

Draft Policy – Councillor Gifts and Benefits

Title:	Councillor Gifts and Benefits Policy
Type of policy:	Council
Adopted:	24 March 2021 (under review 2025)
Record No:	TBC
Related Documents:	Nil

Acknowledgement of Country

Murrindindi Shire Council is proud to acknowledge the Taungurung and Wurundjeri Woi Wurrung people as the traditional owners of the land we now call Murrindindi Shire.

We pay our respects to First Nations leaders and elders, past, present and emerging, who are the keepers of history, traditions, knowledge and culture of this land.

We commit to working in collaboration with traditional owners of this land in a spirit of reconciliation and partnership.

1 Purpose

Council is committed to maintaining a culture of integrity and transparency to support public confidence in good governance. This policy establishes Murrindindi Shire Council's (Council) position on:

- Responding to offers of gifts, benefits and hospitality; and
- Disclosing offers of gifts, benefits and hospitality.

2 Rationale

This Policy supports Councillors to comply with the *Local Government Act 2020* (Act), the Model Councillor Code of Conduct, and the Governance Rules ensuring transparency and integrity in decision making arising from the receipt of Gifts.

The Policy provides guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts, benefits and hospitality (Gifts) which may result in a conflict of interests arising, influencing their ability to make an impartial decision that is in the best interests of the community.

Implementing a clear policy for managing the receipt and provision of Gifts is fundamental in ensuring high levels of public trust and ensures Councillors are not compromised in the performance of their duties by accepting Gifts which may result in a sense of obligation or could be interpreted as an attempt to influence.

This Policy is consistent with the Victorian Public Sector Commission's Model Gifts, Benefits and Hospitality Policy.

3 Scope

This Policy sets out Council's standards and procedures for responding to offers of Gifts. It applies to all Murrindindi Shire Council Councillors.

4 Definitions

Reference	Definition
Benefits	Examples of benefits are where preferential treatment is given, privileged access, loyalty programs or a promise of a new position. To receive a benefit is to gain advantage for yourself or your family.
Bribe	A bribe is an offer of money or other inducement made with the intent to corruptly influence a Councillor, officer or contractor in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.
Ceremonial Gifts	Ceremonial gifts are official gifts provided as part of the culture and practices of communities and governments, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation or community.
Conflict of interests	<p>"Conflict of Interests" has the same definition as Division 2 – Sections 126 to 131 of the Local Government Act 2020.</p> <p>"a relevant person has a conflict of interests if the relevant person has— (a) a general conflict of interests within the meaning of section 127; or (b) a material conflict of interests within the meaning of section 128.</p> <p>"a relevant person has a <u>general conflict</u> of interests 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 127 of the Act)</p> <p>"a relevant person has a <u>material conflict</u> of interests 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 of the Act)</p>
Disclosable Gift	<p>Any gift valued at or above \$500 received in the preceding five years if the Councillor received a gift during their term or as an election campaign donation.</p> <p>If multiple gifts are received from a person, they must be treated as a single gift with an aggregate value.</p> <p>A gift includes any good or service (other than volunteer labour) that is provided for free or at an inadequate price. It includes a fundraising contribution.</p> <p>A failure to comply with disclosure requirements is an offence and if found guilty a fine of up to 60 penalty units may be imposed, the value of the gift must be paid to Council, and the Councillor may be required to pay the costs to defend the prosecution.</p>
Gift Register	A register that captures all offers of gifts, benefits and hospitality, irrespective of value, or whether they were received, accepted or declined by Councillors.
Hospitality	The friendly reception and entertainment of guests and may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.

	<p>Hospitality is considered a gift unless the hospitality was reasonable and you were attending the function or event in an official Council capacity.</p> <p>Reasonableness test: the hospitality must be of a standard and type that an independent observer would consider appropriate and not excessive.</p> <p>Official capacity test: it must clearly be your duty as a Councillor to attend the relevant function or event.</p> <p>Examples of hospitality that exceeds common courtesy include:</p> <ul style="list-style-type: none"> • A 'fine dining and wine' working lunch at another organisation's premises • An offer to pay for a working lunch at a café • An offer of a free spot on an industry golf day. <p>Examples of hospitality that do not exceed common courtesy and are therefore not considered gifts include:</p> <ul style="list-style-type: none"> • Sandwiches and pastries over a lunchtime meeting • A cup of coffee or tea at another organisation's premises.
Token offer	An offer of a gift, benefit or hospitality that is inconsequential or of trivial value to both the person making the offer and the Council representative. The monetary value of token offer is less than \$50.
Value	The face value or estimated retail value.

