

GREATER SHEPPARTON CITY COUNCIL

COUNCILLOR GIFT POLICY

Adopted by Council:
Next Review:

20 APRIL 2021
APRIL 2025



**GREATER
SHEPPARTON**

COUNCILLOR GIFT POLICY

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BUSINESS UNIT:	CORPORATE GOVERNANCE
RESPONSIBLE OFFICER:	MANAGER CORPORATE GOVERNANCE
APPROVED BY:	CHIEF EXECUTIVE OFFICER
ADOPTED BY:	COUNCIL 20 APRIL 2021
NEXT REVIEW:	APRIL 2025

DOCUMENT REVISIONS

VERSION #	SUMMARY OF CHANGES	DATE ADOPTED
1.0	Councillor gift policy first adopted	20 April 2021

1. PURPOSE

This Policy is made in accordance with s.138 of the *Local Government Act 2020* (Act) which requires Council to adopt a Councillor Gift Policy which includes procedures for the maintenance of a gift register.

The purpose of this policy is to provide guidance to Councillors on the process and obligations which they must adhere to in relation to the declaration and/or acceptance of gifts and hospitality, in order to ensure compliance with the Act.

2. OBJECTIVE

As elected representatives, all Councillors are required to act with dignity, fairness, objectivity, courtesy and respect and ensure that Council business is carried out impartially, and with integrity.

Councillors may be offered gifts in a range of situations which could create an expectation of favourable consideration in relation to Council matters or give rise to a conflict of interest. It is therefore important that Councillors understand their obligations to disclose the receipt of gifts or benefits in the interests of full transparency.

3. SCOPE

This Policy applies to all Councillors of the Greater Shepparton City Council.

4. DEFINITIONS

Reference term	Definition
Gift	<p>In this Policy, gift 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> <ul style="list-style-type: none">(a) the provision of a service (other than volunteer labour);(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>A gift includes:</p> <ul style="list-style-type: none">• The transfer of money (including gift cards or vouchers);• Loans of money;• The transfer of property ;• Sale of property with a sale price below proper valuations;• The provision of services (including entertainment) free of charge or at a reduced rate;• Free or discounted travel;• Alcohol;• Hospitality [except as defined in the exemption below];• Personal benefit (this includes a promise of future benefit, such as employment). <p>But does not include:</p> <ul style="list-style-type: none">• reasonable hospitality received, where Councillor attendance is in an official capacity; or

	<ul style="list-style-type: none"> • hospitality received by a Councillor in an unofficial capacity, which is up to the value of \$10 in any one instance; or up to a cumulative total value of \$20 per calendar year from any person or business .
Disclosable Gift	<p>For the purposes of section 128 “Material Conflict of Interest” of the Local Government Act 2020, a disclosable gift means one or more gifts with a total value of, or more than, \$500, received from a person or business in the 5 years preceding the decision on the matter, if:</p> <p>(a) 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</p> <p>(b) the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation;</p> <p>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.</p>

5. Offer of Gifts

At some stage during your term as a Councillor you may be offered a gift. This gift could be offered in good faith (a gesture of appreciation), or it could be (or perceived as) an attempt to influence, bribe or compromise your ability to act impartially and in the best interests of the municipal community.

A gift may be offered by a local business, developer, client, contractor (including a consultant), or someone who may in the future be contracted by Council, or someone from another organisation whose work is related to Council. A gift offered by someone who has no apparent connection with your duties may be given to influence you at a later time or put you under obligation to the person who offered you the gift.

In this case, you would need to consider carefully the intention and nature of the gift, the occasion on which it is offered, and whether there is any possibility that the gift could be intended to influence you.

It can be difficult to work out why someone offers you a gift, as they may have one or more motives, including gratitude, hospitality, friendship or bribery.

6. Acceptance of gifts

In general and where possible, it is better to refuse any offers of a gift to avoid compromising yourself, or risking the perception that you have been compromised or influenced. This applies no matter what the value of the gift is.

