

Councillor Gift Policy

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Service Unit	Governance & Risk
Directorate:	Chief Executive Officer
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1. Purpose

Moorabool Shire Council is committed to ensuring that Councillors act with integrity and honesty when performing their duties as Council representatives.

The acceptance of gifts can create perceptions that a Councillors integrity has been compromised. Therefore, this policy is intended to support Councillors to avoid conflicts of interest and maintain high levels of integrity and public trust.

2. Definitions

For the purposes of this policy, Council adopts the following definitions:

Benefits	<p>Examples include:</p> <ul style="list-style-type: none"> • Preferential Treatment • Discounts • Employment offers
Ceremonial Gifts	<p>Ceremonial gifts are official gifts provided to Council in accordance with the cultural practices of other communities and/or organisations. Ceremonial gifts are usually provided when meeting with official delegates or representatives from another organisation, community.</p> <p>Ceremonial gifts are the property of Moorabool Shire Council, irrespective of value.</p>
Conflict of Interest	<p>The <i>Local Government Act 2020</i> requires Councillors to declare General or Material Conflicts of Interest.</p> <p>A conflict of interest is a conflict between a Councillor’s public duty to act in the best interest of the Council and their private interests (financial or non-financial). A conflict may exist whether it is:</p> <ul style="list-style-type: none"> • Real – it currently exists • Potential – it may arise, given the circumstances • 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.

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Gift	<p>As defined in the <i>Local Government Act 2020</i>, means:</p> <p>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—</p> <p>(a) the provision of a service (other than volunteer labour); and</p> <p>(b) the payment of an amount in respect of a guarantee; and</p> <p>(c) the making of a payment or contribution at a fundraising</p> <p>Note: A gift is anything of value which is offered to a Councillor as a result of the role as a Councillor. This includes free or discounted goods services, hospitality or other benefits that exceed common courtesy. Some examples include:</p> <ul style="list-style-type: none"> • Bottles of wine or alcohol • Christmas Hampers • Tickets to sporting events or theatre shows • Gift vouchers • Free or discounted accommodation and/or travel
Gift Disclosure Threshold	<p>As defined in the <i>Local Government Act 2020</i>, means:</p> <p>In the case of a Council other than the Melbourne City Council, \$500 or a higher amount or value prescribed by the regulations</p>
Hospitality	<p>Unless the hospitality is reasonable and you are attending the function or event in an official Council capacity, the hospitality will be considered a gift.</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 part of your duty as a Councillor to attend the relevant function or event.</p> <p>Hospitality that is <u>not</u> deemed a gift includes:</p> <ul style="list-style-type: none"> • Sandwiches and savouries at a lunchtime meeting. • A non-alcoholic beverage at another organisations premises. • A cup of coffee at a café (unless there is a conflict of interest). <p>Hospitality that would be deemed a gift includes:</p> <ul style="list-style-type: none"> • An offer of fine dining • An offer to pay for a working lunch
Value	Value means the actual value or estimated retail value.

3. Scope

This policy applies to all elected Councillors of Moorabool Shire Council.

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4. Non-Compliance

Non-compliance of this policy may be deemed to be in contravention the Moorabool Shire Councillor Code of Conduct and subject to appropriate action under that Code and/or action initiated by the relevant regulatory authorities.

5. Policy

Councillors have a responsibility to act with integrity and transparency in their dealings and associations with the community. Councillors should at all times be aware of the Local Government Act provisions regarding the acceptance of gifts especially in relation to conflict of interest, election donations and personal interest returns.

This policy sets out Councils standards and procedures for responding to gift offers, and aims to ensure that 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 helps to protect and promote the integrity of the Council.

5.1. No Soliciting of Gifts

Councillors must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position. It may also constitute corruption and lead to criminal prosecution.

5.2. Gift Offers

5.2.1. Gifts under \$50 in value

Councillors may accept token gift offers and hospitality, but all gifts whether accepted or declined, must be declared, and submitted to the Governance Unit for inclusion in the Gifts 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.

