

# **ATTACHMENT TO AGENDA ITEM**

Ordinary Meeting

19 November 2019

**Agenda Item 10.4      Gifts and Benefits Policy**

**Attachment 1            Gifts and Benefits Policy 37.POL1 ..... 162**

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL1

## Gifts and Benefits

Version 2.3

Adopted by Council XXXX

<b>Business Unit:</b>	Corporate Services
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	Six months following general election

**DOCUMENT REVISIONS**

VERSION #	SUMMARY OF CHANGES	DATE ADOPTED
2.3	Inclusion of Director Corporate Services to sign and assess gift declarations Updates to internal references/terminology to improve clarity Greater emphasis on declaration of hospitality	

**PURPOSE**

The purpose of this policy is to provide guidance to Councillors and staff on the process to be followed if a gift or benefit is offered during the course of your role with Council.

**OBJECTIVE**

At some stage in your career as a Councillor or officer at Greater Shepparton City Council you may be offered a gift or benefit. This gift or benefit could be offered in good faith, or it could be an attempt to influence, bribe or compromise your ability to act impartially and in the public's best interest.

**SCOPE**

Councillors or Council officers may be offered gifts or hospitality in a range of situations. Receipt of a gift or benefit from a person or organisation could create an expectation of favourable consideration in relation to Council matters and give rise to a conflict of interest.

This policy applies to all Councillors and staff and has been developed to provide guidance on the expected process with regard to the acceptance of gifts and benefits. This will therefore minimise the potential for breaches of the *Local Government Act 1989* (the Act) to occur.

**DEFINITIONS**

Reference term	Definition
Applicable Gift	Section 78C of the <i>Local Government Act 1989</i> outlines the definition of an 'applicable gift'.
Benefit	A benefit is something of value to the receiver which is less tangible than a gift, such as hospitality, access to a corporate box at a sporting event, discounts on buying goods or services, access to confidential information, or sexual favours.
Bribery	Bribery is defined as receiving or offering a reward in return for influencing a person's behaviour or decision-making in the giver's favour.
Conflict of Interest	In the context of this policy, a conflict of interest has the same meaning as section 78C of the <i>Local Government Act 1989</i> .
Gift	For the purposes of this policy, the definition of the term 'gift' includes: <ul style="list-style-type: none"> <li>• The transfer of money</li> <li>• The transfer of property</li> <li>• The provision of services free of charge at a reduced rate</li> <li>• Loans of money</li> <li>• Sale of property with a sale price below proper valuations</li> <li>• Travel</li> <li>• Hospitality, including meals, entertainment and accommodation (where a fee for attendance has not been paid for by Council)</li> </ul> <p>Note: this does not include gifts (other than election campaign donations) received more than 12 months before first becoming a Councillor or Council officer, or reasonable hospitality provided to a</p>

Reference term	Definition
	Mayor, Councillor or member of Council staff by any organisation at any function or event that is conducted during the five-year period of determination.

## POLICY

### 1. Gift, Benefit or Bribe?

A gift offered to you in the course of your duties may include, but is not limited to, money, food, drink, gift vouchers, tickets to an event/show, or airfares and/or accommodation.

A gift or benefit may be offered by a client or 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 or benefit 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.

A gift or benefit may also be offered to you by a work colleague or Councillor. 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.

### 2. Acting Impartially and with Integrity

As a Greater Shepparton City Council elected representative or employee you have a duty to ensure that Council business is carried out fairly and impartially, and with integrity.

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

A gift or benefit 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 about that person. Even where feelings of obligation do not affect your impartiality or integrity, there is the risk that other people will perceive that you have been compromised. The consequences of this perception can be just as damaging as actual compromise to you and the Council.

### 3. Guidelines

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

Sometimes the giver's reasons or intentions aren't clear. In a business context, apart from small tokens such as a pen or key-ring bearing a company name, it is unusual for a gift or benefit to be offered without some expectation of a return.

In any case, following the guidelines below will ensure that you deal with the offer of a gift appropriately and in line with Council's policies and its expectations of ethical behaviour of staff and Councillors. You will also protect yourself from any possible negative repercussions.

- a. **You must never solicit or ask for a gift or benefit**  
Soliciting a gift or benefit is corrupt and criminal behaviour, and is against not only Council's Code of Conduct, but also the law.
- b. **Offers of money in any form must never be accepted**  
Offers of money are viewed by Council as an attempt to influence corruptly an elected representative's or employee's behaviour. You must **never** accept money under any circumstances.
- c. **As a general rule, you should not accept any gifts or benefits**  
It is better to refuse any offers of a gift or benefit to avoid compromising yourself, or risking the perception that you, and Council, have been compromised or influenced. This applies no matter what the value of the gift or benefit is. You also need to be very aware that an accumulation of even small gifts could quickly become an applicable gift and result in you having a conflict of interest under the Act.
- d. **Under special circumstances, it may be appropriate to accept a gift or benefit**  
Council recognises that a blanket ban on gifts and benefits is difficult to apply and that there will be some situations where it is impossible or inappropriate to refuse a gift or benefit. In this case, the following guidelines 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 work, for example, in appreciation of a guest-speaking engagement at a conference or from an overseas delegation you have been hosting.
  - 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.
  - Even modest hospitality can be considered a gift under the Act, such as a lunch provided to a working party or refreshments during or after a meeting.
  - 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.
  - There may be occasions where the gift you receive cannot be returned as it may have been given anonymously or returning of the gift is met with refusal.
  - Unsolicited gifts which arrive in the mail or are not delivered in person should also be treated as gifts by the Council and handled in accordance with this Policy.