Any gift received by a Councillor, may be retained by the Councillor at their discretion.

However, all gifts **must** be declared in accordance with this Policy.

In the interest of transparency, where the value of the gift exceeds \$50, Councillors are encouraged to provide the gift to the CEO for assessment, who will determine that the gift:

1. can be returned to the Councillor,
2. is to be retained by Council;
3. is donated to a charitable cause; or
4. is disposed of in an appropriate manner.

Please note: a material conflict of interest will arise, and must be disclosed where a Councillor has received a disclosable gift.

Councillors are encouraged to contact the Governance team for assistance if they have any uncertainty as to the value of the gift.

A Councillor must not accept, directly or indirectly, any gift unless the name and address of the business or person making the gift are known to the Councillor.

6.1 Exceptions to the acceptance of a gift

Council recognises that a blanket ban on gifts is difficult to apply and that there will be some situations where it is impossible or inappropriate to refuse a gift. In this case, the following principles will apply:

- Sometimes refusing a gift will cause offence or be considered impolite, especially if the gift is of limited value, for example, a pen, stress ball or writing pad with a corporate logo;
- A gift may be offered in a public way in return for a favour already given which does not compromise your role, for example, in appreciation of a guest-speaking engagement in an official capacity,
- A gift may be received in the course of your duties and be relevant to Council's work, for example, a book about housing or social policies or a small sample of some local produce;
- A gift received through a 'win' or 'competition' such as a business card draw or a prize won through skill, such as answering a question at an event is not considered a gift in the context of this Policy;
- A gift received by a Councillor on behalf of the Council, which has cultural / heritage / ceremonial significance or benefit to the community;
- Anonymous gifts which arrive in the mail or are not delivered in person should be treated as gifts to the Council and disposed of accordingly.

6.2 Councillors must never solicit or ask for a gift or benefit

Soliciting a gift or benefit is corrupt and unlawful behaviour.

6.3 Bribes and inappropriate gifts

A gift may be intended as a bribe. Bribery generally is intended to induce the recipient to act contrary to accepted rules, policies or procedures.

A gift may not be intended as a bribe, but you may feel obligated to the person giving the gift, and as a result your impartiality and integrity may be affected when making a decision affecting that person. Even where feelings of obligation do not affect your impartiality or integrity, there is the risk that other people will reasonably perceive that you have been compromised. The consequences of this perception can be just as damaging as actual compromise to you and the Council.

Where a Councillor has been offered a bribe or an inappropriate gift, the offer should be immediately rejected on the basis that acceptance would be inappropriate and a contravention of this Policy. The matter should also be reported to Council's CEO.

The CEO and/or Councillor should consider if it is appropriate to report the matter to the Police.

Offers of money, (including gift cards) of any value, are viewed as an attempt to corruptly influence an elected representative's behaviour.

Councillors must never accept money or gift cards under any circumstances.

6.4 Declaration of Gifts

Councillors must declare all gifts accepted, with the exception of token gifts, to the value of less than \$10, such as a pen or key ring.

Councillors must also declare any gift offered but declined, where the gift is monetary in nature.

The following information is to be recorded in the declaration made by Councillors, which will then be recorded in Council's Gift Register:

- a description of the gift,
- who provided the gift;
- the value of the gift;
- if the gift was accepted or declined
- if accepted, the Councillors decision made to surrender the gift to Council or keep the gift for personal use

Councillors are required to complete the Declaration of Gifts form (Refer to Attachment 1) within 14 days of receiving the gift, or if the gift was received overseas, within 14 days of returning to Australia.

Once completed, the form should be forwarded to the Executive Assistant to the Mayor and Councillors for processing and recording in the Gift Register.

7. HOSPITALITY

7.1 Invitation to attend an event in an official capacity

Where a Councillor is offered an invitation to attend an event in an official capacity, this is not considered to be a gift and does not have to be declared.

All invitations of this nature will be coordinated through the Office of the Mayor and Councillors, not directly from event organisers.