5 Policy

5.1 Councillors Must Not Solicit for Gifts

Councillors will not seek or solicit Gifts for themselves or others.

5.2 Managing Offers of Gifts

When deciding whether to accept a Gift, Councillors should consider if the Gift could be perceived as influencing them in how they perform their duties; or if it could lead to reputational damage. The more valuable the Gift, the more likely that a conflict of interests or reputational risk exists.

The GIFT test (Table 1) provides guidance on what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

Table 1 – GIFT test

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to the Councillor?</p> <ul style="list-style-type: none"> • Consider regulatory processes currently underway, potential or current suppliers, potential grant applicants. • Could the person or organisation benefit from a decision Council makes?
I	Influence	Are they seeking to gain an advantage or influence Council decisions or actions?

		<ul style="list-style-type: none"> • Has the gift, benefit or hospitality been offered to Councillor/s publicly or privately? • Is it a courtesy or a token of appreciation or a valuable non-token offer? • Does its timing coincide with a decision Council is about to make?
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <ul style="list-style-type: none"> • 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?
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <ul style="list-style-type: none"> • How would the public view acceptance of this gift, benefit or hospitality? • What would ratepayers think?

5.3 Councillors Must Not Accept Prohibited Gifts

Councillors must not accept Prohibited Gifts including:

- A Gift valued \$500 or more that is given anonymously (s.137 of the Act). If acceptance is unavoidable because it was posted or delivered, the Councillor must relinquish the Gift to the Chief Executive Officer within 7 days of receipt.
- A Gift that could bring them, Council or the public sector into disrepute
- Money, things used in a similar way to money, or something easily converted to money including vouchers and gift cards
- Alcohol (except as reasonable hospitality)
- A gift that is likely to influence, or be perceived to influence them in the course of their duties or a Gift that raise an actual, potential or perceived conflict of interests
- A Gift made by a person or organisation that is likely to be affected by a Council decision on a matter, and particularly offers made:
 - By a current or prospective supplier
 - During a procurement or tender process by a person or organisation involved in the process
 - By an individual or group involved in a regulatory process that is underway
 - That could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions.
- A Gift that extends to their relatives or friends
- A Gift made by a person or organisation with a primary purpose to lobby elected members of Council
- A Gift made in secret; and
- Free tickets to a paid event where the Councillor is not fulfilling a role in the event as an invited official representative of Council and where Council is not officially sponsoring the event.

Accepting a prohibited gift may constitute misuse of a Councillor's position and a breach of this Policy and may result in serious misconduct allegations. Should the Gift be perceived as being offered in return for an act or decision, then accepting it may constitute a bribe or corruption and may lead to criminal prosecution.

5.4 Non-Token Gifts (above \$50)

A Gift valued over \$50 should not be accepted unless there is a legitimate business benefit and the Gift has been approved in writing by the Chief Executive Officer. If written approval prior to acceptance is impossible, for example a wrapped Gift that was later identified as being a non-token Gift, the Councillor must give the Gift to the Chief Executive Officer within 7 days of receipt.

The Chief Executive Officer should evaluate if there is a legitimate business benefit and decide whether the Gift is accepted or returned. Non-Token Gifts remain the property of Council and held by the Chief Executive Officer unless otherwise determined.

All Non-Token Gifts must be declared in accordance with section 5.7.

5.5 Token Gifts (\$50 or less)

A Gift up to \$50 in value is considered a Token Gift. Councillors may accept a Token Gift (unless the Gift is a Prohibited Gift) only after considering the GIFT test (above). Token Gifts must be declared in accordance with section 5.7. The combined total of Gifts accepted from a single source in a 12-month period must not exceed \$500.

