

COUNCILLOR GIFT POLICY

1.0 Purpose

This policy has been developed in accordance with section 138 of the *Local Government Act 2020* (the Act) 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.

2.0 Scope

This policy applies to Councillors of Ballarat City Council.

This policy applies to any gift and/or benefit Councillors are offered and receive but does not apply to gifts received during a donation period of an election campaign, specifically those included in an election campaign donation return under section 306 of the Act.

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

3.0 Policy Statement

Council 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.

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 their 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

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 treatment as a result of the gift.

Gifts may be accepted only when the following have been considered:

- 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 monetary value over \$50; and
- 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 at a location determined by the Chief Executive Officer.

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

In accordance with section 137 of the Act, 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 Hospitality

In their official capacity representing the Council, Councillors may, 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 (including from a current supplier to Council) that includes a 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 by the Councillor. The Councillor may directly decline or request the Civic Support team to decline on their behalf.

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

3.4 Process

Value	Process
<\$50	Token gift may be accepted in accordance with clause 3.1.1.
>\$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. • Dispose of anonymous gift to City of Ballarat 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 where requested to by the recipient Councillor; and • Complete form with gift details through the online Gift Register App where requested to by the recipient Councillor.

\$500+	<p><i>If name and address of person making the gift are known and believed to be true:</i></p> <ul style="list-style-type: none"> Follow procedure in accordance with gifts >\$50 <p><i>If anonymous gift:</i></p> <ul style="list-style-type: none"> Gift must not be accepted, directly or indirectly; or Councillor must dispose of gift to City of Ballarat within 30 days of the gift being received.
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3.5 Roles and Responsibilities

Party/parties	Roles and responsibilities
Councillors	Comply with the requirements of this policy.
Chief Executive Officer	Monitor implementation of this policy and conduct periodic reviews to drive continuous improvement.
Civic Support Staff	Manage areas of responsibility to ensure receipt and disposal of gifts are completed in accordance with this policy.
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*
- Gender Equality Act 2020*

4.2 Associated Documents

- Governance Rules
- Councillor Code of Conduct

4.3 Definitions

Councillor	Means a Councillor of the Council.
Council	Consists of the Councillors who are democratically elected to represent the Ballarat municipality in accordance with the LGA 2020.
City of Ballarat	Means the body corporate constituted in accordance with the LGA 2020
Gift Disclosure Threshold	Any gift received anonymously 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.
<i>Material Conflict of Interest</i>	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.

5.0 Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

6.0 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.

7.0 Authorisation

Adopted by Ballarat City Council, [XX date]