

SCS-018 Councillor Gifts, Benefits and Hospitality Policy

TRIM Reference: D23/119788 Due for Review: March 2027

Responsible Officer: Manager Integrity and Governance

Purpose

This policy outlines Surf Coast Shire Council’s (Council) position on:

- responding to offers of gifts, benefits and hospitality from external parties; and
- providing gifts, benefits and hospitality to external parties.

This policy is intended to support Councillors to avoid conflicts of interest, maintain high levels of integrity, and retain public trust. It is consistent with and supports behaviour outlined in the *Local Government Act 2020* (the Act) and the Councillor Code of Conduct (SCS-002).

Policy

Councillors should decline any offer of gifts, benefits or hospitality that are not permitted under this Policy. This should be done in a way that does not cause offence.

Councillors will not request any gifts, benefits or hospitality in exchange for any financial or in-kind support being provided to any external party.

Policy Principles

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

Policy Principle	This means...
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 actual bias or preferential treatment. Individuals must not accept offers from those about whom they are likely to make business decisions.
Accountability	Councillors are accountable for: <ul style="list-style-type: none"> • declaring all non-token offers of gifts, benefits and hospitality, including those offers that were subsequently declined; • declining non-token offers of gifts, benefits and hospitality that do not relate to a legitimate business benefit, or if an exception applies under this policy, seeking approval before accepting the offer; and • the responsible provision of gifts, benefits and hospitality.
Integrity	Councillors strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Individuals will refuse any offer that may lead to a general or material conflict of interest.

Policy Principle	This means...
Risk-based approach	Council, through its policies, processes and Audit & Risk Committee, will ensure gifts, benefits and hospitality risks are assessed and managed appropriately.

Scope

This policy applies to all Councillors of the Surf Coast Shire Council.

Receiving gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the Chief Executive Officer.

1. Management of offers of gifts, benefits and hospitality

The way offers of gifts, benefits and hospitality are required to be managed will depend on whether the offer is 'token' or 'non-token'. If unsure, Councillors should always treat an offer as non-token. Offers that create a conflict of interest or lead to reputational damage must never be accepted, regardless of value.

- 1.1 If an offer of gifts, benefits or hospitality is a token offer, that offer may be accepted without being declared or recorded on Council's gift register. An offer is a token offer if it meets both of the following criteria:
 - 1.1.1 The gift, benefit or hospitality is offered as a courtesy and is inconsequential or trivial in value and nature, to both the person making the offer and the individual receiving the offer; and
 - 1.1.2 Is it valued at less than \$40. (NOTE - If multiple offers are made by an individual or organisation during a single interaction or event, the combined value of these offers should be calculated when determining whether an offer may be defined as a token offer.)

Examples of token gifts may include a small box of chocolates, homemade goods, a small souvenir, or a cup of tea.

- 1.2 All offers which do not align with the definition in clause 1.1 are **non-token** offers. All non-token offers, whether accepted or declined, must be declared and added to the gift register.
- 1.3 Councillors must declare all non-token offers on the Gifts Benefits and Hospitality Form, which must then be submitted to the Mayor to sign and pass on to the CEO. (Offers received by the Mayor will go directly to the CEO for determination).
- 1.4 If the Councillor wishes to accept the offer, CEO will determine the outcome of the offer in accordance with this Policy and notify the Councillor.
- 1.5 Subject to clause 4.4, all non-token offers that a Councillor wishes to accept must be referred to the CEO for determination prior to the offer being accepted.

Certain offers under the value of \$40 will be considered non-token and should be managed accordingly. For example, certain items valued at less than \$40 may not be inconsequential or trivial in nature and should be declared, such as event/movie tickets.

2. Offers to be refused

- 2.1. Councillors must refuse offers:
 - likely to influence them or be perceived to influence them in the course of their duties, or that raise a general or material conflict of interest;
 - could bring them or Council into disrepute;
 - made by a person or organisation which they will likely make or influence a decision (for example: processes involving sponsorship, regulation, enforcement or licensing);
 - that is, or could be reasonably perceived to be a bribe or an inducement to make a decision or act in a particular way;

- that extends to their relatives or friends, except in the instance where a Councillor is invited to attend a function or event and the offer specifically extends the invitation to the Councillor's partner, and this occurs at no cost to Council and does not constitute a conflict of interest;
- where, in relation to hospitality and events, the Mayor considers that the organisation will already be sufficiently represented to meet its business needs;
- where acceptance could be perceived as endorsement of a product or service, or acceptance could unfairly advantage, or be reasonably perceived to unfairly advantage, the sponsor in future procurement decisions;
- made by a person or organisation with a primary purpose to lobby Council;
- of money (including gift vouchers and gift cards), or that can be used in a similar way to money or easily converted to money.