5.6 Gestures are not Gifts

Councillors may accept gestures without approval or declaring. To qualify as a gesture, it must not give rise to a conflict of interests or lead to reputational damage.

Examples of gestures include:

- a. A bunch of freshly cut flowers from someone's garden when a Councillor visits
- b. General hospitality when meeting with a group – for example cake offered to all in attendance
- c. A souvenir received from attending a function or seminar so long as the Councillor was not paid to appear
- d. Raffle prizes where the Councillor personally purchases the ticket.

Examples of where it would not be considered a gesture and should be treated as a gift include:

- a. A thank you gift for hosting an event
- b. Applicant for a planning permit bakes cookies for Councillors as a gift for visiting the proposed site
- c. Door prize associated with the Councillors paid attendance at the event.

5.7 Councillors Must Declare Gifts

All Gifts regardless of value or whether accepted must be declared on a Gift Declaration Form. Councillors must lodge the form with the Chief Executive Officer within 7 days of the offer, and details will be included in the public register.

The following further declarations are also required:

- A Councillor must disclose any Gift valued at \$500 or more in their biannual Personal Interest Return unless the gift is from a family member.
- A Councillor who has a conflict of interests after receiving a Disclosable Gift from a person must disclose the conflict of interests in accordance with the Governance Rules.
- Gifts above the \$500 that are election campaign donations must be disclosed in an election campaign donation return.

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Gifts Register

The Governance and Risk Team maintains the Gift Register for all Gift declarations, which will be published on Council's website and updated annually.

Consideration will be given to maintaining reasonable confidentiality in situations where public disclosure will prejudice a proposed development or business venture, legal advice or legal proceedings.

The Manager Governance & Risk will monitor the Gifts Register and report to the Executive Team on any identified systematic pattern of Gifts offered and accepted to maintain integrity. A report is to be presented periodically to the Audit & Risk Committee.

5.8 Councillors Must Report Bribes

A Councillor who receives an offer of a Gift that they believe is a bribe, must refuse the offer and:

- Immediately notify Council's Public Interest Disclosure Coordinator; and
- Lodge a Gift Declaration Form (see section 5.7), recording their refusal to accept.

A Councillor who believes a Council Officer may have solicited or been offered a bribe which they have not reported, must report the matter to Council's Public Interest Disclosure Coordinator.

Where a Councillor believes another Councillor may have solicited or been offered a bribe which they have not reported, they must make a Public Interest Disclosure to either IBAC or the Local Government Inspector.

5.9 Official gifts to the Council

Official/Ceremonial Gifts given as part of the culture and practices of communities and governments within Australia or internationally are the property of Council, and irrespective of value, should be accepted by Councillors on Council's behalf and given to the Chief Executive Officer as soon as practicable.

6 Related Policies, Strategies and Legislation

- *Independent Broad-based Anti-corruption Commission Act 2011*
- *Local Government Act 2020*
- Victorian Public Sector Commission's Gifts, Benefits and Hospitality Policy Guide
- Murrindindi Shire Council Governance Rules
- Councillor Model Code of Conduct
- Councillor Values and Interactions Protocols Policy
- Fraud and Corruption Control Policy
- Public Interest Disclosure Policy

7 Council Plan

This policy is consistent with the Council Plan 2025-2029 Goal 9 Transparent governance and meaningful engagement.

8 Management and Review

Responsible Officer: Manager, Governance and Risk

August 2025

The Director People and Corporate Performance and the Manager Governance & Risk are responsible for ensuring this Policy is reviewed every 4 years and presented to Council for endorsement.

9 Consultation

Community consultation was not required in the development of this Policy.

10 Compliance

The Policy has been developed with consideration to the:

- Charter of Human Rights and Responsibilities, particularly the Right to Privacy (Section 13) – the right not to have one's privacy, family, home or correspondence unlawfully or arbitrarily interfered with.
- *Gender Equality Act 2020* ensuring the policy is assessed for differential impacts.
- *Equal Opportunity Act 2010* which reinforces Councils obligations to provide services and a workplace free of discrimination and bias.