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Strathbogie Shire Council Gift, Benefits and Hospitality Policy

September 2023



Contents

Gifts, Benefits and Hospitality Policy 2

PART 1 POLICY 3

1. PURPOSE 3

2. POLICY STATEMENT 3

3. APPLICATION OF THIS POLICY 4

4. DEFINITIONS 4

5. GIFTS, BENEFITS OR HOSPITALITY..... 6

6. AUDITING AND REPORTING 9

7. RELATED POLICIES AND LEGISLATION..... 9

8. POLICY REVIEW..... 9

9. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE
EQUAL OPPORTUNITY ACT 2010 10

10. PART 2 PROCEDURES 11

11. FORMS.....13

12. 128 MATERIAL CONFLICT OF INTEREST.....15

Gifts, Benefits and Hospitality Policy

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PART 1 POLICY

1. PURPOSE

This policy outlines the process for the acceptance, declaration and allocation of gifts, benefits and hospitality received by Strathbogie Shire Councillors, members of Council staff and members of delegated committees so that both the elected arm of Council and the administration abide by the same rules.

The policy has been developed in accordance with sections 137 and 138 of the *Local Government Act 2020* (the Act) in relation to the refusal or acceptance of gifts and the need for the adoption of a Councillor Gift Policy under the 2020 Act.

This policy is designed to assist when Councillors, members of Council 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 and maintains a gift register
- 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 STATEMENT

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

As a guiding principle, Councillors, members of Council staff and members of delegated committees must not accept a gift, benefit or hospitality if it could be perceived as being intended to, or likely to, influence them in the fair, impartial and efficient discharge of their duties.

Councillors, members of Council staff and members of delegated committees must take measures to avoid the generation of a conflict of interest as defined by the *Local Government Act 2020* through the acceptance of one or more gifts, benefits or hospitality that combine to an Disclosable Gift as defined by the Act, the Local Government (Governance and Integrity) Regulations 2020 and 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 an interest 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, member of a delegated committee or a member of the Executive Leadership Team) or Departmental Manager (where the gift, benefit or hospitality is received by a member of Council staff) 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. APPLICATION OF THIS POLICY

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 compliance with the Act and its Regulations at all times
- 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, members of Council staff and members of delegated committees follow sound and transparent business practices that can withstand any public scrutiny around the acceptance of gifts, benefits and hospitality.

4. DEFINITIONS

Term	Meaning
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, member of a delegated committee or Council 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.
Estimated value	means the known face value or estimated retail value.
Gift	<p>means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including—</p> <p>(a) the provision of a service (other than volunteer labour); and</p> <p>(b) the payment of an amount in respect of a guarantee; and (c) the making of a payment or contribution at a fundraising function.</p> <p>It includes an item, entertainment or other token of appreciation such as</p> <ul style="list-style-type: none"> • 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)

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	goods and services made available at heavily discounted prices.
Gift disclosure threshold	means \$500 received from a person in the five (5) years preceding the decision on the matter, or a higher amount or value prescribed by the regulations supporting the Local Government Act 2020.
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 identified by this policy.
Hospitality	means a meal, food, drink, ticket to an event or any other type of service which: <ul style="list-style-type: none"> • has a value greater than the nominal value identified in this policy; and • is not connected to the receiver's attendance on official Council business; and which is a meal, drink, ticket or other type of service that is not offered to every participant (i.e. the Councillor, Council staff member or member of a delegated committee is being singled out for special treatment).
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)
Member of Council staff	means people employed by Council, including contractors, and volunteers registered with Council.
Member of a delegated committee	means a member of a delegated committee appointed by Council under section 63 of the <i>Local Government Act 2020</i> .
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 or equal to \$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 member of a delegated committee who attends a function or event in an official capacity and who receives the same hospitality or service offered to other guests.
the Act	means the <i>Local Government Act 2020</i> .
the Regulations	means the Local Government (Governance and Integrity) Regulations 2020.

<p>Token gift, benefit or hospitality</p>	<p>means a gift, benefit or hospitality of nominal value as identified by this policy and infrequently received (up to two times in a 12-month period).</p> <p>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.</p>
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5. GIFTS, BENEFITS OR HOSPITALITY

5.1 Declaration of Gifts Benefits and Hospitality

All gifts, benefits and hospitality must be declared by Councillors, members of Council staff and members of delegated committees regardless of their value and whether or not the offer of the gift, benefit or hospitality was declined.

