

COUNCIL POLICY



Gifts, Benefits & Hospitality	Document No:	SCS-018
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Responsible Officer: General Manager Governance and Infrastructure	Expiry Date:	30 June 2018
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Authorising Officer: Chief Executive Officer		

1. Purpose

This policy outlines processes for the acceptance, declaration and allocation of gifts, benefits and hospitality received by Surf Coast Shire Councillors and staff in order to protect individuals from unknowingly having a conflict of interest and ensures that gifts accepted are properly managed and disclosed.

2. Scope

This policy applies to all gifts, benefits or hospitality offered to, or received by, Councillors and Council staff from external sources.

For the purposes of this policy, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the Local Government Act 1989 in relation to elections.

3. Application

This policy applies to all Councillors, Council staff and contractors.

4. Definitions

Act	Local Government Act 1989
Applicable gift	Pursuant to Section 78C of the Local Government Act 1989, applicable gift means one or more gifts with a total value of \$500 or more, received from a person or persons (or their agent) such as a director, consultant, contractor, agent or employee of a person, company or body that the staff member knows has a direct interest - in 5 years preceding the decision regarding each Council matter. This excludes reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee or a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.
Benefit	Is something which is believed to be of value to the receiver, including access to a sporting event, preferential treatment (queue jumping), access to confidential information, accommodation, personal services, and pleasure or vacation trips.
Bribe	To give money or some other form of consideration to a public official so as to persuade the official not to exercise his or her common law or statutory powers, or to bestow some privilege or favour.
Conflict of Interest	A Councillor or staff member has a conflict of interest when they have a personal or private interest that might compromise their ability to act in the public interest. A conflict of interest can exist even if no improper action results from it,
Gift	Is an item, travel, hospitality, entertainment or other token of appreciation that is not deemed to be of a modest value.
Gifts of appreciation	Are gifts that are presented to an individual to express thanks, such as flowers, chocolates or moderately priced alcohol and the like. These gifts are generally a one-off occurrence.

Hospitality	Is a meal or service which is offered, has a value greater than \$50 and is not viewed as being connected to official Council business or part of a meal accepted at a conference or seminar.
Monetary gifts	Are cash, cheques, money orders, travellers' cheques, direct deposits or items which can be easily converted to cash.
Nominal value	Is an item with a face or estimated value of less than \$50 dollars.
Official gifts	Are gifts presented to the Shire or the Council and include gifts received from a Sister City, organisations or corporations that are bestowing a corporate gift (plaques, plates, vases trophies, and artwork) or souvenir.
Reasonable hospitality	A meal or service provided by a not-for-profit organisation to a Mayor, Councillor or a member of Council staff who attends a function or event in an official capacity.
Token gift:	Are gifts of nominal value and infrequently received. These gifts may include low-priced promotional items, souvenirs or corporate gifts such as pens, mugs, gifts of single bottles of reasonable priced alcohol, free or subsidised meals of a modest nature, invitations to appropriate corporate or social functions organised by community groups or organisations, door prizes at conferences, trade shows etc.
Value	Is the face value or estimated retail value.

5. Policy

Applicable gifts should not be accepted where they will cause a Councillor or member of staff to have a conflict of interest as defined by the Act.

Token gifts, benefits or hospitality of nominal value may be accepted by Councillors or Council staff provided they do not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of his/her official duties. Gifts, other than election campaign donations, that were received more than 12 months before a person became a Councillor, a member of a special committee or a member of Council staff, are exempt. Re-election and reappointment is counted as continuous service.

5.1 Gifts and Benefits

Individuals should not solicit, demand or request gifts or any personal benefit by virtue of their position which could prejudicially influence, or be perceived to influence, a person in the performance of his or her public or professional duties. To avoid a conflict of interest, acceptance of any gifts or benefits or hospitality in these situations should be declined.

Subject to prior approval by a General Manager in regard to a Council employee, and the Mayor and/or the Chief Executive Officer in regard to a Councillor, (including situations that involve that Councillor's spouse or partner, family member, direct relative or member of household), the cost of attending a function or event may be met by the Council if the attendance is deemed of value to the Council and provides an opportunity to network or undertake business of common purpose.

If the organisation will not pay for Council staff attendance at an event or a function, the staff member can attend provided they personally pay the full value of the offer and approval is received by their General Manager.

