

## Gifts, Benefits and Hospitality Policy

<b>Operational Policy &amp; Procedure</b>	Policy No:	<b>OD015</b>
	Adopted by ELT:	<i>Oct 2023</i>
	Adopted by Council:	<i>24 Oct 2023</i>
	Review Date:	<i>Feb 2026</i>
	Version No:	003
Policy/Procedure Owner:	Manager Governance and Corporate Planning	
Related Policies:	OD002 Fraud & Corruption Control Policy Councillor Code of Conduct Employee Code of Conduct Gov-41 Public Transparency Policy	
External References:	Local Government Act 2020 Victorian Public Sector Commission – Gifts, Benefits and Hospitality Resource Suite Crimes Act 1958	

### 1. PURPOSE

The Moyne Shire Council is committed to being a professional and ethical workplace. The purpose of this policy is to address the offer, received or declined, of any gift, benefit or hospitality to Councillors or to Council Officers.

This policy will provide guidance on the ethical considerations and procedures involved with the acceptance and declaration of gifts, benefits or hospitality offered to Councillors or to Council Officers in the course of their duties.

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

### 2. SCOPE

This policy will apply to all Moyne Shire Councillors and all Council staff.

### 3. DEFINITIONS

Term	Definition
<b>Benefit</b>	A benefit is something that is believed to be of value to the receiver, including preferential treatment (queue jumping), access to confidential information, accommodation, personal services, pleasure, or vacation trips.
<b>Bribe</b>	A bribe is a corrupt inducement to procure an action, decision or preferential treatment.
<b>Conflict of Interest</b>	<p>The Local Government Act 2020 requires declarations of General or Material Conflicts of Interest.</p> <p>A conflict of interest is a conflict between a Councillor's/Council Officer's public duty to act in the best interest of Council and their private interests (financial or non-financial). A conflict exists whether it is:</p> <ul style="list-style-type: none"> <li>- Real – it currently exists;</li> <li>- Potential – it may arise, given the circumstances;</li> <li>- Perceived – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to the Council, now or in the future.</li> </ul>
<b>Gift</b>	<p>Gifts are unsolicited and meant to convey a feeling of goodwill towards the giver.</p> <p>Examples of these types of gifts could include:</p> <ul style="list-style-type: none"> <li>- Products including consumables like food or wine;</li> <li>- Clothes; or</li> <li>- Tickets to commercial events (ie excluding community events) including movies, sports, concerts or other entertainment.</li> </ul>
<b>Gift Disclosure Threshold</b>	<p>In accordance with the Local Government Act 2020 provisions, a Disclosable Gift means one or more gifts with a total value at or above \$500, or any higher prescribed amount, that a relevant person received in the preceding five (5) years if:</p> <ul style="list-style-type: none"> <li>- the relevant person was a Councillor, Council Officer or member of a delegated committee at the time the gift was received; or</li> <li>- the gift was an election campaign donation.</li> </ul> <p>Disclosable Gifts will give rise to a material conflict of interest for the recipient under section 128 of the Local Government Act 2020 should</p>

Term	Definition
	<p>the recipient subsequently be in a position to make a decision that the giver stands to benefit or suffer from.</p> <p>If multiple gifts are received from a person, company or other organisation, for the purposes of disclosure, 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 payment or contribution at a fundraising function.</p>
<b>Hospitality</b>	<p>Hospitality is the provision of food or beverages, travel, accommodation or entertainment.</p> <p>Reasonable Hospitality is Hospitality received by a Councillor or Council Officer in the course of performance of their official duties that is incidental to that performance and not likely to influence the Councillor or Council Officer.</p> <p>Reasonable Hospitality is also not disproportionate or extravagant. Examples of Reasonable Hospitality include:</p> <ul style="list-style-type: none"> <li>- catering provided to attendees at a training seminar or conference related to the Councillor's/Council Officer's official duties;</li> <li>- food or drink provided to attendees at an event marking the opening of a community facility or a piece of infrastructure that Council has contributed to financially or through in-kind contributions;</li> <li>- admission tickets to and catering at an event that relates to the Councillor's or Council Officer's carrying out of their official function including an event that has been supported by Council financially or with in-kind support.</li> </ul>
<b>Monetary Gift</b>	<p>A monetary gift means cash, cheques, money orders, travellers cheques, direct deposits or other items which can easily be converted into cash.</p>
<b>Nominated Officer</b>	<p>Means the senior officers of the Council and any other member of the Council staff nominated by the Chief Executive Officer (CEO).</p>
<b>Official Gift</b>	<p>Means a gift presented to a Councillor or Council Officer by a representative of another municipality, other level of government or other organisation that is intended to signify goodwill between that entity and Council. Examples include a piece of artwork representative of the</p>

