

# **ATTACHMENT TO AGENDA ITEM**

**Ordinary Meeting**

**17 March 2015**

**Agenda Item 5.3      Gifts and Benefits Policy**

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# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL1

## Gifts and Benefits

Version 2.1

Adopted 1 September 2009

Last Reviewed 15 October 2013

<b>Business Unit:</b>	Office of the Chief Executive Officer
<b>Responsible Officer:</b>	Manager Corporate Performance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	

**PURPOSE**

The purpose of this policy is to provide guidance to Councillors and staff on what to do if someone offers you a gift or benefit throughout the course of your work.

**OBJECTIVE**

At some stage in your career as a Councillor or officer at Greater Shepparton City Council you could be offered a gift or benefit in the course of your work. This gift or benefit could be offered in good faith, or it could be an attempt to influence you, bribe you or compromise your ability to act in the public interest.

**SCOPE**

Councillors or Council officers may be offered gifts or hospitality in a range of situations. Receipt of a gift or benefit from a person or organisation could create an expectation of favourable consideration in relation to Council matters and give rise to a conflict of interest.

This Gifts and Benefits policy has been developed to guide Councillors and Council officers on the Council's expected process with regard to the acceptance of gifts and benefits. This will therefore minimise the potential for breaches of the *Local Government Act 1989* (the Act) to occur.

**DEFINITIONS**

Reference term	Definition
Applicable Gift	Section 78C of the <i>Local Government Act 1989</i> outlines the definition of an 'applicable gift'.
Benefit	A benefit is something of value to the receiver which is less tangible than a gift, such as hospitality, access to a corporate box at a sporting event, discounts on buying goods or services, access to confidential information, or sexual favours.
Bribery	Bribery is defined as receiving or offering a reward in return for influencing a person's behaviour or decision-making in the giver's favour.
Gift	For the purposes of this policy, the definition of the term 'gift' includes: <ul style="list-style-type: none"> <li>• The transfer of money</li> <li>• The transfer of property</li> <li>• The provision of services free of charge at a reduced rate</li> <li>• Loans of money</li> <li>• Sale of property with a sale price below proper valuations</li> <li>• Hospitality, including meals, entertainment and accommodation</li> <li>• Travel</li> </ul> But does not include: <ol style="list-style-type: none"> <li>a) gifts (other than election campaign donations) received more than 12 months before first becoming a Councillor or Council officer, or</li> <li>b) reasonable hospitality provided to a Mayor, Councillor or member of Council staff by any organisation at any function or event that: <ul style="list-style-type: none"> <li>• is conducted during the five year period of determination, and</li> <li>• is attended in an official capacity.</li> </ul> </li> </ol>

## POLICY

### 1. Gift, Benefit or Bribe?

A gift offered to you in the course of your duties may include, but is not limited to, money, food, drink, gift vouchers, tickets to an event/show, or airfares and/or accommodation.

A gift or benefit may be offered by a client or contractor (including a consultant) or someone who may in the future be contracted by Council, or someone from another organisation whose work is related to Council.

A gift or benefit offered by someone who has no apparent connection with your duties may be given to influence you at a later time, or put you under obligation to the person who offered you the gift.

A gift or benefit may also be offered to you by a work colleague or Councillor. In this case you would need to consider carefully the intention and nature of the gift, the occasion on which it is offered, and whether there is any possibility that the gift could be intended to influence you.

### 2. Acting Impartially and with Integrity

As a Greater Shepparton City Council elected representative or employee you have a duty to ensure that Council business is carried out fairly and impartially, and with integrity.

A gift or benefit may be intended as a bribe. Bribery generally is intended to induce the recipient to act contrary to accepted rules, policies or directives.

A gift or benefit may not be intended as a bribe, but you may feel obligated to the person giving the gift, and as a result your impartiality and integrity may be affected when making a decision about that person. Even where feelings of obligation do not affect your impartiality or integrity, there is the risk that other people will perceive that you have been compromised. The consequences of this perception can be just as damaging as actual compromise to you and the Council.

### 3. Guidelines

It can be difficult to work out why someone offers you a gift or benefit, as they may have one or more of several motives, including gratitude, hospitality, friendship or bribery. Sometimes the giver's reasons or intentions aren't clear. In a business context, apart from small tokens such as a pen or key-ring bearing a company name, it is unusual for a gift or benefit to be offered without some expectation of a return.

