



COUNCILLOR GIFTS, BENEFITS AND HOSPITALITY POLICY (C01)

Policy Number CO1
Council Meeting 21 April 2021
Meeting Item No. 4.4
Next Review Date April 2025

Directorate
Department
Primary Author

Performance & Innovation
Governance
Coordinator Council Business

GOOD GOVERNANCE FRAMEWORK – COUNCILLOR GIFTS, BENEFITS AND HOSPITALITY POLICY

Overarching Principle

This Policy provides guidance in the management and declaration of gifts provided to Councillors and supports Council's governance and risk framework that protects and promotes public confidence in the honesty and integrity of the Council.

This Policy is an integral part of the Structure, Systems and Policies pillar of the Good Governance Framework and outlines responsibility of a Councillor in declaring the receiving of gifts and donations.

1. PURPOSE

South Gippsland Shire Council is committed to ensuring that Councillors act with integrity and honesty when performing their duties and while attending functions as Council representatives.

The Policy states South Gippsland Shire Council's position on:

- Responding to offers of gifts, benefits and hospitality; and
- Providing gifts, benefits and hospitality
- Donations.

The acceptance of these types of gifts can create perceptions that a Councillor's integrity has been compromised. Councillors are required to declare the acceptance of gifts and donations to avoid putting themselves in a position which is likely to create a general or material conflict of interest whether real or perceived.

The aim of the *Councillor Gifts, Benefits and Hospitality Policy (CO1)* (the Policy) is to provide clear guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts or benefits (immediate or for the future) which may result in a sense of obligation, or could be interpreted as an attempt to influence. This helps to protect and promote public confidence in the honesty and integrity of the Council.

Further, the Policy provides a way of meeting the high level of community expectations in respect of transparency and accountability, by the proper recording of significant gifts and donations made to Councillors in a public register.



The Policy has been developed in accordance with s.138 of the *Local Government Act 2020* (the Act) that requires Council to adopt a Councillor Gift Policy and ss.128(3)(h) and 128(4) that requires a Councillor to declare a conflict of interest because of receipt of a 'disclosable gift'.

The Policy should be read in conjunction with the Act and associated regulations. Particular requirements apply to s.137 of the Act relating to 'anonymous gifts' and ss. 306 and 309 relating to election campaign donations. The Policy should be read in conjunction with each of these sections of the Act and as an aid to achieving best practice and avoidance of any real or perceived conflict of interest.

2. SCOPE

This Policy applies to all Councillors of South Gippsland Shire Council.

The Policy sets out the standards, procedures and responsibilities of Councillors for responding to gift or donation offers.

3. POLICY PRINCIPLES

The *Councillor Gifts, Benefits and Hospitality Policy (CO1)* is based on transparency and integrity principles that apply to every person in public office, that they should avoid putting themselves in positions which are likely to create a general or material conflict of interest, whether real or perceived. This means that Councillors do not seek or accept gifts from people where the receipt of the gift is likely to create any perception of a conflict of interest with their public duty.

It is preferable that no gifts be accepted at all by Councillors, although Councillors are not prohibited from accepting gifts. The Policy requires that Councillors should avoid accepting gifts from people they know, or reasonably expect, will have dealings with the Council, and when it is possible that as a Councillor they may be called upon to deal with these people in their official capacity. Examples may include developers, community groups, real estate agents, suppliers and contractors (including potential), or other parties that may need to deal with Council at some stage.

Not accepting gifts from people and organisations that Councillors have dealings with in an official capacity, can avoid the following consequences:

- a. The impression that the recipient is using their position for personal gain, rather than to serve the community; which reflects badly on the recipient and on the Council.
- b. It is likely to prevent the recipient from undertaking duties that the recipient has been elected, appointed or reimbursed to perform, which may lead to a failing of responsibilities.
- c. Accepting a gift may constitute, or appear to constitute, a misuse of position or acceptance of a secret commission, which are serious offences under the *Local Government Act 2020* and the *Crimes Act 1958* respectively.

The key principles are:

1. **Obligations:** Councillors act in accordance with their respective obligations with good governance.



2. **Public interest:** Councillors have a duty to act in the public interest above their private interests when carrying out their official functions, in compliance with this Policy.
3. **Culture of integrity:** South Gippsland Shire Council fosters a culture of integrity with Councillors declaring all gifts.
4. **Risk-based:** The Council's risk in relation to gift offers are assessed, managed and monitored.
5. **Accountability:** The Council's procedures are transparent and accountable. Councillors are accountable for declaring accepted gifts and declined gifts, or where an exception applies under this Policy.

3.1 Gift Acceptance and Refusal

In accordance with the key principles of this Policy before deciding whether to accept an offer, Councillors should first consider if the offer could 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.

