018 and Procurement Procedures 2013

Fraud and Corruption Policy 2017

Staff Code of Conduct April 2019

Councillor Code of Conduct 2017

Discretionary Expenditure Policy (2017) and Guide (February 2019)

Council's delegations instruments, particularly the financial delegations instrument

#### **6. POLICY OBJECTIVES**

This policy and its procedures apply to all Strathbogie Shire Council operations and are designed to:

- protect individuals from unknowingly creating a conflict of interest under the Act
- ensure that all accepted gifts, benefits and hospitality are appropriately recorded and disclosed
- ensure that all gifts, benefits and hospitality that have been returned or declined are recorded
- ensure Council, Shire Staff and Contractors follow sound and transparent business practices that can withstand any public scrutiny around the acceptance of gifts, benefits and hospitality.

#### **7. REVIEW OF THIS POLICY**

This policy will be reviewed every 3 years unless the Chief Executive Officer or Council determines that an earlier review is required.

#### **8. GIFTS OR BENEFITS**

##### **8.1 Gifts and/or Benefits**

Under **NO** circumstances is monetary gifts/cash money to be accepted.

Individuals must not solicit, demand or request gifts or any personal benefit by virtue of their position which could prejudicially influence, or be perceived to influence, a person in the performance of his or her public or professional duties.

To avoid a conflict of interest, acceptance of any gifts, benefits or hospitality in these situations must be declined.

In all cases the details of gift, benefit and hospitality received by or offered to (but declined/returned) a Councillor, Council staff member or contractor must be declared and recorded in the Gifts, Benefits and Hospitality Register within five business days (5) days of acceptance or return/refusal.

Under the Act gifts, other than election campaign donations, that were received more than 12 months before a person became a Councillor, a member of a special committee or a member of Council staff are exempt from being declared.

## **8.2 Token Gifts, benefits or hospitality**

Token gifts, benefits or hospitality are those below the nominal value and could include:

- gifts of a nominal value that are infrequently offered (ie no more than twice in a calendar year)
- gifts of single bottles of reasonably priced alcohol as acknowledgement for giving a presentation or being the guest speaker
- free meals of a modest nature and/or beverages provided to Councillor/s, staff or contractors who are formally representing the Council at a work-related event such as training, workshops, or seminars
- refreshments of a modest nature provided at a conference where a Councillor or staff member is the guest speaker
- marketing or corporate mementos such as ties, scarves, pens, coasters, tie pins, diaries or chocolates
- flowers
- invitations to out of hours functions or social events organised by groups such as Council committees and community organisations.

Given their token nature and small monetary value such items are appropriate to accept, provided the provisions of the Act are met, particularly if the gift is offered in an open or public forum, where refusal of the gift would appear to be impolite.

Section 10.1 of this policy identifies reporting requirements for all token gifts, benefits and hospitality.

## **8.3 Official gifts**

Individuals may be involved in social, cultural or community events where official gifts are presented or exchanged.

Where it would appear impolite or inappropriate to decline the offer, it is reasonable for official representatives of Council to accept official gifts on behalf of the Council.

A letter of thanks will be prepared and sent by Council staff acknowledging the gift to Council and not the individual Councillor.

All official gifts received are to be reported to the Chief Executive Officer (for Councillors) via the Executive Assistant to the Chief Executive Officer and recorded in the Gifts, Benefits and Hospitality Register within five business days (5) of receipt.

The gift will be considered the property of Council, and where suitable, the gift will be displayed in an appropriate and secure location for public viewing.

Where an item is not suitable for public display, the recipient can make an application to the Chief Executive Officer to retain the gift. The Chief Executive Officer will consider such applications on a case by case basis and will use his/her discretion as to the appropriate disposal/utilisation of the official gift.

#### **8.4 Gifts of Appreciation**

Individuals are not to seek a gift or benefit in appreciation of services rendered, however it is acknowledged that from time to time members of the community do offer gifts of appreciation.

Acceptable gifts of appreciation might include a letter or card of thanks as this is less likely to result in a situation that compromises either party.

Where an individual accepts a gift of appreciation it must not exceed the nominal value (eg a bouquet of flowers, a box of chocolates).

#### **8.5 Gifts Never to be Accepted**

The following gifts or benefits are considered totally inappropriate and must not be accepted:

- money, regardless of the amount
- access to confidential information
- promise of a new job or contracted employment
- preferential treatment (may include reciprocal favours given in return for a service provided by Council).