In any case, following the guidelines below will ensure that you deal with the offer of a gift appropriately and in line with Council's policies and its expectations of ethical behaviour of staff and Councillors. You will also protect yourself from any possible negative repercussions.

#### a. You must never solicit or ask for a gift or benefit

Soliciting a gift or benefit is corrupt and criminal behaviour, and is against not only Council's Code of Conduct, but also the law.

- b. **Offers of money in any form must never be accepted**  
Offers of money are viewed by Council as an attempt to influence corruptly an elected representative's or employee's behaviour. You must **never** accept money under any circumstances.
- c. **As a general rule, you should not accept any gifts or benefits**  
It is better to refuse any offers of a gift or benefit to avoid compromising yourself, or risking the perception that you, and Council, have been compromised or influenced. This applies no matter what the value of the gift or benefit is. You also need to be very aware that an accumulation of even small gifts could quickly become an applicable gift and result in you having a conflict of interest under the Act.
- d. **Under special circumstances, it may be acceptable to accept a gift or benefit**  
Council recognises that a blanket ban on gifts and benefits is difficult to apply and that there will be some situations where it is impossible or inappropriate to refuse a gift or benefit. In this case, the following guidelines will apply:
- Sometimes refusing a gift will cause offence or be considered impolite, especially if the gift is of limited value, for example, a pen, stress ball or writing pad with a corporate logo
  - A gift may be offered in a public way in return for a favour already given which does not compromise your work, for example, in appreciation of a guest-speaking engagement at a conference or from an overseas delegation you have been hosting
  - A gift may be received in the course of your duties and be relevant to Council's work, for example, a book about housing or social policies
  - Even modest hospitality can be considered a gift under the Act, such as a lunch provided to a working party or refreshments during or after a meeting.
  - A gift received through a 'win' or 'competition' such as a business card draw or a prize won through skill, such as answering a question at an event is not considered a gift in the context of this policy
  - There may be occasions where the gift you receive cannot be returned as it may have been given anonymously or returning of the gift is met with refusal
  - Unsolicited gifts which arrive in the mail or are not delivered in person should also be treated as gifts by the Council and disposed of accordingly.
- e. **A gift or benefit you receive in the line of duty is generally regarded as the property of Council**  
In general and where possible, the use or disposal of a gift is the responsibility of Council, not the person who has received it.
- f. **If you are the recipient of a gift and following careful consideration of the Council's Gifts and Benefits Policy make the decision to accept the gift, you must notify your manager (or in the case of a Councillor, the CEO) and have it registered on Council's Gift Register**  
The Gift Register is an official record of any gifts or benefits received by Councillors or staff. The register includes details of the nature and value of the gift, who gave the gift and the decision that was made regarding the use or disposal of the gift. If

you have any uncertainty in the value of the gift, please contact the Governance team for assistance.

All gifts received must be declared and handed in to the Governance team to be recorded, regardless of its monetary value. It is important to register any gift or benefit that you have received to protect you from any accusations that may be made in the future about misuse of your position or dishonesty for not having declared a gift.

Please note that a single gift or multiple gifts that you receive over the calendar year from a particular organisation which total below the threshold (\$30.00) will be returned to you. At the time a gift brings the total from an organisation over the threshold, the gift will be handed in to the CEO for determination of its disposal.

**g. Bribes and Inappropriate Gifts**

If you believe that you have been offered a bribe or inappropriate gift intended to influence you in your role, you should reject the offer explaining that accepting the gift would be inappropriate and contravene the Council's Code of Conduct. Make notes about what has occurred so that you may inform the CEO.

**h. Assessing the Value of Hospitality**

The value of benefits such as hospitality at an event can be difficult to determine and open to personal interpretation, therefore in the interests of consistency nominal values have been assigned to the following categorised events:

• Hors d'oeuvres and beverages	\$ 50.00
• Seated meal and beverages	\$100.00
• Sporting event and catering, i.e. general admission tickets	\$150.00
• Corporate Suite sporting event and catering, i.e. box tickets	\$300.00

The value of hospitality relates to the acceptance of the invitation, and it is irrelevant whether you refuse hospitality at the event. Where a Councillor or Council officer is accompanied by their partner and/or other family members, the assigned hospitality value of the event which must be declared is the aggregated amount for all attendees, using the above figures.

