

COUNCIL POLICY



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| TITLE: | GIFTS, BENEFITS AND HOSPITALITY - COUNCILLORS |
| ID NUMBER: | CPO-CEO-CS-007 DocSetID1134387 |
| DEPARTMENT: | CEO |
| UNIT: | Council Support |
| RESPONSIBLE OFFICER: | Greg Burgoyne, Chief Executive Officer |

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| ORIGINAL APPROVAL DATE: | 28 April 2015 |
| ADOPTED DATE AND BY WHOM: | Council 22 October 2019 |
| EXPIRY DATE: | Not Applicable |
| REVIEW DATE: | 1 November 2023 <i>This policy will be reviewed on a four yearly basis or in accordance with any legislative or council changes and/or requirements.</i> |

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| AVAILABILITY: | Organisation wide | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| | Public | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| | Internet | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| ADVISE AVAILABILITY: | Media Release | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| | Sou Wester (Responsible Officer to prepare article) | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

1. References (if applicable)

- Section 78C *Local Government Act 1989*
- Council Policy – Councillor Code of Conduct (Doc Set ID 2246898)
- Declaration of Gifts, Benefits & Hospitality Form – Councillors (DocSetID 1007480)
- Gift Register – Gifts, Benefits and Hospitality – Councillors (DocSetID 2579671)
- Template letter advice return of gift, benefit and hospitality – (DocSetID 2579623)
- Template letter in receipt of gift, benefit and hospitality – (DocSetID 2579624)

2. Purpose

The policy is intended to support Councillors to avoid conflicts of interest or breaches of the *Local Government Act 1989* and maintain high levels of integrity and public trust.

Council has issued this policy to support behaviours that are consistent with the Councillor Code of Conduct.

3. Scope

This policy applies to Councillors when:

- considering the acceptance of a gift, benefit or hospitality;
- declaring the offer of a gift, benefit or hospitality; and
- deciding the treatment of the gift, benefit or hospitality.

and for the Council to:

- register receipt and method of distribution of the gift, benefit or hospitality; and
- distribute the gift, benefit or hospitality in an appropriate manner

For the purpose of this policy, a reference to a gift, benefit or hospitality does not include a donation or contribution to a Council election candidate fund that is subject to the provisions of the *Local Government Act 1989* in relation to Council elections.

4. Council Policy

This policy outlines Council's position in relation to the process for the accepting, recording and treatment of gifts, benefits and hospitality received by Councillors.

4.1 Accepting, recording and treatment of gifts, benefits and hospitality

Council is committed to being open and transparent in its operations to ensure that it minimises the risk of being placed in a compromising position that may have an adverse affect on its public reputation or image and the promotion of trust within the community.

Councillors must:

- at all times be ethical, fair and honest in the conduct of official duties;
- not fraudulently receive a gift, benefit or hospitality;
- ensure that the methods and processes they use to arrive at decisions are beyond reproach and can withstand audit processes and proper scrutiny;
- not seek, solicit, or use their position with Council to obtain gifts, benefits or hospitality from external organisations or individuals; and
- Ensure that a person, company or organisation is not placed in a position in which they feel obliged to offer gifts, benefits or hospitality to secure or retain council business.

Applicable gifts, benefits and hospitality must not be accepted where they will cause a Councillor to have a conflict of interest as defined by the *Local Government Act 1989*.

Token gifts, benefits or hospitality of nominal value may be accepted by Councillors provided they do not create a sense of obligation in the recipient that will influence, or appear to influence, the exercise of their duties.

Individuals should 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 should be declined.

4.2.1 Recording of gifts, benefits and hospitality with a value of \$100 or greater

A Declaration of Gifts, Benefits and Hospitality form must be completed if the value of a gift, benefit or hospitality has a value of \$100 or greater and should be recorded on the gift register.

4.2.2 Recording of gifts, benefits and hospitality with a value between \$20 and \$100 (nominal value)

Councillors are encouraged to declare any gift, benefit or hospitality with a value between \$20 and \$100 (nominal value) by completing a Declaration of Gifts, Benefits and Hospitality form and recording on the gift register.

4.2.3 Treatment of gifts, benefits and hospitality

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

The most appropriate treatment method for the gift, benefit and hospitality and signing of the Declaration of Gifts, Benefits and Hospitality form will be determined by:

- in respect of the Councillors, the Mayor; and
- in respect of the Mayor, the Chief Executive Officer.

4.2.3.1 Gifts, benefits and hospitality to Council (official/ceremonial gifts)

Individuals may be involved in social, cultural or community events where official gifts are presented or exchanged. In such circumstances, where it would appear not to be polite or appropriate to decline the offer, it is reasonable for official representatives of Council to accept official gifts on behalf of Council.

All official gifts received are to be reported to the responsible Director; in respect of the Councillors, the Mayor; in respect of the Mayor, the Chief Executive Officer and in respect of the Chief Executive Officer, the Mayor, recorded on a Declaration of Gifts, Benefits and Hospitality form and on the gift register.

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

All gifts, benefits and hospitality accepted with a value of \$100 or greater must be acknowledged in writing by the receiver, or on behalf of the receiver.

4.2.3.2 Gifts, benefits and hospitality to individuals with a value between \$20 and \$100 (nominal value)

Gifts, benefits and hospitality with a value between \$20 and \$100 (nominal value) may only be accepted when:

- 1) Such a gift, benefit or hospitality is offered and refusal would be impolite.
- 2) Acceptance would not cause any potential perceived or actual compromise or conflict of interest.
- 3) The gift, benefit or hospitality is not offered on a regular basis.
- 4) The provisions of the *Local Government Act 1989* are satisfied.