All declared gifts, benefits and hospitality will be entered onto Council's Gift, Benefit and Hospitality Register and available for public review upon request.

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

Councillors, members of Council staff and members of delegated committees 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 their public or professional duties.

5.2 Token Gifts, Benefits or Hospitality

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

- gifts of a nominal value that are infrequently offered (i.e. no more than twice in a calendar year)
- gifts of single bottles of alcohol as acknowledgement for giving a presentation or being the guest speaker
- free meals and/or beverages provided to Councillor/s, members of Council staff or members of delegated committees 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, member of a delegated committee or members of Council staff 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 11.2 of this policy identifies reporting requirements for all token gifts, benefits and hospitality.

5.3 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 by Councillors are to be reported to the Chief Executive Officer 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 their discretion as to the appropriate disposal/utilisation of the official gift. The outcome of this process will be recorded in the Gifts, Benefits and Hospitality Register.

5.4 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 to Councillors, members of Council staff and members of delegated committees.

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.

Gifts of appreciation exceeding the nominal value identified by this policy (eg a bouquet of flowers, a box of chocolates) are not to be accepted.

5.5 Gifts Never to be Accepted

The following gifts or benefits are considered totally inappropriate and must not be accepted directly or indirectly under any circumstances:

- anonymous gifts (where the name and address of the person making the gift are not known to the Councillor, member of Council staff or member of a delegated committee as per section 137 (1) of the Act) *
- monetary gifts, 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).

*** Please note that in accordance with section 137(2) of the Act, if the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection 137(1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.

It should also be noted that a finding of guilt for a Councillor in breach of section 137(1) of the Act means the Councillor is liable to a penalty of 60 penalty units and must also pay to Council an amount equal to the value of the gift accepted in contravention of that subsection.

5.6 Reasonable Hospitality

Where hospitality is less than the nominal value identified in this policy and provides an opportunity to network or undertake business of a common purpose, it may be appropriate for Councillors, a member of Council staff or delegated committee member 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, member of Council staff is performing an official role at the function or event.

Hospitality **IS** considered to be a disclosable gift where a Councillor, member of Council staff 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.

All 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.

5.7 Other Circumstances

Christmas

Christmas is a time when Councillors, members of Council staff and members of delegated committees are often offered gifts and invitations to functions. Annual notification to all Councillors, members of Council staff and members of delegated committees reminding them 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, members of delegated committees or members of Council 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.

6 AUDITING AND REPORTING

6.1 Quarterly Auditing

The Director People and Governance 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 and Risk Committee.

This process will also identify Councillors, members of delegated committees and members of Council 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 Director People and Governance, who will then commence a further internal investigation.

6.2 Annual Reporting

The Director People and Governance will be responsible for providing an annual report to the Audit and Risk Committee and the Executive Management Team within three (3) months of the end of the financial year.

6.3 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 and Risk Committee.

7 RELATED POLICIES AND LEGISLATION

Legislations

- *Local Government Act 2020*
- Local Government (Governance and Integrity) Regulations 2020
- Fraud and Corruption Controls – Local Government, Victorian Auditor General of Victoria, June 2019

Related Council Documents

- Councillor Code of Conduct
- Fraud and Corruption Policy
- Discretionary Expenditure Guide
- Procurement Policy
- Public Transparency Policy
- Staff Code of Conduct CEO Directive
- Strathbogie Shire Council Governance Rules
- Council's delegations instruments, particularly the financial delegations instrument.

8 POLICY REVIEW

Council may review this policy at any time and at least two years from the date of adoption.

Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy (eg a change to the name of a related document, or a change in legislation).

9 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.

10. PART 2 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 Offers, Refusals or Receipt of Gifts, Benefits and Hospitality

All gifts, benefits and hospitality received or declined/returned must be reported to the Chief Executive Officer if accepted by a Councillor, member of a delegated committee or a member of the Executive Leadership Team.

The relevant departmental manager/Executive Leadership Team member will receive declarations from members of Council staff.

Where the recipient of the gift, benefit or hospitality is the CEO, the form will be forwarded to the Director People and Governance for processing and approval via the electronic workflow.

All declarations of gifts, benefits or hospitality, whether received or declined must be recorded by completing the Gifts, Benefits and Hospitality Form.

The completed form must be submitted within five (5) working days. The Manager will then forward the Executive Assistant to the Chief Executive Officer for registration on the Gifts, Benefits and Hospitality Register.