A Councillor is required to check the *Local Government Act 2020*, s.128(3)(h) and s.128(4) to determine if they are required to declare a material conflict of interest because of receipt of an 'disclosable gift' in any matter where a conflict may be relevant.

The Council Gift Register is to be used to record all gifts, whether accepted, declined, or given to the Chief Executive Officer (CEO) for Council's use, on the *Gift and Donation Declaration Form*

Developed by the Victorian Public Sector 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? Does my role require me to select contractors, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions? Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality? 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?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust? How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>



3.2 Acceptable Gifts

3.2.1 Non-token Gifts valued at \$50 or more, including aggregates

Councillors are allowed to accept some gifts; however, they should avoid compromising their ability to act independently by accepting gifts individually, or accumulatively within a financial year that have a monetary value of \$50 or more.

Fifty dollars is the Victorian public sector industry-based standard for non-token offers of benefits, gifts or hospitality that may be perceived to be by the recipient, the person making the offer or by the wider community, of more than consequential value.

All offers worth \$50 or more are non-token offers. Regardless whether they are accepted or declined, they must be declared and submitted to the Executive Office to include in Council's Gifts Register. This is to ensure that the combined aggregated total of offers made from a single source in the last five years does not exceed the gift disclosure threshold of \$500.

While permissible to be retained, Councillors acting in good faith are encouraged to refuse, or dispose to the CEO gift offers that have an aggregate value of \$50 or more that:

- a. Are likely to influence them, or would be perceived to influence them, in the course of their duties; or
- b. Have no legitimate business benefit.

While Councillors are able to accept gifts of \$50 or more, they are encouraged to hand over the gift to the CEO to utilise for Council related purposes.

3.2.2 Gestures and Token Gift Offers

Councillors are allowed to accept gestures that are token gift offers, benefits and hospitality, without approval or declaring the offer on the South Gippsland Shire Council's Gift Register if the value, or aggregate value is under \$50.

An example of a gesture is an object with no monetary value such as flowers cut from the person's garden or homemade baked goods.

A gesture may also be a souvenir received from a person or company as a result of attending a seminar or conference held, conducted or sponsored by them, for which an appropriate fee was paid to attend. An example of this is a tie, pen or mug.

Door prizes and raffle prizes at functions or conferences are not considered a gift if the individual has personally paid for their attendance, or where the individual has paid for the raffle ticket.

Reasonable hospitality does not need to be declared. Refer to the section Definitions of this Policy for Hospitality for greater details.

If a Councillor is repetitively offered gestures that accumulatively equate to \$50 or more in a 12-month period, these are to be recorded in Council's Gift Register once a \$50 value is reached.



3.2.3 Disclosable Gifts – restrictions apply

While Councillors may accept 'disclosable gifts', Council discourages this act.

A 'disclosable gift' for the purposes of declaring a material conflict of interest and determining if such a gift may be accepted is defined in s.128(4) as follows:

*“For the purposes of subsection (3)(h), **disclosable gift** means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter—*

- (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—*

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.”

The acceptance of any gifts over the aggregated value of \$500 or more (accumulative in the past 5 years or as a single gift) should be declined to avoid placing a Councillor in the position of having a potential Conflict of Interest in any matter involving the affected person (gift giver) in the future.

3.3 Prohibited Gifts

Any gift that is inconsistent with community values and could bring a Councillor's integrity, or that of the Council into disrepute must be declined.

All Councillors must refuse the following gift offers:

3.3.1 Anonymous Gifts

An 'anonymous gift' is prohibited and must not to be accepted by a Councillor as per s.137 of the Act:

“Section 137 Local Government Act 2020 - anonymous gift not to be accepted

- 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 equal to or exceeds the gift disclosure threshold unless—*
 - (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—*
 - (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.*

Penalty: 60 penalty units.

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.*
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.”*

If for any reason a Councillor finds themselves in possession of a gift when they don't know the name and address of the person who gave the gift, the Councillor can give the gift to the Council within 30 days to avoid committing an offence.

3.3.2 Gifts that create a Conflict of Interest

Councillors must not accept a gift that creates a conflict of interest (real, potential or perceived).

Note that a person from whom a Councillor has received a 'disclosable gift' is determined to be an 'affected person' under s.128(h) for the purposes of declaring a material conflict of interest.

A conflict of interest, created through receipt of a gift, denies all other community members of the right to be represented by their Councillor on particular matters coming before Council.

A conflict formed this way may also result in a Councillor unduly influencing other Councillors on how to vote for a certain issue. This is a misuse of position.