#### **8.6 Hospitality**

Where hospitality is less than the nominal value and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Hospitality received when attending a function or event in an official capacity is exempt if:

- the hospitality is reasonable and not excessive in the circumstances; and
- others at the event are offered the same form of hospitality; and
- the Councillor, staff member or contractor is performing an official role at the function or event.

Hospitality **IS** considered to be a gift where a Councillor, staff member or contractor attends an event or function:

- using free tickets received and has no official duties to perform; and/or

- where free membership is offered; and/or
- where the hospitality exceeds the nominal value.

Any hospitality received must be recorded in the Gifts, Benefits and Hospitality Register within five business (5) days of their acceptance. Any refusal of hospitality must also be recorded on the Gifts, Benefits and Hospitality Register.

## **8.7 Other Circumstances**

### **Christmas**

Christmas is a time when Councillors, staff and contractors are often offered gifts and invitations to functions. Annual notification to all staff and Councillors of their obligations in respect to the receipt of gifts and invitations will be sent out by the CEO's office in late November.

### **Expressions of Interest/Tender Documentation**

All Expression of Interest (EOIs) and tender documentation (specifications and contracts) must state that *"No offers of gifts, of whatever value, may be made to Councillors or staff. Any such offer during the procurement process will automatically exclude that participant from that process"*. A link to this policy must also be included in the expression of interest/tender documentation.

## **9. AUDITING AND REPORTING**

### **9.1 Quarterly auditing**

The Group Manager, Corporate and Community will review the Gifts, Benefits and Hospitality register each quarter to identify the level of compliance with this policy. The findings of this audit will be reported to the Executive Management Team and the Audit Committee.

This process will also identify Councillors and staff that are in jeopardy of creating an indirect conflict of interest under the Act and its regulations.

Should any behaviours of concern be identified the matter must be immediately raised with the Chief Executive Officer and Group Manager, Community & Corporate, who will then commence a further internal investigation.

### **9.2 Annual Reporting**

The Group Manager, Corporate & Community will be responsible for providing an annual report to the Audit Committee and the Executive Management Team within three (3) months of the end of the calendar year.

### **9.3 Internal audits**

Council's independent internal auditors may undertake periodic reviews of gifts and benefits register as part of the ongoing audit program.

Findings of these audits are then reported to Council's Audit Committee.

## 10. PROCEDURES

The following procedures are designed to ensure that all decisions relating to this policy are made in a consistent and open manner.

### 10.1 Reporting

All gifts, benefits and hospitality received or declined/returned must be reported to the Chief Executive Officer if accepted by a Councillor, or by the relevant departmental manager/group manager where received by a staff member or contractor, using the Gifts, Benefits and Hospitality Form.

Token gifts, benefits or hospitality must be reported to the relevant manager or Chief Executive Officer (where the recipient is a Councillor) by completing the Gifts, Benefits and Hospitality Form and submitting it within five (5) days of receipt or of the gift/benefit/hospitality being refused or returned. The Manager will then forward the Executive Assistant to the Chief Executive Officer for registration on the Gifts, Benefits and Hospitality Register.

Gifts, benefits or hospitality over the nominal value are to be dealt with in accordance with the procedure outlined in table below within five (5) days of receipt or being refused/returned.

Value	Process – Roles and Responsibilities
<b>STAFF PROCESS</b>	
Gift/, benefit or hospitality exceeding the nominal value	<p><b>Staff member</b></p> <ul style="list-style-type: none"> <li>• Completes the Gifts, Benefits and Hospitality form and submits form to their Departmental Manager.</li> </ul> <p><b>Manager</b></p> <ul style="list-style-type: none"> <li>• Advises the Group Manager Corporate &amp; Community of the value above \$50</li> <li>• Determines compliance in accordance with Policy</li> <li>• Finalises form and submits form to the Chief Executive Officer</li> <li>• Ensures the Executive Officer to the CEO has updated the Gift and Hospitality Register</li> <li>• formally acknowledges the donor by way of a letter</li> <li>• ensures all documentation is saved in Council's electronic document management system.</li> </ul>
<b>COUNCILLOR PROCESS</b>	