2.2. Councillors must not accept anonymous gifts as defined in section 137 of the Act. If a Councillor finds themselves in possession of a gift and they don't know the name and address of the person who gave it, they can give the gift to the CEO for disposal within 30 days to avoid a breach of the Act.

2.3. If an individual considers that they have been offered a bribe or inducement, the offer must be refused and reported to the General Manager Strategy and Effectiveness or the Manager Integrity and Governance.

2.4. In all circumstances where offers of money are made that are prohibited through this policy or by legislation, they must be refused and reported to the General Manager Strategy & Effectiveness or the Manager Integrity and Governance.

2.5. All instances where suspected criminal or corrupt conduct has occurred will be reported to Victoria Police or the Independent Broad-based Anti-corruption Commission by the General Manager Strategy and Effectiveness or the Manager Integrity and Governance.

3. Considerations when refusing an offer

3.1. Where a Councillor declines an offer of a gift, benefit or hospitality, it is important to decline in a way that does not cause offence to the donor or damage relationships. This can be achieved by explaining Council's policy and ensuring the prospective donor understands that the offer is appreciated.

3.2. In some cases it would be inappropriate to refuse an offer (e.g. official gift from government officials or international delegates). In such instances the gift should be accepted on behalf of Council, passed over to the CEO and recorded on the Gifts, Benefits and Hospitality Form and register.

3.3. All declined non-token offers of gifts, benefits and hospitality must be recorded on the Gifts, Benefits and Hospitality Form and register.

4. Accepting non-token offers

4.1. Unless otherwise determined, all gifts remain the property of Council. The Chief Executive Officer shall make a determination on the retention, use or allocation of any offers received.

4.2. All accepted non-token offers must be approved and recorded in the register and must not raise a general or material conflict of interest or have the potential to bring the individual, or Council into disrepute.

4.2.1. Where the gift has been accepted and would likely bring the individual or the organisation into disrepute, the organisation will, where possible, return the gift.

4.2.2. Where the gift has been accepted and it has the potential to create a general or material conflict of interest, the organisation will, where possible, return the gift or otherwise seek to mitigate any associated risk.

- 4.3. Individuals can only accept non-token offers that are offered with a legitimate business benefit, in the course of the Councillor’s official duties, Councillor’s responsibilities and with a benefit to the Council.
- 4.4. Individuals may be offered a gift, benefit or hospitality where there is no opportunity to seek written approval prior to accepting. In these cases, the individual must seek approval within five business days of receiving the offer using the Gifts, Benefits and Hospitality Form.
- 4.5. If an offer is accepted in accordance with clause 4.4, and it is possible for the content of the offer to remain un-used until approval has been given by the CEO, the content must remain unused. (For example, if event tickets or a bottle of wine is gifted, a determination should be sought before the tickets are used or the wine is consumed. However if unexpected hospitality is offered, it may not be possible to seek a determination prior to partaking in the hospitality).
- 4.6. Where Councillors are offered gifts for speaking at conferences or meetings, it is reasonable to accept a modest non-token gift, as long as accepting the gift would not otherwise raise a conflict of interest or otherwise risk reputational damage. All such gifts must be reported via the Gifts, Benefits and Hospitality Form and recorded on the register.

GIFT test:

Deciding whether to accept an offer, Councillors should first consider if the offer could influence or be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists. Developed by the Victorian State Services Commission, the GIFT test is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <ul style="list-style-type: none"> - Does my role require me to select suppliers, award grants, regulate industries or determine government policies? - Could the person or organisation benefit from a decision I make?
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <ul style="list-style-type: none"> - 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?
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <ul style="list-style-type: none"> - Has the gift, benefit or hospitality been offered honestly? - Has the person or organisation made several offers over the last 12 months? - Would accepting it create an obligation to return a favour?

