

## CP 38 Councillor Gift Policy

<b>Responsible Officer:</b>	Chief Executive Officer
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### Policy Objective

This policy supports the Council to maintain public trust, good governance, integrity and open and accountable decision-making and establishes the way gift offers are to be treated so as to avoid potential, actual or perceived conflicts of interest.

Council must adopt a Councillor gift policy, which must include procedures for the maintenance of a gift register and any other matters prescribed by the regulations, under section 138 of the *Local Government Act 2020*.

### Principles

The policy applies to councillors and gifts made personally to them or others as a consequence of their role as a councillor.

The policy does not apply to council election candidates and their election campaign donations.

The policy does not apply to the receipt of official gifts on behalf of council.

### Policy

#### 1. Gifts must not be solicited

A councillor must not, for themselves or others, seek, request or solicit gifts.

#### 2. Gifts that must not be accepted

A councillor must not accept a gift that is:

- a) not provided for by this policy; or
- b) made anonymously; or

- c) likely to be a bribe or inducement to make a decision or act in a particular way
- d) money, an item used in a similar way to money, or an item easily converted to money; or
- e) likely to influence them, or be perceived to influence them, in the course of their duties; or
- f) likely to give rise to an actual, potential or perceived conflict of interest; or
- g) made by a person or organisation about which they will likely make or influence a decision; or
- h) made by a current or prospective supplier; or
- i) made during a procurement or tender process by a person or organisation involved in the process; or
- j) likely to be perceived as endorsement of a product or service; or
- k) likely to lead to providing an unfair advantage for the gift giver in future procurement decisions; or
- l) likely to adversely affect a person's standing as a councillor or which may bring the council or the local government sector into disrepute; or
- m) hospitality or attendance at an official business event where council will already be sufficiently represented to meet its business needs; or
- n) a non-token gift which does not have a legitimate business benefit; or
- o) a token gift offered repeatedly or on a regular basis.

### **3. Gifts that may be accepted**

- 1) A councillor may accept a token gift provided it:
  - a) has not been sought, requested or solicited; and
  - b) is not a gift that must not be accepted.
- 2) A councillor may accept a non-token gift provided it:
  - a) has not been sought, requested or solicited; and
  - b) is not a gift that must not be accepted; and
  - c) is offered with a legitimate business benefit, in the course of the councillor's official duties, relating to the councillor's responsibilities and is a benefit to the council; and
  - d) is approved in writing by the Mayor in the case of a councillor who is not the Mayor; or
  - e) is approved in writing by the Chief Executive Officer in the case of the Mayor.

### **4. Declaring, reporting and approving gift offers**

- 1) A councillor must declare all gift offers whether accepted or not.
- 2) Bribes and inducements must be reported to the Independent Broad-based Anti Corruption Commission.

- 3) A councillor must seek approval to accept any non-token gift offer.
- 4) Where a councillor does not receive approval to accept a non-token gift offer the gift offer:
  - a) if not received, may be declined; or
  - b) if received, may be returned to the gift giver, transferred to a not-for-profit community group or destroyed.
- 5) Gift offer declarations must be placed on the gift register.

## **Procedures**

### **5. Gift offer declaration form**

- 1) A gift offer declaration form is used to declare gift offers.
- 2) A gift offer declaration form must be completed and submitted within 14 days of receiving a gift offer unless the gift offer was received overseas, in which case it must be completed within 14 days of returning to Australia.
- 3) The gift offer declaration form should at a minimum contain the following information:
  - a) date gift offer received
  - b) name of councillor who received the gift offer
  - c) description of the gift
  - d) estimated value of the gift
  - e) name of the person or organisation making the gift offer
  - f) whether the gift is a token gift or non-token gift
  - g) if a non-token gift, a description of the legitimate business benefit accruing from accepting the gift including the related councillor official duties, relevant councillor responsibilities and the specific benefit to council
  - h) approval or non-approval of acceptance of a non-token gift (decision, name of approver and date of decision)
  - i) disposition of the gift - gift accepted or not accepted

### **6. Gift register**

- 1) A register of gift offer declarations must be maintained.
- 2) The register of gift offer declarations must be reviewed by the Audit and Risk Committee at least once each financial year.

## **Monitoring and review**

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

The policy may be amended by the Council at any time.