These actions undermine the integrity of individual Councillors and the trust of the community in Council.

3.3.3 Money or equivalent

Councillors must not accept money in any form. This includes gift cards (e.g. gift vouchers), or those easily converted into money (e.g. shares).

3.3.4 Regulatory processes

A Councillor must not accept any gifts from any individual or group that may be involved with the permit application or regulatory activity where a Council regulatory process, or legal matter is underway, or coming up (e.g. a planning permit application; infringement appeal or claim against Council).

3.3.5 Bequests/Wills

Any bequests to Councillors resulting from their position with Council must not be accepted. Arrangements may be made to donate the bequest to a charitable institution in the name of the donor or returned to the immediate family.



3.3.6 Reward Programs

Councillors must not collect rewards for personal use via reward points program for any Council related transactions (i.e. fly buys or frequent flyers). This relates to any claims for reimbursement of expenses incurred in accordance with the *Councillor Support and Expenditure Policy (C51)*.

3.3.7 Procurement and Tender Process

Councillors must not accept any gifts from a current or prospective supplier/contractor or any offer that is made during a procurement or tender process by a person or organisation involved in the process.

Where gifts are received, offered or there are irregular approaches from suppliers, the Councillor must notify the Mayor and CEO and lodge a *Gift and Donation Declaration Form*, so their refusal/action can be properly recorded.

Councillors must not visit a current supplier's premises without invitation. If a visit is required, the Councillor is to request a Senior Officer attend with them.

3.3.8 Hospitality

Gift offers of hospitality that exceed common courtesy must be refused as they are often inconsistent with community expectations and have a high risk of creating a conflict of interest. Examples of gift offers of hospitality that exceed common courtesy include:

- a. Attending as a guest in a corporate box at the football or races
- b. Attending a concert or theatre event
- c. Attending an industry golf day at a reduced fee
- d. Being 'shouted' a meal at a restaurant or sporting club
- e. Accepting discounted or complimentary tickets for a family member to attend the tennis

3.3.9 Conferences

Gift offers in relation to conferences (sponsored attendance, participation, travel or accommodation) must be declined, unless there is:

- a. Clear justification, such as where the invitation is issued by a government department or the offeror is a peak body, and
- b. Prior written approval granted by the CEO (Mayor for Councillors, CEO for Mayor) or another responsible person. The signed and dated approval must be attached to the gift offer declaration and noted in Council's Gifts Register.



3.3.10 Future Benefit

Councillors are prohibited from accepting any offering in any form, to any value, that may be perceived to be a suggestion or guarantee of a future benefit to the Councillor or any other person.

This includes any benefits that may be derived either during or after a Councillor finishes their term of office. Some examples include the assurance of future employment, services provided at a nil or substantially reduced value, beneficial property dealings, bank transfers or contract opportunities.

These will be treated as a fraudulent action and will be dealt with in accordance with Council's *Fraud and Corrupt Conduct Policy (C19)*, or as a criminal matter to be dealt with by the Police depending on the circumstances.

Any offers of this kind must be publicly declared and disclosed to the CEO, who will consider the offer in line with Council's *Fraud and Corrupt Conduct Policy (C19)*.

3.3.11 Attempts to Bribe

A Councillor who receives a gift offer that they believe is an attempted bribe must refuse the offer. They must:

- a. Immediately notify the CEO and lodge a *Gift and Donation Declaration Form*, so their refusal can be properly recorded; and
- b. Report the matter to the CEO or Public Interest Disclosure Officer who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission (IBAC).

3.3.12 Endorsement of a product or service

A Councillor must not accept a gift, service, benefit or hospitality that could be perceived to be an endorsement of a product or service and will bring the individual or Council into disrepute;

3.4 Consequences of accepting prohibited gifts

Accepting a prohibited gift may constitute misuse of a Councillor's position. A breach of this Policy may result in serious misconduct allegations for Councillors. In addition, if the gift was offered with the expectation of something in return either immediately or in the future, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

3.5 Recording and reporting prohibited gift offers

To assist the Council in monitoring the frequency and nature of prohibited gifts, it is essential that all such offers are disclosed and notified as declined in Council's Gifts Register. Councillors must lodge a *Gift and Donation Declaration Form* and details of the gift to be included in Council's Gift Register.

A Councillor who believes another person within the Council may have solicited or been offered a bribe which they have not reported, must notify the CEO or report the matter as a public interest disclosure in accordance with Council's Public Interest Disclosure Procedures.



3.6 No Soliciting of Gifts or Secret Deals

Councillors must not solicit gifts, benefits, hospitality or secret deals for themselves or anyone else, in any form. To do so may constitute misuse of their position. It may also constitute corruption and lead to criminal prosecution.