4.2.3.3 Gifts, benefits and hospitality with a value of \$100 or greater

Gifts, benefits and hospitality with a value of \$100 or greater may only be accepted when:

- 1) Such a gift, benefit or hospitality is offered and refusal would be impolite.
- 2) Acceptance would not cause any potential perceived or actual compromise or conflict of interest.
- 3) The gift, benefit or hospitality is not offered on a regular basis.
- 4) The provisions of the *Local Government Act 1989* are satisfied.

All gifts, benefits and hospitality accepted with a value of \$100 or greater must be acknowledged in writing by the receiver, or on behalf of the receiver.

If Councillors receive a gift, benefit or hospitality prize above the nominal value as a result of entering a competition or some sort of lucky draw prize while engaging in official duties (including conferences), it should be recorded in the Declaration of Gifts, Benefits and Hospitality form and on the gift register.

4.2.3.4 Monetary gifts

The offer of monetary gifts (of any amount) must never be accepted.

4.2.3.5 Declining a gift, benefit and hospitality

If there is no public benefit to accepting a gift, benefit or hospitality, then it should be declined or returned. This is particularly the case when acceptance could be perceived as an endorsement of an organisation or product. The gift, benefit or hospitality must be returned to the provider with an accompanying letter.

5. Records Management

All Council records created and managed as a result of implementing this policy and procedure will be managed in accordance with the Council's records management policy.

The records management policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the records management unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

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DECLARATION OF GIFTS, BENEFITS AND HOSPITALITY FORM - COUNCILLORS

Councillors should carefully consider whether they accept any gift, benefit or hospitality.

Councillors are encouraged to declare any gift, benefit or hospitality with a nominal value between \$20 and \$100. If the value is \$100 or greater, this declaration must be completed within 10 days of receipt of gift. All declarations must be submitted to the Council Support Coordinator for processing.

RECIPIENT DETAILS

COUNCILLOR NAME:

Unless otherwise determined, all gifts remain the property of Council. The Mayor in the case of Councillors, and the Chief Executive Officer in the case of the Mayor may exercise their discretion to make a determination on the retention, use or allocation of any items or services received by the recipient.

Details – Recipient to complete (Additional pages and documentation can be attached)

| | | |
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| Name of Donor | | |
| Donor address and contact information | | |
| Description of gift, benefit or hospitality | | |
| Estimated value | | Date Received: |

Has the gift been acknowledged in writing to the donor Yes No

I certify that to the best of my knowledge and belief, this declaration contains all the information available at the time the declaration is given and it is correct.

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| Recipient signature: | Date: |
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Gift Allocation – Recipient to complete

Gift to be retained and pooled for Council use
 Gift to be returned to donor
 Gift to be retained by individual
 Other (explain below)

Instructions/Comments (if applicable) – CEO or Mayor to complete

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| CEO (in case of Mayor) instructions/comment | | |
| CEO Signature: | | Date: |
| Mayor (in case of Crs) instructions/comment | | |
| Mayor's signature: | | Date: |

Completed forms are to be registered into ECM by the Council Support Coordinator. The Council Support Coordinator is also responsible for completing the gift register located in ECM DocSetID 2579671

Definitions

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| Act | <i>Local Government Act 1989</i> |
| applicable gift | <p>Pursuant to Section 78C of the <i>Local Government Act 1989</i>, applicable gift means one or more gifts with a total value of, or more than, the gift disclosure threshold (\$500) received from a person or persons specified in subsection (2) (such as a director, consultant, contractor, agent or employee of a person, company or body that the councillor or employee knows has a direct interest) in the 5 years preceding the decision or the exercise of the power, duty or function but does not include:</p> <ol style="list-style-type: none">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; orb) 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. |
| gift | <p>Is an item, travel, hospitality, entertainment or other token of appreciation that is not deemed to be of a modest value. Gifts are unsolicited and mean to convey a feeling of goodwill on behalf of the giver and where there is no expectation of favours or repayment. Some examples of these types of gifts could include:</p> <ul style="list-style-type: none">• clothes• products• tickets |
| benefit | <p>Is something which is believed to be of value to the receiver, including access to a sporting, cultural or social event, preferential treatment (queue jumping), and access to discounts and loyalty programs. While their value may sometimes be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence their behaviour.</p> |
| gift register | <p>A register of all declarable gifts, benefits and hospitality, including those declined.</p> |
| hospitality | <p>Is the friendly reception and treatment of guests. It is hospitable to offer light refreshments in the course of a business meeting or as part of a conference program. Hospitality can range from offers of light refreshment at a</p> |

business meeting to restaurant meals and sponsored travel and accommodation.

monetary gifts Are cash, cheques, money orders, travellers' cheques, direct deposits or items which can easily be converted to cash.

nominal value Is an item with a face or estimated value between \$20.00 and \$100.00 dollars.

official gifts Are gifts presented to the Council and include gifts received from an International Visitor Exchange Council, organisations or corporations that are bestowing a corporate or ceremonial gift (plaques, plates, vases, trophies and artwork) or souvenir.

reportable gifts are those gifts that must be recorded on a Declaration of Gifts, Benefits and Hospitality Form. At a minimum, reportable gifts include accepted gifts, benefits and hospitality that exceed a nominal value.

token gifts A token gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). Token gifts are those that are worth a nominal value (between \$20 and \$100)

value Is the face value or estimated retail value.