When determining whether an event is attended in an official capacity, the CEO in consultation with Governance, will consider the following:

- is there an official role being undertaken by that Councillor?
- will the Councillor be formally recognised at the event?
- does the Councillors attendance provide a community benefit?
- has Council supported the event or function in some capacity?
- is the event social in nature? Who is the event organiser?

Note: any events or functions coordinated or funded by Council, or where the admission fee has been paid in full by Council, will not be considered as hospitality for the purpose of this policy.

7.2 Invitation to attend an event in a non-official capacity

Councillors may be offered hospitality, including tickets at local events, either directly or through the Office of the Mayor and Councillors, whereby their attendance would not be considered as being in an official capacity.

In general, Councillors should consider declining these invitations, unless there is a genuine community benefit from their attendance. Additional considerations can be made if Council is organising or sponsoring the event, however circumstances will differ for each situation.

If unsure, advice should be sought from the Governance department.

Any form of hospitality received in a non-official capacity, must be valued and declared in accordance with 7.3 and 7.4 of this Policy.

7.3 Assessing the value of hospitality

The value of a gift such as hospitality at an event can be difficult to determine and open to personal interpretation, therefore in the interests of consistency, nominal values have been assigned to the following categorised events:

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|---|---------------------|
| • Breakfast, Morning/Afternoon Tea or Light Lunch | \$ 25.00 |
| • Hors d'oeuvres and beverages | \$ 50.00 |
| • Seated main meal and beverages | \$ 60.00 - \$100.00 |
| • Ticketed event including catering | \$100.00 - \$150.00 |

(**Note:** the above are estimates only, and the actual ticketed cost of the event should be used as a guide where available)

The value of hospitality relates to the acceptance of the invitation, and it is irrelevant whether hospitality was refused at the event.

Where a Councillor is accompanied by another individual (i.e. partner), the assigned hospitality value of the event which must be declared is the aggregated amount for all attendees who accompanied the Councillor.

If you have any uncertainty as to the value of the hospitality, please contact the Executive Assistant to the Mayor and Councillors for assistance.

7.4 Declaration of Hospitality

Councillors must declare all hospitality accepted, with the following exceptions:

- hospitality up to the value of \$10 in any one instance; or up to a cumulative total value of \$20 per calendar year from any person or business; and
- hospitality provided during attendance at an event in an official capacity.

Where a Councillor attends an event or function in a non-official capacity, they must declare the total value of the hospitality available, including food and beverages (in accordance with 7.3 above), regardless of the actual food and beverages consumed by the Councillor.

Regardless of whether a Councillor has attended in an official or non-official capacity, the cost of attendance for partners or any other individual who accompanies the Councillor (where invited and accepted) must also be declared by the respective Councillor.

The declaration of hospitality must be completed on the Declaration of Hospitality Form (refer to Attachment 2).

8. CONFLICTS OF INTEREST

A Councillor who chooses to accept a gift or hospitality must therefore consider the conflict of interest implications which may arise as a result of acceptance.

Any gift accepted by a Councillor will contribute to the gift disclosure threshold, regardless of whether the gift was retained by that Councillor, or provided to the CEO for redistribution.

Councillors must disclose a “Material Conflict of Interest” on any matter before them where they have received a **disclosable gift** from the person or business involved in the matter.

Councillors are encouraged to discuss any conflict of interest queries or concerns with a member of the Governance team as soon as they become aware of the matter.

9. RELATED POLICIES AND PROCEDURES

- Conduct of Council Business Policy
- Councillor Code of Conduct

10. RELATED LEGISLATION

- *Local Government Act 2020*

11. REVIEW

This Policy is to be reviewed by the Manager of Corporate Governance every four years, within six months of a general election.



27th April 2021

Peter Harriott
Chief Executive Officer

Date

ATTACHMENTS

Attachment 1: Declaration of Gifts form - Councillors

Attachment 2: Declaration of Hospitality form - Councillors