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	donor entity, a plaque, a signed book or other gift from a sister city or a gift intended for display on Council premises.
<b>Token Gift</b>	Means an infrequently received gift, benefit or hospitality that is inconsequential or trivial in value to both the person or organisation making the offer and the recipient. 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.
<b>Value</b>	Value means the face value or estimated retail value

#### 4. THE G.I.F.T. TEST

##### ***Conflict of interest & reputational risks***

In deciding whether to accept an offer, Councillors and Councillor Officers should first consider if the offer could be reasonably perceived as potentially influencing them in performing their duties or otherwise lead to reputational damage to Council.

The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

Developed by the Victorian Public Services Commission, the GIFT test is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

<b>G</b>	<b>Giver</b>	<b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b> 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?
<b>I</b>	<b>Influence</b>	<b>Are they seeking to gain an advantage or influence my decisions or actions?</b> 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?
<b>F</b>	<b>Favour</b>	<b>Are they seeking a favour in return for the gift, benefit or hospitality?</b>

		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?
<b>T</b>	<b>Trust</b>	<b>Would accepting the gift, benefit or hospitality diminish public trust?</b> How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?

## 5. TRAINING REQUIREMENTS

Forms part of induction process for new staff.

Promulgated to existing staff and Councillors.

## 6. POLICY

### Summary of Actions for Gifts and Benefits

<b>Requesting Gifts</b>	Prohibited.
<b>Cash Gifts</b>	Prohibited.
<b>Token Gifts (less than \$50.00)</b>	Can be accepted and must be declared in the Council Gift Register. This is to ensure that the combined total of offers made from a single source in the last 12 months does not exceed \$500.
<b>Official Gifts (goodwill gifts)</b>	Can be accepted, becomes property of the council and should be declared in the Council Gift Register.
<b>Gifts of Appreciation (over \$50.00)</b>	Generally to be declined, however if this would be discourteous, an individual may accept and notify the CEO. The CEO is to determine whether it is appropriate for this Gift to be regarded as an Official Gift and to become the property of the Council. Regardless whether a Gift of Appreciation is declined or accepted, it must be declared in the Council Gift Register.
<b>Reasonable Hospitality</b>	Can be accepted and should be declared and approved prior to attending the event. Is not considered to be a gift provided meets the definition above.

	Regardless whether the provision of Reasonable Hospitality is declined or accepted, it must be declared in the Council Gift Register.
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***Gifts must never be sought***

Councillors and Council officers must not solicit, demand or request gifts of any personal benefit for themselves or another person by virtue of their position.

***No sense of obligation***

No gift may be accepted that could influence, or be perceived to influence, a Councillor or Council officer in the performance of their public or professional duties.

***Gift Disclosure Threshold***

Councillors are prohibited from accepting gifts that equal or exceed the gift disclosure threshold unless they know the name and address of the person making the gift.

***Prohibited gifts***

In addition to other limitations imposed by this policy, monetary gifts of any value must not be accepted.

***Anonymous gifts***

Section 137 of the Local Government Act 2020 prohibits acceptance of anonymous gifts by Councillors, as follows:

- 1) Subject to subsection 2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value to which is equal to or exceeds the gift disclosure threshold unless:
  - (a) the name and address of the person making the gift are known to the Councillor; or
  - (b) at the time when the gift is made:
    - (i) the Councillor is given the name and address of the person making the gift; and
    - (ii) the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.
- 2) If the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection 1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.