It must be reviewed by the Council, and amended if necessary, at least once in each

Council term.

### **Relevant Legislation**

*Local Government Act 2020*

### **Relevant Policies**

*Councillor Code of Conduct*

### **Relevant Documents**

Department of Environment, Land, Water and Planning (2018) *Model policies for agencies and boards – Gifts, benefits and hospitality*

Independent Broad-Based Anti-Corruption Commission (2019) *Local government integrity frameworks review*

## Definitions

The Act	<i>Local Government Act 2020.</i>
Audit and Risk Committee	The audit and risk committee established by the Council under section 53 of the Act.
Bribe	Money, reward or service offered to procure action, decision, or preferential treatment in favour of the giver or another person.
Chief Executive Officer	The person occupying the office of Chief Executive Officer of the Council, and includes a person acting in that office.
Conflict of interest	Any private or personal interest, which could prejudicially influence, or be perceived to influence, a person in the performance of his or her public or professional duties. Refer to the Act or a comprehensive definition.
Council	The Benalla Rural City Council comprised of elected councillors and led by the Mayor.
Council organisation	The Benalla Rural City Council is led by the Chief Executive Officer.
Councillor	A councillor of the Council.
Gift	A gift is a free or discounted item or service that is offered to a councillor for themselves or others but does not include the value of any reasonable hospitality received by the councillor at an event or function that the councillor attended in an official capacity as a councillor.
Mayor	The Mayor of the Council and any person appointed by the Council to be acting as Mayor.
Money	Is a gift of cash, cheques, money orders, travellers' cheques, direct deposits, store vouchers or items which can be easily converted to cash.
Non-token gift	A gift that is not a token gift.
Official business event	Is an event directly connected to a councillor's role hosted by external organisation where it is for a business purpose consistent with council's role, functions and objectives.  Examples include observing council-grant funded program or project delivery, stakeholder engagement, collaboration opportunities, sector knowledge, professional knowledge, state and local government functions, accompanying a government representative, government events.
Official gift	Is a gift presented to the Council. Examples include gifts received from individuals, a Sister City, organisations or corporations that are bestowing a corporate gift (plaques, vases, trophies, artwork) or a souvenir of an official visit or event.
Official capacity	Representing council for an official purpose that is related to duties as a councillor and council's role.

Reasonable hospitality	Sensible in the circumstances and not excessive; consistent with community expectations and able to withstand public scrutiny; examples include a meal at a conference; a working lunch; refreshments that constitute a basic courtesy
Token gift	Is a gift with a face or estimated value of less than \$50. Examples include promotional items, souvenirs or corporate gifts such as pens, mugs, single bottles of alcohol, meals of a modest nature, invitations to corporate or social functions, door prizes at conferences, trade shows.

## **Appendices**

### **Appendix 1 Gift Test**

### **Appendix 2 Gift and Benefits Disclosure Form**

## Gift Test

This table is a useful tool when considering how to respond to a gift offer.

<b>G</b>	<b>Giver</b>	<p><b>Who is offering the gift, benefit or hospitality and what is their relationship to me?</b></p> <p>Does my role require me to select contractors, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
<b>I</b>	<b>Influencer</b>	<p><b>Are they seeking to gain an advantage or influence my decisions or actions?</b></p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make or my endorsement of a product or service?</p>
<b>F</b>	<b>Favour</b>	<p><b>Are they seeking a favour in return for the gift, benefit or hospitality?</b></p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?</p>
<b>T</b>	<b>Trust</b>	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

**Appendix 2**

**Gift and Benefits Disclosure Form**

\_\_\_\_\_  
**Name of Councillor:**

\_\_\_\_\_  
**Date gift or benefit offered:**

\_\_\_\_\_  
**Name of individual, company or organisation offering the gift or benefit:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Nature of gift or benefit: (Please provide a brief description)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Action taken: (e.g. refused, accepted as reasonable hospitality, provided to the CEO)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Approximate value of gift or benefit:            \$**

\_\_\_\_\_  
**Signed by Councillor:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**Mayor:**  
I have noted the declaration.

\_\_\_\_\_  
**Signed by the Mayor:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**CEO:**  
I have noted the declaration.

\_\_\_\_\_  
**Signed by the CEO:** \_\_\_\_\_ **Dated:** \_\_\_\_\_