<p>Gift, benefit or hospitality exceeding the nominal value</p>	<p><b>Councillor</b></p> <ul style="list-style-type: none"> <li>• Completes form and submits the Gifts, Benefits and Hospitality form to Executive Assistant to the CEO.</li> </ul> <p><b>Executive Assistant to the CEO</b></p> <ul style="list-style-type: none"> <li>• Advises CEO of value above \$50</li> <li>• Drafts formal acknowledgement letter for the donor via letter from CEO or Mayor (to be determined given nature of gift)</li> <li>• Updates Gift and Hospitality Register after CEO has signed the form.</li> </ul> <p><b>CEO</b></p> <ul style="list-style-type: none"> <li>• Determines compliance in accordance with Policy</li> <li>• Where necessary consults with the Mayor on the matter and action to be taken</li> <li>• Finalises form and requests the Executive Assistant to the CEO to update the Gifts, Benefits and Hospitality Register</li> <li>• Signs and sends the acknowledgement letter to the donor</li> <li>• ensures all documentation is saved in Council's electronic document management system.</li> </ul>
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## 10.2 Gifts, Benefits and Hospitality Register

The Gifts, Benefits and Hospitality Register will be made available for public inspection and contain the following information:

- date
- description of the gift, benefit or hospitality
- value and whether the gift is a token gift or over the nominal value identified by the policy
- the recipient
- the donor/provider details
- action taken (ie was it personally accepted, refused or returned to the donor, placed on display, or retained by the Manager/Chief Executive Officer to be pooled for staff use).

## **11. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010**

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.

## 12. FORMS



### GIFT, BENEFITS AND HOSPITALITY FORM

Completed form to be forwarded to the Executive Assistant to the Chief Executive Officer

Details – Recipient to complete			
<b>Name of Recipient</b>			
<b>Position Title</b>			
<b>Name of Donor</b>			
<b>Donor Address</b> (Agency/Organisation)			
<b>Relationship of Donor to recipient</b>			
<b>Description of gift, benefit or hospitality</b>			
<b>Reason for gift, benefit or hospitality</b>			
<b>Estimated Value</b>	\$	<b>Date Received or Offered</b>	
<b>Donor Acknowledged?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>		
<b>Details of the gift, benefit or hospitality being declined or returned to the donor:</b>			
<i>To my knowledge the donor is not currently subject to any tender, permit application processes or matters under consideration, for which this gift may be perceived as exercising a beneficial interest over any Councillor or staff member, including myself.</i>			
<b>Recipient Signature</b>			<b>Date:</b>

Unless otherwise determined, all official gifts remain the property of Council.

Gift Allocation – Line manager/ group manager to complete	
<input type="checkbox"/> Gift to be retained and pooled for staff use	<input type="checkbox"/> Gift to be returned to donor
<input type="checkbox"/> Gift to be retained by individual	<input type="checkbox"/> Other (explain below)
<b>Line manager Instructions/ comment</b>	

<b>Manager Signature</b>		<b>Date:</b>	
<b>Manager Name</b> <i>(please print)</i>			
<b>Manager comment</b> <i>(if applicable)</i>			
<b>CEO comment</b> <i>(if applicable)</i>			
<b>CEO Signature</b>		<b>Date:</b>	
<p><i>The personal information requested on this form is being collected by Council for the purpose of maintaining Council's Gift Register. The personal information will be used solely by Council for this primary purpose or directly related purposes. The employee, contractor or Councillor understands that the personal information provided is for these purposes and that they may apply to Council for access and/or amendment of the information.</i></p>			

## 13. ATTACHMENT 1

### 78C Indirect interest because of receipt of an applicable gift

- (1) In this section, applicable gift means one or more gifts with a total value of, or more than, the gift disclosure threshold, received from a person or persons specified in subsection (2) in the 5 years preceding the decision or the exercise of the power, duty or function but does not include—
  - (a) reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
  - (b) a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.
  
- (2) A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from—
  - (a) a person who has a direct interest in the matter; or
  - (b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
  - (c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.
  
- (3) For the purposes of determining when a person became a Councillor or member of a special committee under subsection (1)(b), if the person is re-elected or reappointed as a Councillor or a member of a special committee, on completion of his or her term of office, the previous term of office served by that person as a Councillor or member of a special committee must be counted as continuous service with any service completed by the person after the person's re-election or reappointment.