- 3) In addition to the penalty specified in subsection 1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount of the value of the gift accepted in contravention of that subsection.

This policy also prohibits acceptance of anonymous gifts directly or indirectly by any individual to whom this policy applies. An individual will not be considered in breach of this policy if the gift is disposed of to Council (by being given into the custody of the CEO) within 30 days of receipt.

### ***Token gifts***

Gifts of token value may be accepted by Councillors or Council officers provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for Councillors or Council officers in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- Such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- Acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- The gift does not have a significant monetary value – as a guide, less than \$50;
- The gift is not offered on a regular basis.

All offers should be declared on Council's Gifts, Benefits and Hospitality Register.

### ***Official gifts***

From time to time, individuals or organisations may offer gifts of goodwill to the Council organisation. The Chief Executive Officer or relevant Manager will ensure that any such official gift is recorded in the Council Gifts Register.

Individuals may be involved in conferences or social, cultural, community, industry events where official gifts are presented or exchanged. Where it would appear to be impolite or inappropriate to decline the offer, it is reasonable for official representatives of Council to accept official gifts on behalf of Council. Unless otherwise determined as set out below, such gifts shall be considered to be the property of Council and may be displayed in an appropriate and secure location for public viewing.

A record will be made in the Council Gifts Register in the event that the gift is used for purposes other than Council purposes.

### ***Gifts of appreciation***

No individual is to accept a gift of appreciation that has significant monetary value (as a guide, more than \$50). Where such gifts are offered, the individual should politely refuse the offer explaining that it is against the Council's policy to accept such a gift.

If such a gift is offered in an open or public forum and refusal would be obviously discourteous or acceptance would cause any potential perceived or actual compromise or conflict of interest, the gift may be accepted but is to be referred to the Chief Executive Officer for a decision as to the appropriate treatment. The CEO is to determine whether it is appropriate for this Gift to be regarded as an Official Gift and to become the property of the Council.

Multiple gifts from the same person/organisation are considered inappropriate and should not be accepted.

All gifts of appreciation, whether accepted or declined, are to be recorded in the Council Gift Register.

### ***Hospitality***

Councillors and Council officers, in an official capacity, will from time to time receive invitations of Hospitality to attend various community functions and events. This would include the provision of a ticket to attend the function or event.

Where Hospitality is only modest in nature and will be received by the Councillor or Council Officer in the course of performance of the person's official role, it will likely amount to Reasonable Hospitality and therefore it may be appropriate to accept such invitations.

Incidental refreshments at meetings, working lunches, community events, or similar, are not considered to be a gift and need not be recorded unless they occur at a frequency that may give rise to the perception of a conflict of interest under the Act.

All offers of Hospitality whether accepted or declined are to be declared and included in the Council's Gift Register.

If acceptance of the Hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Councillor or Council Officer, or could be reasonably perceived as giving rise to a conflict of interest, the offer of Hospitality should be politely declined and recorded in the Council Gifts Register.

Where possible, any offer of Hospitality made to Councillors or Council Officers should be declared and approved by the CEO or their delegate prior to attendance at the event.



An example of Reasonable Hospitality that has been determined to be acceptable in the performance of a Councillor’s official function is the Port Fairy Folk Festival.

As a general guide a Councillor or Council Officer attending an event in an official capacity would:

- wear prominently their Council issued badge indicating their connection to Council;
- dress professionally or otherwise as appropriate for a Council representative at the event; and
- always conduct themselves in a fashion that would not bring disrepute on Council.

Events where a Councillor, Council Officer or their colleague is officially speaking or that Council has contributed towards either financially or with in-kind support will generally be appropriate events for which Councillors or Council Officers might accept hospitality.

Where an event extends over multiple days, it may be appropriate to accept hospitality only for the day that Councillors or Council Officers are officially listed to speak or otherwise present publicly.