If Councillors attend functions or events personally paid for by them, prior advice should be sought from the Mayor and/or the Chief Executive Officer as to whether their attendance has potential implications for Council's reputation or image or may cause a conflict of interest.

In all cases, Councillors and Council staff must record the details of gifts and benefits over ~~\$20~~-\$50 in the Register of Gifts, Benefits and Hospitality maintained by the Governance and Risk Department.

5.1.1 Token or Nominal Value Gifts

As a guide, nominal gifts and moderate acts of hospitality could include:

- A gift that is offered in an open or public forum and refusal would be impolite.
- Gifts of a nominal value (\$50.00 or less) that are infrequently offered.
- Gifts of single bottles of reasonably priced alcohol as acknowledgement for giving a presentation or being the guest speaker.

- Free meals of a modest nature, and/or beverages provided to Councillor/s or staff members, who are formally representing the Council at a work related event such as training, workshops, or seminars.
- Refreshments of a modest nature provided at a conference where a Councillor or staff member is the guest speaker.
- Marketing or corporate mementos such as ties, scarves, pens, coasters, tie pins, diaries or chocolates.
- Flowers and small quantities of beverages.
- Invitations to appropriate out of hours functions or social events organised by groups such as Council committees and community organisations.

5.1.2 Official Gifts

Individuals may be involved in social, cultural or community events where official gifts are presented or exchanged. In such circumstances, where it would appear not to be polite or appropriate to decline the offer, it is reasonable for official representatives of Council to accept official gifts on behalf of the Council. A letter of appreciation will be prepared and sent by Council staff acknowledging the gift to Council and not the individual Councillor.

All official gifts received are to be reported to the Mayor (Councillors) and/or the Chief Executive Officer (Councillors or Council staff) and recorded in the Register of Gifts, Benefits and Hospitality.

The gift will be considered the property of Council, and where suitable, the gift will be displayed in an appropriate and secure location for public viewing. Where an item is not suitable for public display, the recipient can make an application to the Chief Executive Officer to retain the gift. The Chief Executive Officer will consider such applications on a case by case basis and will use their discretion as to the appropriate disposal/utilisation of the official gift.

5.1.3 Gifts of Appreciation

Individuals are encouraged not to seek a gift or benefit in appreciation of services rendered. Acceptable alternatives might include a letter or card of thanks as this is less likely to result in a situation that compromises either party.

Where an individual accepts a gift of appreciation it should not exceed the nominal value. Gifts of appreciation that would generally be considered of nominal value might include a bouquet of flowers, a box of chocolates or a bottle of wine.

5.1.4 Monetary gifts

The offer of monetary gifts (of any amount) must never be accepted.

5.1.5 Gifts Never to be Accepted

These gifts or benefits are considered totally inappropriate and should not be accepted.

- Money, regardless of the amount.
- Access to confidential information.
- Promise of a new job.
- Preferential treatment (may include reciprocal favours given in return for a service provided by Council).
- Disposition of property or bequest, not necessarily land can include goods and chattels (furniture, vehicles, etc), by one person to another without payment.

5.2 Hospitality

Where hospitality is less than nominal value and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Where the hospitality is work related, but greater than nominal value, the individual can attend provided prior approval is sought from the Chief Executive Officer to have Council fully reimburse the organisers for the full cost or the individual to personally pay for their own attendance.

Hospitality received when attending a function or event in an official capacity is exempt if:

- The hospitality is reasonable and not excessive in the circumstances; and
- The Mayor, Councillor, special committee member or staff member is performing an official role at the function or event.

Hospitality is classed as a 'gift' in cases of attendance at an event or function where:

- Free tickets are received and you have no official duties to perform; or

- Free membership; or
- The hospitality is generous. For example a three course meal with beverages at an unpaid training event.

Any hospitality in excess of \$50 must be recorded in the Register for Gifts, Benefits and Hospitality.

6. Christmas

Councillors and staff are often offered gifts and invitations to functions at Christmas. Annual notification to all staff and Councillors of their obligations in respect to the receipt of gifts and invitations will be sent out in early December.

7. EOIs/Tender Documentation

Expression of Interest (EOIs) and tender documentation (specification and contract) must state that “No offers of gifts, of whatever value, must be made to Councillors or staff and that any such offer in the process will automatically exclude that participant in the tender process”.

8. Reporting

All gifts, benefits and hospitality received must be reported to Governance and a Gifts, Benefits or Hospitality form completed in accordance with the table below.