Where a Councillor or Council officer is offered an invitation to attend an event in an official capacity, this is not considered to be a gift. If the invitation is offered in a non-official capacity, the invitation must be declared as a gift. Additional considerations should be made if Council is organising or sponsoring the event, however circumstances will differ for each situation. If unsure, advice should be sought from the Governance department.

**4. Disposal of Gifts**

The CEO will determine how a gift that has exceeded the threshold should be disposed of. Any of the following methods may be used:

- Disposal by resolution of the 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 records department, regional library or local museum
- Provided to the social club to be raffled
- Provided to the organisation staff to share
- Destruction.

#### 5. Declaring a Gift

To have a gift or benefit recorded on the Gift Register, you must complete the Declaration of Gifts form at Attachment 1. This form must be completed within 14 days of receiving the gift or benefit, or if the gift was received overseas, within 14 days of returning to Australia. Once completed, the form should be handed in to the Executive Support Assistant (Governance) for recording.

#### RELATED POLICIES AND DIRECTIVES

- *Conduct of Council Business Policy*

#### RELATED LEGISLATION

- *Local Government Act 1989*
- *Conflict of Interest in Local Government Guide*

#### REVIEW

The Team Leader Governance is to review the Gifts and Benefits Policy six months after each general election of the Council, in conjunction with the Executive Team. Suggested revisions are to be submitted to the Council for consideration.

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Gavin Cator

Date

Chief Executive Officer

#### ATTACHMENTS

Attachment 1: Declaration of Gifts Form (M09/9802)

G R E A T E R   S H E P P A R T O N  
G R E A T E R   F U T U R E



**Declaration of Gifts**  
by Councillors and Staff

If a gift is an 'applicable gift' under section 78C of the *Local Government Act 1989*, declarations made using this form will be held on the Register of Interests maintained by the Chief Executive Officer as required by the Council's Gifts and Benefits Policy.

This form must be completed within 14 days of receiving the gift or benefit, or if the gift was received overseas, within 14 days of returning to Australia.

The completed and signed form is to be returned to the Executive Support Assistant (Governance), as per the Gift and Benefits Policy (M10/91092). Additionally, please see flow chart M14/74108 for further information on the Gift Register Process.

I, *(insert full name)* \_\_\_\_\_

received the following type of gift:

- Transfer of money
- Transfer of property
- Provision of services free of charge or at a reduced rate
- Loan of money
- Sale of property with a sale price below proper valuation
- Hospitality (meals, entertainment, accommodation)
- Travel
- Other (please state) \_\_\_\_\_

Full description of gift

\_\_\_\_\_

Gift was received from \_\_\_\_\_ on \_\_\_/\_\_\_/\_\_\_ (insert date)

Value of the gift \$ \_\_\_\_\_

Has the gift been independently valued by an appropriate person or body? YES/NO

Was the gift handed to the Chief Executive Officer? YES/NO

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Privacy Statement

The personal information requested on this form is being collected by Council for the purpose of recording Gifts and Benefits received by Staff Members and Councillors, as required by the *Local Government Act 1989*. The personal information will be used solely by Council for that primary purpose or directly related purposes. Council may be required to disclose this information to the public in the minutes of a meeting and through access to written records of assemblies of Councillors in accordance with the Act. If this information is not collected the Councillor, Council officer or the organisation may fail in the discharging of their obligations under the Act. Application may be made to Council for access to and/or amendment of the information. Requests for access and or correction should be made to the Chief Executive Officer.

M09/9802



*Please note that the onus is on the individual to determine when the receipt of gifts has reached the aggregate value of \$500 per five year period.*

*For further information on the Gift Register Process, please see flow chart M14/74108, or the Gifts and Benefits Policy M10/91092*

**Office Use Only – only to be completed if total gift value exceeds \$30.00**

**Gift was disposed of as follows:**

- Disposal by resolution of the 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 Records department, regional library or local museum
- Destruction
- Retained/utilised
- Social Club Raffle – proceeds to charity

.....  
**Chief Executive Officer**

**Date:**