Where Hospitality is offered to both a Councillor and their spouse and/or children or other family members, it would generally not be appropriate for the spouse or family members to utilise the ticket or other Hospitality without the presence of the Councillor they are related to.

### ***Election Campaign Donation Returns***

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.

Division 10 of Part 8 of the Local Government Act 2020 outlines the requirements in relation to Campaign Donation Returns.

## **7. QUALITY RECORDS**

<b>Record</b>	<b>Retention/Disposal Responsibility</b>	<b>Location</b>
Gift declaration form	Records Unit	EDRMS
Gift Register	Records Unit	EDRMS

<b>Version Number</b>	<b>Details of change</b>
OD015 Version 2	Reviewed and updated as required under section 138 of <i>the Local Government Act 2020</i> which states that a Councillor gift policy must include procedures for the maintenance of a gift

	<p>register. Also reviewed against the best model guidelines by the Victorian Public Sector Commission.</p> <p>Under the LG Act 2020 Council must adopt their Gift Policy by 28 April 2021.</p>
<p>OD015 Version 3</p>	<p>To better reflect the Council approach to transparency.</p> <p>Adopted 24 October 2023</p>

## 8. PROCEDURE

### ***Declaration of gifts***

Nothing in this policy shall be construed to override the provisions of the *Local Government Act (Act)*. In the event of any apparent inconsistency, the provisions of the Act will prevail.

A gift declined must also be disclosed. Disclosure that the gift has been declined and returned protects the Councillor or Council Officer and highlights any systematic patterns.

### ***Gifts Register***

All gifts or benefits received or declined by Councillors or Council officers (regardless of value) must be declared by completing the declaration of gifts form – see attached.

The Organisational Development unit maintains the Gifts Register for all gift declarations (for Councillors and Staff).

Gifts accepted or declined will be included in the Register. The Register contains:

- The date the gift was received;
- Name of the person who received the gift;
- A description of the gift, benefit or hospitality and its estimated value;
- Reason why the gift, benefit or hospitality was offered;
- The name of the gift giver;
- What was done with the gift;
- Risk assessment;
- Gifts declined;
- The document number of the completed Disclosure of Gift, Benefit and Hospitality form.

In accordance with the Moyne Shire Council *Public Transparency Policy*, the Councillor Gifts Register will be available on Council's website. The published register will cover the current and the previous financial year.

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 and Corporate Planning is to monitor the Gifts Register and report annually to the Executive Team and the Audit & Risk Management Committee. Reports are to ensure identification of any systematic pattern of gifts offered and accepted to ensure that unacceptable cultures do not develop within sections of the Council.

### ***Councillors***

Upon receipt or refusal of a gift, benefit or hospitality, Councillors must complete the Gifts, Benefits and Hospitality Declaration form. This should be signed off by the CEO or Mayor. The completed form should be forwarded to the Records Unit where it will be registered into the document management system and assigned to the Governance Coordinator, who will add it to the Gifts, Benefits and Hospitality Register.

### ***Council Officers***

Upon receipt or refusal of a gift, benefit or hospitality, Council Officers must complete the Gifts, Benefits and Hospitality Declaration form. This should be signed off by the appropriate Manager or Director. The completed form should be forwarded to the Records Unit where it will be registered into the document management system and assigned to the Governance Coordinator, who will add it to the Gifts, Benefits and Hospitality Register.

### ***Register of Personal Interest Returns***

Particulars of any gift of or above the value of \$500 received by a Councillor or Nominated Officer must be declared on the Register of Personal Interests Initial or Biannual Return. The actual return will be treated as a confidential document and a summary that will be made publicly available.

## **9. CONTACTS FOR FURTHER INFORMATION**

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Councillors and Staff who are unsure about the acceptance of a gift, benefit or hospitality, or the application of this policy, should speak to the CEO or Manager Governance and Corporate Planning.

## **10. ATTACHMENT/S**

[Gifts, Benefits and Hospitality Declaration Form](#)