

<h2>COUNCILLOR GIFT POLICY</h2>	Date Adopted:	10 February 2021
	Adopted By:	Council
	Review Due:	10 February 2025
	Responsible Officer:	Governance Coordinator
	Directorate:	Organisational Development, Community and Corporate Services
	EDRMS No:	D/20/3624

PURPOSE

This policy has been developed to ensure transparency and the principles of good governance and accountability are practised by Councillors when being offered gifts, benefits and hospitality in the course of their duties.

A Councillor Gift Policy is required under section 138 of the *Local Government Act 2020* and states that a Councillor gift policy must include procedures for the maintenance of a gift register.

DEFINITIONS

Council	means Southern Grampians Shire Council
Councillor	means an elected official of the Council
Act	means the <i>Local Government Act 2020</i>
Benefit	means something which is believed to be of value to the receiver, for example, access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services or vacation trips
Gift	means an item, travel, hospitality, entertainment or other token of appreciation
Hospitality	means a meal or service which is offered and is not viewed as being connected to official Council business or part of the accepted meal at a conference or seminar
Monetary Gifts	means cash, cheques, money orders, traveller's cheques, direct deposits or items which can easily be converted to cash
Value	means face value or estimated retail value
Token Gift	means gifts that are infrequently received. These gifts may include low-priced items such as flowers, single bottles of reasonable priced wine, food, for example, chocolates and cakes and trinkets such as ties, scarves, coasters etc.

APPLICATION AND SCOPE

This policy applies to all Councillors of Southern Grampians Shire Council.

GENERAL PROVISIONS

The Southern Grampians Shire Council is committed to being open and transparent in its operations.

Councillors must:

- Be ethical, fair and honest in the conduct of their official duties;
- Be aware that anonymous gifts are not to be expected, as per section 137 of the *Local Government Act 2020*;
- Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions are beyond reproach and can withstand audit and risk processes and proper scrutiny;
- Not seek, solicit, or use their position with Council to obtain gifts or benefits from external organisations or individuals;
- Ensure that a person, company or organisation is not placed in a position in which they feel obliged to offer gifts or hospitality in order to secure or retain Council business; and
- Report any incidences where a bribe and / or cash is offered.

LEGISLATION

Local Government Act 2020

Definitions

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment, gift or other alienation of property including—

- a) the allotment of shares in a company;
- b) the creation of a trust in property;
- c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- d) the release, discharge, surrender, forfeiture or abandonment, at law or inequity, of any debt, contract or chose in action, or of any interest in property;
- e) the exercise by a person of a general power of appointment of property in favour of any other person;
- f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

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—

- a) the provision of a service (other than volunteer labour); and
- b) the payment of an amount in respect of a guarantee; and
- c) the making of a payment or contribution at a fundraising function;

gift disclosure threshold means \$500 or a higher amount or value prescribed by the regulations;

Whilst there is a legislated gift disclosure threshold applicable to Councillors during election campaigns, the Southern Grampians Shire Council Councillors, in accordance with this policy, will disclose all gifts, regardless of value.

Section 127 General Conflict of Interest

- (1) Subject to Section 129, a relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

Section 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.

Section 128 states an affected person includes a person from whom the relevant person has received a disclosable gift.

A 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.

Section 135 Summary of Personal Interests

The Chief Executive Officer must prepare a summary of the personal interests information disclosed. The summary must include:

- a) Town or suburb, but not the address or street number of the land that is the place of residence of a person as disclosed in the personal interests return
- b) Matters prescribed by the regulations
- c) Exclude matters required by the regulations
- d) Be prepared in accordance with the regulations.

Local Government (Governance and Integrity) Regulations 2020

A personal interests return must include the details of any gift received by the specified person, the value of which equals or exceeds \$500 or the threshold amount fixed by the Secretary, including gifts in the form of goods or services and multiple gifts that together equal or exceed that amount, which was received at any time since the specified person lodged the preceding initial or biannual personal interests return including:

- A description of the gift;
- The monetary value of the gift;
- The name of the person who gave the gift
- If the gift was given on behalf of another person or body, the name of that person or body.

Standards of Conduct

- (1) Treatment of others
- (2) Performing the role of Councillor
- (3) Compliance with Good Governance Measures
- (4) Councillor must not discredit or mislead Council or public
- (5) Standards do not limit robust debate

GIFTS, BENEFITS AND HOSPITALITY PROCESS

Councillors

Councillors must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

Councillors must take all reasonable steps to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.

Councillors must not accept gifts in their roles as Councillors or where it could be perceived to influence their role as a Councillor except:

- Where the gift would generally be regarded as only have a token value and could not be perceived to influence actions.
- Where refusal may cause offence or embarrassment, in which case the gift can be accepted on behalf of the Council and the gift then becomes the property of the Council. For transparency and accountability purposes, these gifts will be recorded in the Councillors Gifts Register with a notation that it is the property of the Council.

Councillors must recognise that gifts equal to or above the gift disclosure threshold received in twelve months prior to election from a person or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of an applicable gift.

GIFT REGISTER

Council's register is a record of all declarable gifts, benefits and hospitality offered to Councillors.

The register records sufficient information for identifying trends and key risks and forms the basis of risk-based monitoring. Council will maintain a gift register for Councillors and will include the following information:

- Name of person who accepted / declined the gift
- Date the gift was accepted / declined
- Name of individual / company / group providing / offering the gift
- The nature of the gift and its estimated value
- The reason given for making the offer
- Any legitimate business reason for accepting the gift
- Whether the offer is a ceremonial gift;
- Any actual, potential or perceived conflicts of interest or reputational risks (to the individual or Council) that the offer raises;
- If the offer was accepted or declined;
- The record number of the completed '*Disclosure of Gift, Benefit and Hospitality Form*'

Council will consider its requirements under relevant privacy legislation, including the Information Privacy Principles under the *Privacy and Data Protection Act 2014* (PDP Act),

when recording items in the register and when publishing their register online. These requirements include:

- Reasonable steps to protect the personal information collected and held by Council. Access to registers should be restricted to relevant persons within Council.

IMPLEMENTATION

This policy will be made available on the Council website.

CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy is compatible with the relevant human rights identified in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

REVIEW

Council's gift policy must be adopted within 6 months of section 138 coming into operation, being 24 April 2021.

This Policy must be reviewed a minimum of every four years or in-line with legislative change.

END



DISCLOSURE OF GIFT & HOSPITALITY

Councillor Name:

Date gift/hospitality received:

Name of individual/
company/group providing gift:

Nature of gift or consideration:
(please provide a brief description)

Approximate value of gift: \$ _____

NOTE: All gifts/benefits/hospitality must be declared.

Action taken (tick all applicable):

Accepted

Retained by recipient

Declined

Retained by department

Returned

Donated to a third party

Other (state):

Additional comments (i.e. reason for gift, promotion etc):

Councillor's Signature:

Date:

Chief Executive Officer
Signature:

Date:

Please forward this form to the Governance Coordinator