The Coordinator Governance and Procurement will be responsible for maintaining and recording the details in the Register of Gifts, Benefits and Hospitality and providing a report to the Audit Committee and the Executive Management Team annually.

The Register of Gifts, Benefits and Hospitality will be made available for public inspection and contain the following information:

- Date
- Description of the Gift, Benefit or Hospitality
- Estimated Value
- Recipient
- Donor/Provider Details
- Treatment of the gift
- Whether representing Council at an event
- Check that correctly signed and authorised.

Staff Process:

Value	Roles and Responsibilities
\$50 - \$100	<p>Staff member</p> <ul style="list-style-type: none"> • Complete form and submit to Manager • Formally acknowledge the donor <p>Manager</p> <ul style="list-style-type: none"> • Advise General Manager of value above \$50 <p>General Manager</p> <ul style="list-style-type: none"> • Determine compliance in accordance with policy. • Finalise form and submit to Coordinator Governance and Procurement • Coordinator Governance and Procurement to update Gifts Register
\$100 or more	<p>Staff member</p> <ul style="list-style-type: none"> • Complete form and submit to the CEO. • Formally acknowledge donor. <p>Manager</p> <ul style="list-style-type: none"> • Notify General Manager and CEO of value above \$100. <p>CEO</p> <ul style="list-style-type: none"> • Determine compliance in accordance with policy. • Finalise form and submit to Coordinator Governance and Procurement <p>Coordinator Governance and Procurement</p> <ul style="list-style-type: none"> • Update Register

Councillor Process:

Value	Process - Roles and Responsibilities
\$50 or more	<p>Councillor</p> <ul style="list-style-type: none">• Complete form and submit to the CEO <p>CEO and Councillor</p> <ul style="list-style-type: none">• Determine compliance in accordance with policy.• Finalise form and submit to Coordinator Governance and Procurement. <p>CEO's EA</p> <ul style="list-style-type: none">• Formally acknowledge the donor on behalf of Councillor/Council. <p>Coordinator Governance and Procurement</p> <ul style="list-style-type: none">• Update Register

9. Related Policies:

Council Policy – Councillor Code of Conduct SCS-002
Council Policy – Fraud Control SCS-010
Council Fraud and Corruption Control Plan
Management Policy – Staff Conduct HR-024
Local Government Victoria (LGV) Guidelines - Conflicts of Interest – Councillors & Council Staff

10. Related Legislation:

Local Government Act 1989 - Sections 77, 78 and 99
Independent Broad-based Anti-corruption Commission (IBAC) Act 2011

11. References/Forms:

11.1 Gifts, Benefits and Hospitality Form



GIFT, BENEFITS AND HOSPITALITY FORM

Please forward completed form to Governance for registration

Details – Recipient to complete			
Name of recipient		Position title	
Name of donor			
Donor Address (Agency/Organisation)			
Relationship of donor to recipient			
Description of gift, benefit or hospitality			
Reason for gift, benefit or hospitality			
Estimated value		Date received	
Donor acknowledged?	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Probity Statement - To my knowledge the donor is not currently subject to any tender, permit application processes, or matters under consideration, for which this gift may be perceived as exercising a beneficial interest over any Councillor or staff member, including myself.			
Recipient's signature		Date	

Treatment of Gifts

Unless otherwise determined all Gifts remain the property of Council. The Mayor (Councillors) and/or the Chief Executive Officer (Councillors or Council staff) shall make a determination on the retention, use or allocation of any items or services received.

Gift Allocation – Manager to complete			
<input type="checkbox"/>	Gift to be retained and pooled for staff use	<input type="checkbox"/>	Gift to be returned to donor
<input type="checkbox"/>	Gift to be retained by individual	<input type="checkbox"/>	Other (explain below)
Manager instructions/comment			
Manager signature		Date	
Manager name (please print)			
General Manager comment (if applicable)			
General Manager name (please print)			
General Manager signature		Date	
CEO comment (if applicable)			
CEO signature		Date	
Mayor comment (if applicable)			
Mayor signature		Date	
<i>Statement - The personal information requested on this form is being collected by Council for the purpose of maintaining Council's Gift, Benefit and Hospitality Register. The personal information will be used solely by Council for this primary purpose or directly related purposes. The employee understands that the personal information provided is for these purposes and that they may apply to Council for access and/or amendment of the information.</i>			