

COUNCILLOR GIFT POLICY

1.0 Purpose

This policy has been developed in accordance with section 138 of the *Local Government Act 2020* to provide guidance to Councillors regarding the acceptance, refusal and disposal or otherwise of gifts or other benefits, including hospitality.

Receipt of a gift or other benefit from a person or organisation can result in a conflict of interest arising between a Councillor's public duty and their personal interests.

Gifts are not to be sought, demanded or requested and the offer of monetary gifts (of any amount) must never be accepted.

At all times Councillors are bound by the Councillor Code of Conduct.

2.0 Scope

The City of Ballarat is committed to being open and transparent in its operations to minimise the risk of being placed in a compromising position that may have an adverse effect on its public endeavours and the promotion of trust within the community.

This policy covers any gift and benefit Councillors are offered and received but does not cover gifts received during a donation period of an election campaign, specifically section 306 of the *Local Government Act 2020* (the Act).

This policy applies to Councillors of Ballarat City Council.

3.0 Policy Statement

3.1 Gifts and Benefits

Councillors should not solicit, demand or request gifts or receive 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 duties. To avoid a conflict of interest, acceptance of any gifts, benefits or hospitality in these situations must be declined.

Gifts received must not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

If Councillors refuse a gift on the basis that they believe the gift was a deliberate attempt to receive "preferential treatment", the Chief Executive Officer must be advised immediately.

3.1.1 Token Gifts

Such gifts of token value may be accepted by Councillors 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 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 gifts and benefits over the nominal value (\$50) that are not considered a token gift are owned by Council. These may be gifted to the recipient at the discretion of the Chief Executive Officer.

3.1.2 Official Gifts

Councillors may be involved in social, cultural or community events where official gifts are presented or exchanged. In such circumstances, where it would appear discourteous or inappropriate to decline the offer, it is reasonable for Councillors to accept official gifts on behalf of Council.

All official gifts received are to be reported to the Chief Executive Officer and recorded in the Gift Register.

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.

3.1.3 Gifts of Appreciation

Councillors must not seek a gift or benefit in appreciation of their advocacy on an issue.

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 of \$50. 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.

3.1.4 Anonymous Gifts

Section 137 of the Act provides that a Councillor:

- must not accept, directly or indirectly, a gift the amount or value of which is equal to or exceeds the gift disclosure threshold unless:
 - the name and address of the person making the gift are known to the Councillor; or
 - at the time when the gift is made:
 - the Councillor is given the name and address of the person making the gift; and
 - the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.

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 if the Councillor disposes of the gift to the Council within 30 days of the gift being received.

3.2 Disposal of Gifts

The Chief Executive Officer may dispose of gifts by any of the following methods:

- Disposal by resolution of Council;
- Transfer to other public agencies or authorities;
- Transfer as a gift to a recognised charitable, aid or non-profit organisation;

- Archival action by the Victorian Museum or State Library;
- Reduction to scrap; or
- Destruction.

3.2.1 Disposal of Anonymous Gifts

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 must dispose of the anonymous gift to Council within 30 days of the gift being received.

3.3 Material Conflict of Interest

A Councillor has a material conflict of interest in respect of a matter if an affected person could gain a benefit or suffer a loss depending on the outcome. For the purposes of this policy an affected person is a person from whom a Councillor has received a disclosable gift.

3.4 Hospitality

Councillors in their official capacity, will from time to time receive invitations of hospitality to attend various functions and events. Where hospitality provides an opportunity to network, or undertake business of a common purpose, it may be appropriate to accept such invitations.

Attendance at events as a result of formal sponsorship arrangements are not deemed as gifts under this policy.

An invitation to an educational event (also from a current supplier) that includes a modest hospitality component can be accepted if the main purpose of the event is educational and the hospitality offered is modest and inconsequential to the main event.

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 could be perceived as a conflict of interest, the offer of hospitality must be declined.

Details of hospitality received above the nominal value are to be recorded in the Gift Register.

3.5 Process

Value	Process
\$50 +	<p><i>Councillor</i></p> <ul style="list-style-type: none"> • Requests Civic Support staff to record details of gift or benefit in the Gift Register App available via the Statutory Compliance Hub. • Councillor must dispose an anonymous gift to Council within 30 days of the gift being received. <p><i>Chief Executive Officer</i></p> <ul style="list-style-type: none"> • Determines if the gift should be accepted or declined in accordance with this Policy; and • Approves or declines gift in Gift Register App which updates Statutory Register. <p><i>Civic Support</i></p> <ul style="list-style-type: none"> • Formally acknowledges the donor; and • Complete form with gift details through the online Gift Register App.

3.6 Roles and Responsibilities

Party/parties	Roles and responsibilities	Timelines
Council	Comply with the requirements of this policy.	Ongoing
Chief Executive Officer	To monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.	Ongoing
Civic Support Staff	Manage areas of responsibility to ensure receipt and disposal of gifts are completed in accordance with this policy.	Ongoing
Governance	Report on the Gift Register to the Audit and Risk Committee	Half-yearly

4.0 Supporting documents and references

4.1 Legislation

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*

4.2 Associated Documents

Council's:

- a) Governance Rules; and
- b) Councillor Code of Conduct

4.3 Definitions

<i>Anonymous gift</i>	Any gift received by the Councillor, where the name and address of the person making the gift cannot be established.
<i>Gift Disclosure Threshold</i>	Any gift received by the Councillor, the value of which equals or exceeds \$500, including gifts in the form of goods or services and multiple gifts that together equal or exceed that amount, which was received at any time since the specified person lodged the preceding initial or biannual personal interests return.
<i>Gift Register App</i>	Online application used to register all Official Gifts and Token Gifts, whether accepted or declined.
<i>Hospitality</i>	Hospitality that is not excessive in the particular circumstances and is in proportion to the likely benefits to local governance. Hospitality may include the provision of services such as meals, entertainment, travel and accommodation.
<i>Official capacity</i>	A Councillor is acting in an official capacity if they are exercising their powers or performing their responsibilities under relevant

legislation and their attendance at the event or function is related to providing good local governance for the municipality.

Official gift

A gift offered at a social, cultural or community event where the Council is the intended recipient of the gift

Token gift

The gift does not have significant monetary value ie <\$50 and has been offered in and has been offered in an open and public forum.

5.0 Monitoring, evaluation and review

Council commits to monitoring processes related to Councillor gifts and transparent reporting to understand the overall level of success in the policy's implementation.

A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner.

6.0 Human Rights Charter

This policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as this policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.

7.0 Policy owner

The owner of this policy is the Chief Executive Officer. All enquiries regarding this policy should be directed to the Executive Manager Governance and Risk.

8.0 Applicability

The policy applies to all Councillors of the City of Ballarat.

9.0 Authorisation

Adopted by Ballarat City Council, 24 February 2021 (R31/21)