T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <ul style="list-style-type: none"> - How would the public view acceptance of this gift, benefit or hospitality? - What would my colleagues, family, friends or associates think? - Does it pass the 'front page of the newspaper' test?
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5. Recording offers of gifts, benefits and hospitality (Gift Register)

- 5.1. Councillors must record all non-token offers of gifts, benefits and hospitality, received or declined, on a Gifts, Benefits and Hospitality Form and submit for approval and registration.
- 5.2. All repeat offers of gifts, benefits and hospitality, received or declined, must be recorded on a Gifts, Benefits and Hospitality Form and submitted for approval and registration.
- 5.3. The business reason for accepting the non-token offer must be detailed on the form, and this will be recorded in the register. Sufficient detail must be provided to link the acceptance of the offer to the Councillor’s official duties, Councillor’s responsibilities and benefit to the Council.
- 5.4. Individuals must provide an acceptable level of detail on the Gifts, Benefits and Hospitality Form when recording the business reason for accepting or declining the offer.
- 5.5. Completed and signed Gifts, Benefits and Hospitality Forms must be submitted to the CEO within 14 days of the offer and details will be added to the register. A public version of the register will be published on Council’s website and will cover the current and the previous financial year. The register will be updated by Governance on a quarterly basis.

6. Repeat offers and conflict of interest

- 6.1. Repeat offers from the same person or organisation pose a greater risk of reputational damage due to the stronger perception that the person or organisation could influence you. The CEO should only approve the acceptance of repeat offers if they are satisfied that there is no reputational risk associated with the acceptance of the repeat offer.
- 6.2. The cumulative value of repeat offers is recorded in the register to ensure that a material conflict of interest does not occur.
- 6.3. Multiple offers of any value from the same person or organisation has the potential to add up to become a disclosable gift as defined in the Act.

7. Ceremonial gifts

- 7.1. Official gifts provided as part of the culture and practices of communities and government, within Australia or internationally, are the property of the Council, irrespective of value and should be accepted by individuals on behalf of Council and passed over to the CEO.
- 7.2. The receipt of ceremonial gifts are to be declared using the Gifts, Benefits and Hospitality Form and are to be recorded on Council’s register.

Provision of gifts, benefits and hospitality

This section sets out the requirements of Councillors when providing gifts, benefits and hospitality to others.

8. Requirements when providing gifts, benefits and hospitality

- 8.1. Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further Council's business outcomes and/or to celebrate achievements.
- 8.2. Where gifts or hospitality are provided, the following must be applicable:
 - any gift or hospitality must be provided for a business reason that furthers the conduct of official business or other legitimate organisational goals or promotes and supports Council policy objectives and priorities;
 - any costs are proportionate to the benefits obtained for Council and would be considered reasonable in terms of community expectations;
 - it does not raise a general or material conflict of interest; and
 - when hospitality is provided, individuals demonstrate professionalism in their conduct and uphold their duty of care obligations to other participants.

Breaches

9. Policy Breaches

- 9.1. Disciplinary action consistent with the SCS-002 Councillor Code of Conduct and relevant legislation may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible, or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the *Local Government Act 2020*.
- 9.2. Councillors are responsible for maintaining their own records in relation to receipt of 'disclosable gifts' as defined in the *Local Government Act 2020*, and where applicable, reporting these on their Personal Interest return. Failure to do so could constitute an offence under that Act.
- 9.3. Council will communicate its policy on the offering and provision of gifts, benefits and hospitality through its website and as part of any procurement process.

10. Reporting of breaches

- 10.1. Individuals who consider that gifts, benefits and hospitality or a conflict of interest within Council may not have been declared, or are not being appropriately managed, should speak up and notify the Manager Integrity and Governance or the General Manager Strategy and Effectiveness. Individuals who believe they have observed corrupt conduct may also make a protected disclosure to the Public Interest Disclosure Coordinator or the Public Interest Disclosure Officer.
- 10.2. Council will take appropriate action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

Definitions

Term	Definition
<i>Act</i>	<i>Local Government Act 2020</i>
<i>Anonymous gifts</i>	Section 137 of the Act outlines: <ol style="list-style-type: none">1) Subject to subsection (2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is Authorised by the