5.2.2. Gift offers over \$50 in value

Councillors are to refuse gift offers that:

- Are likely to influence them, or can be perceived to influence them in the course of their duties;
- Are likely to raise a conflict of interest, whether actual, potential or perceived;
- Consist of money, gift cards or vouchers;
- Could bring the individual or Council into disrepute,
- Are made in secret; or
- Are likely to be a bribe.

5.2.3. Hospitality

Gift offers of hospitality that exceed common courtesy must be avoided are often inconsistent with community expectations and have a high risk of creating a conflict of interest. Examples of gift offers of hospitality that exceed common courtesy include:

- Attending as a guest in a corporate box at the tennis or football
- Attending as a guest at a concert or theatre event

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- Being 'shouted' a meal at a restaurant
- Accepting discounted or complimentary tickets for a family member to attend a sporting event

Reasonable hospitality as defined in this policy does not need to be declared.

5.2.4. Conferences

Gift offers in relation to conferences (such as sponsored attendance, participation, travel or accommodation) must be declined unless there is clear justification, such as where the invitation is issued by a government department or the offeror is a peak industry body.

Door prizes at conferences are not considered a gift if the individual has personally paid for their attendance.

5.2.5. The G.I.F.T Test

When deciding whether to accept a Gift, Councillors should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk may arise.

Developed by the Victorian State 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.

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</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>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</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?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</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>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

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5.3. Prohibited Gifts

Any Gifts that are inconsistent with community expectations and could bring a Councillor's integrity, or that of the Council into question or disrepute must be declined. Accepting a prohibited gift may constitute misuse of a Councillor's position, or a breach of this policy, which may result in serious misconduct allegations for Councillors.

In addition, if a gift is offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution. Therefore, all Councillors must refuse the following gift offers:

5.3.1. Monetary Gifts (or equivalent)

This includes gift cards, vouchers or items easily converted into money such as shares.

5.3.2. Conflict of Interest

Councillors are prohibited from accepting a gift that creates a General or Material conflict of interest.

5.3.3. Gift Disclosure Threshold

Under section 137 of the *Local Government Act 2020*, Councillors are prohibited from accepting gifts that are equal to or exceed the gift disclosure threshold, unless they know the name and address of the person making the gift.

If for any reason a Councillor receives a gift and they don't know the name and address of the person who gave the gift, the Councillor may give the gift to the Council within 30 days to avoid committing an offence under the Act.

5.3.4. Reporting Prohibited Gift Offers

Where offers of prohibited gifts are received, Councillors must lodge a gift declaration form within 7 days, so their refusal/action can be properly recorded in the Gift Register.

5.4. Gift Register

The Governance Unit maintains the Gift Register for all Councillor gift declarations.

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

- A description of the gift and its estimated value
- The name of the gift giver/offeror
- What was done with the gift (was it retained by the Councillor, handed to Council, etc.)
- Gifts Declined

The Manager Governance, Risk & Corporate Planning will monitor the Gifts Register and report any identified pattern of gifts offered and accepted, to the Executive Team. Further to this, a report on the Gift Register will also be presented to the Audit & Risk Committee annually.

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5.5. Other Gift Disclosure Requirements

5.5.1. A Councillor who has a conflict of interest as a result of receiving a gift, must disclose the conflict of interest in accordance with the procedures outlined in Council's Governance Rules.

5.5.2. 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.

6. Related Legislation

6.1 Legislation:

- Local Government Act (Victoria) 2020

6.2 Council's Policies:

- Councillor Code of Conduct
- Fraud Prevention Policy
- Public Transparency Policy

7. Council Plan Reference

Objectives: Providing Good Governance and Leadership
Context: Our business & Systems

8. Review

This policy will be reviewed every 4 years, or as required to reflect changes to organisational or legislative requirements.