

# Gifts, Benefits and Hospitality for Councillors Policy



Directorate:	Corporate Performance
Responsible Manager:	Manager Governance, Property and Risk
Review Due:	April 2024
Adoption:	Council
Date Adopted:	27 April 2021

## Acknowledgement

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Central Goldfields Shire Council acknowledges that we are situated on the traditional lands of the Dja Dja Wurrung people, and we offer our respects to their elders past, present and emerging.

## 1. Purpose

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This policy states Council's position on responding to offers of gifts, benefits or hospitality from an external party and the principles to be applied to ensure:

- A high standard of probity and accountability is maintained;
- Legislative requirements and community expectations are met;
- Council activities are not influenced, or perceived to be influenced, by the receipt of gifts, benefits or hospitality; and
- Offers of gifts, benefits and hospitality, are properly disclosed and managed.

## 2. Application and Scope

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This policy applies to all Councillors and their immediate family members. All reasonable steps must be taken to ensure that immediate family members of Councillors do not receive gifts or benefits that could be perceived to be an attempt to influence the behaviour of the Councillor in question.

This policy does not apply to receipt of gifts by Councillors during an election period, as that is covered by Part 8 Division 10 of the Local Government Act 2020 (the Act). It does also not cover the obligations of Councillors to declare gifts as part of their regular Primary and Ordinary Return obligations under Part 6 Division 3 of the Act.

The policy applies to all offers of gifts, benefits or hospitality, whether accepted or not. All offers above the specified token amount must be declared by Councillors and entered into Council's Gifts and Hospitality Register (the Register).

## 3. General Provisions

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### 3.1.1. Policy principles

Council is committed to and will uphold the following principles in applying this policy:

**Impartiality** – Councillors have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Councillors must not seek gifts, benefits of hospitality.

**Accountability** - Councillors are accountable for declaring all non-token offers of gifts, benefits and hospitality, making necessary enquiries and exercising proper judgement when accepting non-token offers and refusing any offers of gifts benefits or hospitality which are excluded by the policy

**Integrity:** Councillors strive to earn and sustain community trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Councillors will refuse any offer that may lead to an actual, perceived or potential conflict of interest.

**Risk-based approach:** Council, through its policies, processes and audit committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed.

**Token offers:** is an offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the individual. Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50 (including cumulative offers from the same source over a 12 month period).

**Non-token offer:** A non-token offer is a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded in Council's Gift, Benefit and Hospitality Register.

**Offers to be refused:** Councillors are to refuse offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest;
- could bring them or Council into disrepute;
- made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:
  - made by a current or prospective supplier;
  - made during a procurement or tender process by a person or organisation involved in the process; or
  - made by anyone who has a current or imminent application to Council or against whom any enforcement action is current or imminent, including health, building, planning or local laws permits or breaches;
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- of money, or used in a similar way to money, or something easily converted to money;
- where, in relation to hospitality and events, Council will already be sufficiently represented to meet its business needs;

- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- made by a person or organisation with a primary purpose to lobby local government; or
- made in secret.

### 3.1.2. Gifts and Benefits

#### Gifts must not be solicited

A councillor must not, for themselves or others, seek, request or solicit gifts.

#### Gifts that must not be accepted

A councillor must not accept a gift that is:

- not provided for by this policy; or
- made anonymously; or
- likely to be a bribe or inducement to make a decision or act in a particular way money, an item used in a similar way to money, or an item easily converted to money; or
- likely to influence them, or be perceived to influence them, in the course of their duties; or
- likely to give rise to an actual, potential or perceived conflict of interest; or
- made by a person or organisation about which they will likely make or influence a decision; or
- made by a current or prospective supplier; or
- made during a procurement or tender process by a person or organisation involved in the process; or
- likely to be perceived as endorsement of a product or service; or
- likely to lead to providing an unfair advantage for the gift giver in future procurement decisions; or
- likely to adversely affect a person's standing as a councillor or which may bring the council or the local government sector into disrepute; or
- hospitality or attendance at an official business event where council will already be sufficiently represented to meet its business needs; or
- a non-token gift which does not have a legitimate business benefit;<sup>1</sup> or
- a token gift offered repeatedly or on a regular basis.

#### Gifts that may be accepted

A councillor may accept a token gift provided it:

- has not been sought, requested or solicited; and
- is not a gift that must not be accepted

A councillor may accept a non-token gift provided it:

- has not been sought, requested or solicited; and

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<sup>1</sup> Legitimate business benefit: gifts, benefits and hospitality accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the Council.

- is not a gift that must not be accepted; and
- is offered with a legitimate business benefit,<sup>2</sup> in the course of the councillor's official duties, relating to the councillor's responsibilities and is a benefit to the council; and
- is either:
  - approved in writing by the Mayor in the case of a councillor who is not the Mayor; or
  - approved in writing by the Chief Executive Officer in the case of the Mayor.

#### Declaring, reporting and approving gift offers

A councillor must declare all gift offers whether accepted or not.

Bribes and inducements must be reported to the Independent Broad-based Anti-corruption Commission.

A councillor must seek approval to accept any non-token gift offer.

Where a councillor does not receive approval to accept a non-token gift offer the gift offer:

- if not received, may be declined; or
- if received, may be returned to the gift giver, transferred to a not-for-profit community group or destroyed.

#### Gift offer declarations must be placed on the gift register.

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.