Term	Definition
	<p>Chief Parliamentary Counsel Part 6—Council integrity Local Government Act 2020 No. 9 of 2020 134 equal to or exceeds the gift disclosure threshold unless—</p> <ol style="list-style-type: none"> a) the name and address of the person making the gift are known to the Councillor; or b) at the time when the gift is made— <ol style="list-style-type: none"> i) the Councillor is given the name and address of the person making the gift; and ii) the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift. <p>Penalty: 60 penalty units.</p>
	<p>2) 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 of subsection (1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.</p> <p>3) In addition to the penalty specified in subsection (1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.</p> <p>In accordance with s137 of the Act, Councillors must not accept any gifts that are equal to or exceed the gift threshold unless the name and address of the person making the gift are known to the Councillor. A Councillor is not in breach of this clause if the anonymous gift is disposed of to the Council within 30 days.</p>
<i>Benefit</i>	<p>Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts as a result of a person's employment or position, loyalty programs and promises of a new job.</p> <p>The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.</p>
<i>Bribe</i>	<p>To give money or some other form of consideration to a public official so as to persuade the official not to exercise their common law or statutory powers or to bestow some privilege or favour.</p>
<i>Business associate</i>	<p>An individual or body that Council has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.</p>
<i>Ceremonial gifts</i>	<p>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.</p> <p>Ceremonial gifts are the property of Council, irrespective of value, and should be accepted by individuals on behalf of Council. The receipt of ceremonial gifts should be recorded on the register.</p>
<i>Conflict of interest</i>	<p>A Councillor has a conflict of interest when they have a personal or private interest that might compromise their ability to act in the public interest as set out in the <i>Local Government Act 2020</i>. A conflict of interest can exist even if no improper action results from it.</p> <p>Conflicts may be:</p>

Term	Definition
	<p>General If an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.</p> <p>Material If an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.</p>
<i>External party</i>	Individual person or entity that is not an employee or Councillor of the Surf Coast Shire Council.
<i>Gift</i>	Gifts are free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery or expensive pens), low value (e.g. a small bunch of flowers), consumables (e.g. chocolates) and services (e.g. painting and repairs).
<i>Gift disclosure threshold</i>	\$500 or a higher amount or value prescribed by the regulations.
<i>Disclosable gift</i>	<p>One or more gifts with a total value of, or more than \$500 that was received from a person in the 5 years preceding the decision on the matter:</p> <ul style="list-style-type: none"> a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation— <p>but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.</p>
<i>Hospitality</i>	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.
<i>Legitimate business benefit</i>	A gift, benefit or hospitality may have a legitimate business benefit if it is offered in the course of the individual's official duties, relates to the individual's responsibilities and has a benefit to Council or the municipality.
<i>Money</i>	Includes cash, cheques, money orders, travellers' cheques, direct deposits, shares, vouchers or items which can be easily converted to cash, including gift vouchers and credit notes.
<i>Official gifts</i>	Gifts presented to the Shire or the Council including gifts received from a Sister City, organisation or corporation that is bestowing a corporate gift (e.g. plaque, plate, vase, trophy and artwork) or souvenir.
<i>Register</i>	A register of all declarable gifts, benefits and hospitality, including those declined.
<i>Public Register</i>	A sub-set of information contained in a register for publication on Council's website.
<i>Reasonable hospitality</i>	A meal or service provided by a not-for-profit organisation to a Councillor who attends a function or event in an official capacity.
<i>Token offer</i>	A gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient. Token offers are worth \$40 or less.
<i>Non-token offer</i>	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

Term	Definition
	value. All offers worth more than \$40 are non-token offers and must be declared through the Gifts, Benefits and Hospitality form and recorded in the register.
<i>Value</i>	The face value or where not easily determined, the estimated retail value.

Related Procedure

MPR-016 Gifts, Benefits and Hospitality Procedure

References

Council Fraud and Corruption Control Plan

DWELP "Model policy for agencies and boards – Gifts, benefits and hospitality"

Independent Broad-based Anti-corruption Commission (IBAC) Act 2011

Local Government Act 2020 – s137, s. 138, s.127 and s.128.

Local Government Victoria (LGV) Guidelines - Conflicts of Interest – Councillors and Council Staff

SCS-002 Councillor Code of Conduct - Council Policy

SCS-010 Fraud Control – Council Policy

Victorian Auditor-General's Report "Implementing the Gifts, Benefits and Hospitality Framework", December 2015

Victorian Public Sector Commission "Gifts, benefits and hospitality – Policy Framework", October 2016

Victorian Public Sector Commission Gifts, Benefits and Hospitality Policy Guide

Document History

Version	Document History	Approved by – Date
1	<i>Amended</i>	<i>Council Resolution – 26 November 2019</i>
2	<i>Amended in accordance with LGA 2020</i>	<i>Council Resolution – 23 March 2021</i>
3	<i>Updated per review schedule</i>	<i>Council Resolution – 22 August 2023</i>