e. **A gift or benefit you receive in the line of duty is generally regarded as the property of Council**

In general and where possible, the use or disposal of a gift is the responsibility of Council, not the person who has received it.

f. **If you are the recipient of a gift and following careful consideration of the Council's Gifts and Benefits Policy make the decision to accept the gift, you must complete the Gift Declaration Form and have it registered on Council's Gift Register**

The Gift Register is an official record of any gifts or benefits received by Councillors or staff. The register includes details of the nature and value of the gift, who gave the gift and the decision that was made regarding the use or disposal of the gift. All gifts received must be declared to the Governance team, who will independently value and record the gift details, regardless of the items monetary value. It is important to register any gift or benefit that you have received to protect yourself from any accusations that may be made in the future about misuse of your position or dishonesty for not having declared a gift.

Please note that a single gift or multiple gifts that you receive over the calendar year from a particular organisation which total below the threshold (\$30.00) will be returned to you. At the time a gift brings the total from an organisation over the threshold, the gift will be handed in to the Director Corporate Services or Chief Executive Officer for determination of its disposal.

Where a gifts value does not exceed the threshold and the officer does not want it returned, the Director Corporate Services or Chief Executive Officer will determine its disposal.

g. **Bribes and Inappropriate Gifts**

If you believe that you have been offered a bribe or inappropriate gift intended to influence you in your role, you should reject the offer explaining that accepting the gift would be inappropriate and contravene the Council's Code of Conduct. Make notes about what has occurred so that you may inform the CEO.

h. **Assessing the Value of Hospitality**

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

• Hors d'oeuvres and beverages	\$ 50.00
• Seated meal and beverages	\$100.00
• Sporting event and catering, i.e. general admission tickets	\$150.00
• Corporate Suite sporting event and catering, i.e. box tickets	\$300.00

The value of hospitality relates to the acceptance of the invitation and subsequent attendance at the event, and it is irrelevant whether you refuse hospitality while in attendance. Where a Councillor or Council officer is accompanied by their partner and/or other family members, the assigned hospitality value of the event which must be declared is the aggregated amount for all attendees, using the above figures.

Where a Councillor or Council officer is offered an invitation to attend an event in an official capacity and a ticket / admission fee has been paid for by the Council, this is not considered to be a gift.

If the invitation is offered in a non-official capacity, or there has been no charge to the Council for attendance, the invitation must be declared as a gift.

Additional considerations should 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.

#### 4. Disposal of Gifts

The Director Corporate Services or Chief Executive Officer will determine how a gift that has exceeded the threshold should be disposed of. Any of the following methods may be used:

- Disposal by resolution of the Council
- Transfer to other public agencies or authorities
- Donate to a recognised charitable, aid or non-profit organisation
- Archival action by the records department, regional library or local museum
- Destruction
- Retained by Council
- Returned to recipient

#### 5. Declaring a Gift

To have a gift or benefit recorded on the Gift Register, you must complete the Declaration of Gifts form at Attachment 1. This form must be completed within 14 days of receiving the gift or benefit, or if the gift was received overseas, within 14 days of returning to Australia. Once completed, the form should be provided to the Governance Support Assistant for processing.

#### 6. Conflicts of Interest

An officer or Councillor who chooses to keep a gift or benefit must take careful consideration to the conflict of interest implications which may arise as a result.

Under section 78C of the *Local Government Act 1989*, an officer or Councillor is deemed to have an indirect conflict of interest because of receipt of an applicable gift when one or more gifts are received within a five year period, and the value of those gifts exceed the gift disclosure threshold (currently \$500).

Note: if the gift is declared and provided to the Director Corporate Services or Chief Executive Officer for redistribution, it will not be considered to be a gift received by that particular officer / Councillor and will not contribute to that individual's gift disclosure



threshold.

Councillors and Officers 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.

#### **RELATED POLICIES AND PROCEDURES**

- Conduct of Council Business Policy
- Councillor Code of Conduct
- Employee Code of Conduct

#### **RELATED LEGISLATION**

- Local Government Act 1989
- Conflict of Interest in Local Government Guide

#### **REVIEW**

The Team Leader Governance is to review the Gifts and Benefits Policy within six months of a general election of the Council, in conjunction with the Executive Leadership Team. Suggested revisions are to be submitted to the Council for consideration.

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**Peter Harriott**

**Date**

**Chief Executive Officer**

#### **ATTACHMENTS**

**Attachment 1: Declaration of Gifts FormM19/86389**