10.2 Use of Electronic Approval Workflows

All completed forms must be submitted to the Records Management team.

The Records Management team will then scan the completed form and attach the relevant workflow to the form according to who must review the declaration.

Process	Roles and Responsibilities
STAFF PROCESS	
Gift, benefit or hospitality offered or received	<p>Member of Council Staff</p> <ul style="list-style-type: none"> • Completes the Gifts, Benefits and Hospitality form and submits form to their Departmental Manager. • If the recipient is a Manager, their relevant Executive Leadership Team member. <p>Manager/Executive Leadership Team member</p> <ul style="list-style-type: none"> • Advises the Director People and Governance if the value exceeds the nominal value identified in this policy (currently \$50) • Determines compliance in accordance with this Policy • Formally acknowledges the donor by way of a letter if required • Ensures all documentation is saved in Council's electronic document management system.

	<ul style="list-style-type: none"> Finalises form and submits form to the Records team for scanning and workflow allocation. <p>Executive Assistant to the CEO</p> <ul style="list-style-type: none"> Enters the gift, benefit or hospitality on the Gifts, Benefits and Hospitality Register once the workflow has been completed.
COUNCILLOR, MEMBER OF A DELEGATED COMMITTEE OR EXECUTIVE LEADERSHIP TEAM MEMBER PROCESS	
Gift, benefit or hospitality offered or received	<p>Councillor/Member of the Executive Leadership Team/Member of a delegated committee</p> <ul style="list-style-type: none"> Completes form and submits the Gifts, Benefits and Hospitality form to Executive Assistant to the CEO. <p>Executive Assistant to the CEO</p> <ul style="list-style-type: none"> Refers the form to Records for scanning and allocation of workflow Drafts formal acknowledgement letter for the donor via letter from CEO or Mayor (to be determined given nature of gift) Updates Gift and Hospitality Register after CEO has signed the form once the workflow is completed. Ensures all documentation is saved in Council's electronic document management system. <p>CEO</p> <ul style="list-style-type: none"> Determines compliance in accordance with Policy Where necessary consults with the Mayor on the matter and action to be taken Finalises form and requests the Executive Assistant to the CEO to update the Gifts, Benefits and Hospitality Register Signs and sends the acknowledgement letter to the donor

11.3 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, with a note as to whether the gift is a token gift or over the nominal value identified by the policy
- the recipient
- the donor/provider details
- action taken (i.e. was it personally accepted, declined or returned to the donor, placed on display, or retained by the Manager/Chief Executive Officer to be pooled for staff use).

11. FORMS



GIFT, BENEFITS AND HOSPITALITY DECLARATION FORM

Completed form to be forwarded to the Records team for the allocation of the required workflow for approval.

Details – Recipient to complete			
Name of Recipient			
Position Title			
Name of Donor			
Donor Address (Agency/Organisation) Note: If the donor is anonymous the gift, benefit or hospitality must be declined.			
Relationship of Donor to recipient (e.g. permit applicant, consultant, business owner)			
Description of gift, benefit or hospitality			
Reason for gift, benefit or hospitality			
Estimated Value	\$	Date Received or Offered	
Donor Acknowledged?	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Details of the gift, benefit or hospitality being declined or returned to the donor:			
<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 member of Council staff, including myself.</i>			
Recipient Signature		Date	

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

Gift Allocation – Line Manager/ member of the Executive Leadership Team 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)			
Line manager Instructions/ comment			
Line Manager Signature		Date	
Manager/ELT Member Name <i>(please print)</i>			
Manager/ELT Member comment <i>(if applicable)</i>			
CEO comment <i>(if applicable)</i>			
CEO Signature		Date	
EA to CEO	<i>Gift, benefit or hospitality entered into the Gift, Benefit and Hospitality Register</i>	Date	
<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>			

12. ATTACHMENT

128 Material Conflict Of Interest

- (1) Subject to section 129, a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
- (2) The benefit may arise or the loss incurred—
 - (a) directly or indirectly; or
 - (b) in a pecuniary or non-pecuniary form.
- (3) For the purposes of this section, any of the following is an affected person—

....

 - (h) a person from whom the relevant person has received a disclosable gift.
- (4) For the purposes of subsection (3)(h), disclosable gift means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter—
 - (a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or
 - (b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation—

but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.