Ceremonial gifts remain the property of Council, irrespective of value, and should be accepted by Councillors on behalf of Council. The receipt of ceremonial gifts will be recorded on the register.

#### Offence to accept to accept an anonymous gift

It is an offence to accept an anonymous donation with a penalty of 60 units.<sup>3</sup> A Councillor is not in breach if the Councillor disposes of the gift to the Council within 30 days of the gift being received.

### **3.1.3. Hospitality**

Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.

Councillors may accept hospitality where they can demonstrate acceptance and attendance furthers Council's interests or goals. Token hospitality may be accepted by a Councillor and does not need to be declared. All non-token hospitality must be declared, and the declaration forwarded to the Mayor for authorisation.

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<sup>2</sup> Legitimate business benefit: gifts, benefits and hospitality accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the Council.

<sup>3</sup> *Local Government Act 2020* s 137.

Examples of non-token hospitality include:

- accommodation, or travel;
- entertainment tickets to sporting events or theatre performances;
- meals at expensive venues;
- expensive or valuable beverages or wines.

Examples of token hospitality include:

- non-alcoholic refreshments offered by a customer, consultant, contractor or developer whilst attending their place of business to discuss, conduct or undertake current Council business;
- Invitations to appropriate out-of-hours social functions organised by groups such as Council committees or community organisations;
- free or subsidised meals, of a modest nature, and/or beverages provided to Councillors who formally represents Council at work related events; or
- Hospitality, such as a luncheon, invitation to an event or other similar corporate hospitality, even where it may be unplanned.

Before accepting offers of hospitality, Councillors should consider the principles outlined in section 3.1 of this policy before accepting, and balance any reputational risk to Council with the likely benefit to the community and Council of accepting the hospitality.

### 3.1.4. Considerations in accepting gifts, benefit or hospitality

In addition to the criteria outlined above for not accepting goods, benefits or hospitality, Councillors should consider the following questions when deciding whether to accept any non-token offer:

<b>G</b>	Giver	<p><b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b></p> <p>Does my role require me to select suppliers, award grants, regulate industries or determine Council policies related to this individual? Could the person or organisation benefit from a decision I make?</p>
<b>I</b>	Influence	<p><b>Are they seeking to gain an advantage or influence my decisions or actions?</b></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 a valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
<b>F</b>	Favour	<p><b>Are they seeking a favour in return for the gift, benefit or hospitality?</b></p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
<b>T</b>	Trust	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

Source: VPSC Model Gift, Benefits and Hospitality Policy

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation is attempting to influence a Councillor. Councillors should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

### 3.1.5. Gifts Benefits and Hospitality Register

The Mayor will sight and authorise all declarations of offers from Councillors and the CEO. They will then be forwarded to the CEO, who will forward them to the Manager Governance, Risk and Property. The Manager Governance, Risk and Property will maintain a register of all offers of gifts, benefits or hospitality benefits and hospitality received and any offers not accepted.

The Gifts, Benefits and Hospitality Register will be tabled at the Audit and Risk Committee at least once per year or more frequently upon request of the Committee.

Under the Act, receipt of a gift from a person or organisation can result in a conflict of interest (as an applicable gift). There are penalties under the Act for breaches of conflict of interest provisions. If a Councillor considers they have been offered a bribe or inducement, the offer must be reported to the CEO, who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission.

Councillors unsure of whether to accept a gift, benefit or hospitality to seek advice from the CEO.

### 3.1.6. Roles and Responsibilities

Person/s responsible	Accountability
<b>Manager Governance, Risk and Property</b>	<ul style="list-style-type: none"> <li>• Receive all declaration forms</li> <li>• Maintain a Register of all offers of and accepted gifts, benefits or hospitality</li> <li>• Provide a report of the register at the Risk and Audit Committee at least annually.</li> </ul>
<b>Chief Executive Officer</b>	<ul style="list-style-type: none"> <li>• Implement policy and procedure for identifying and managing gifts, benefits and hospitality</li> <li>• Complete a declaration form within seven days of personal offer or receipt of a gift, benefit or hospitality and submit to Mayor for signature</li> <li>• Sign off declaration forms authorised by Mayor and forward to Manager Governance, Risk and Property</li> </ul>
<b>Councillors</b>	<ul style="list-style-type: none"> <li>• Complete a declaration form upon offer or receipt of a gift, benefit or hospitality and submit to Mayor for signature</li> </ul>
<b>Mayor</b>	<ul style="list-style-type: none"> <li>• Complete a declaration form upon offer or receipt of a gift, benefit or hospitality and submit to CEO for signature</li> <li>• Sign off declaration forms submitted by Councillors or CEO and forward to CEO</li> </ul>
<b>Council</b>	<ul style="list-style-type: none"> <li>• Policy approval</li> </ul>

## 4. Review

This Policy must be reviewed a minimum of once every 3 years or in line with legislative changes.

## 5. Human Rights Statement

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It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2007). Central Goldfields Shire Council is committed to consultation and cooperation between management and staff.

## 6. Relevant Legislation and Council Policies

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- *Local Government Act 2020*
- Gifts, Benefits and Hospitality Procedure
- Gifts, Benefits and Hospitality Declaration – Councillors
- Gifts, Benefits and Hospitality Policy – Council staff
- Gifts, Benefits and Hospitality Register (maintained by Manager Governance, Risk and Property)
- Councillor Code of Conduct
- Managing Conflict of Interest for Councillors and Committee Members Policy