3.7 Donations and Bequests of Gifts to Council

South Gippsland Shire Council may be offered or bequested gifts or donations. Such gifts include:

- a. Real property
- b. Donations
- c. Art work
- d. Free Training & Services

South Gippsland Shire Council does not encourage and will not automatically accept a gift or donation. Given the potential for a vast range in terms of quality, relevance and the ongoing responsibility and maintenance requirements, Council reserves the right to decline the offer.

In relation to Bequests, consideration will be given to:

- a. The expressed wishes and intentions of the bequestor, as outlined in the will, are paramount in determining the purpose for which the gift will be used.
- b. Where Council is unable to honour the intentions of the will, all appropriate legal measures will be taken to determine a purpose for the gift that most closely aligns to the bequestor's intentions.

3.8 Process of Declaring Gifts and Donations

3.8.1 Disclosure of Disclosable Gifts

A Councillor must disclose any 'disclosable gift' valued at \$500 or more (accumulative in the past 5 years or as a single gift) in their next bi-annual *Personal Interest Return* form. They must also include the disclosable gift(s) in Council's Gift Register within 14 days of receiving the gift(s).

3.8.2 Disclosures of Conflicts of Interest

A Councillor who has a conflict of interest as a result of receiving a gift or gifts from a person must disclose the conflict of interest in accordance with the procedures outlined in the *Governance Rules (C82)*.

3.8.3 Disclosures on Election Campaign Donation Forms

Gifts above the gift disclosure threshold that are election campaign donations must be disclosed in an *Election Campaign Donation form* and in accordance with the ss. 128(4), 306, 309, 310, of the Act and the *Local Government (Electoral) Regulations 2020*.



3.8.4 Recording of Gifts in Council's Gift Register

Gifts valued at \$50 or more, including aggregated gifts must be disclosed in Council's Gift Register by completing a *Gift and Donation Declaration Form* and submitting this to the CEO office.

- a. Where a gift is shared amongst multiple Councillors the gift must be declared if the total value of the gift exceeds \$50. All people sharing in the receipt of the gift must be listed on Council's *Gift and Donation Declaration Form* with the initial receiver of the gift responsible for registering receipt of the gift at the top of the list.
- b. Councillors are to provide details pertaining to the receipt, or offer, of any gift to the CEO within 14 days from the date of receipt/offer.
- c. The information on Council's *Gift and Donation Declaration Form* will include if the gift has been refused, retained by the individual or given to the CEO for use by Council.
- d. Gifts accepted (or declined) of \$50 or more will be included in Council's Gifts Register by the CEO Office and will contain:
 - i. A description of the gift (or donation) and its estimated value;
 - ii. Date of receipt or decline of gift
 - iii. The name of the gift giver (if known)
 - iv. Name of the recipient of gift
 - v. What was done with the gift (was it retained by the Councillor, handed to the Council, or declined)
 - vi. Gift offers provided by suppliers (irregular approaches from suppliers).

3.8.5 Undervaluing gifts

Undervaluing gifts received to avoid declaring them, may constitute a breach of the *Councillor Code of Conduct (C14)*. Such matters will be managed in accordance with the procedures set out in the respective code and relevant sections of the Act.

3.8.6 Inability to politely refuse a gift

On occasions a Councillor may be given a gift that cannot be politely refused. This typically occurs after a presentation at a function when a gift is given as an appreciation. If there is any risk that the gift may give rise to a material conflict of interest or otherwise compromise the recipient, it should be accepted on behalf of the Council and passed on to the CEO for use by the Council to avoid any personal conflict of interest. This type of gift must be declared on Council's Gifts Register.



4. RISK ASSESSMENT

In order to comply with its obligations under the *Local Government Act 2020* and maintain the trust and confidence of the community, it is critical that Council and Councillors maintain the highest possible standards of good governance, integrity, ethical behaviour and conduct.

This Policy and the associated procedures mitigate Council's risks and enables:

- a. Councillors to understand their requirements and obligations under the *Councillor Code of Conduct (C14)*, *Governance Rules (C82)* and *Election Period Policy (C30)*, and under the Act.
- b. Council to demonstrate its commitment to probity in the management of potential breaches of the *Local Government Act 2020*, *Crimes Act 1958*, Codes of Conduct and Council policies.
- c. Community confidence and public trust in Council to be maintained or improved through appropriate and transparent declaration and use of gifts thereby minimising risks to Council, Councillors or staff reputations.
- d. Councillors and staff to mitigate the risk of fraud and appropriately manage situations which may be regarded as unethical conduct or behaviour.

5. IMPLEMENTATION STATEMENT

5.1 Publication of Policy

The Policy will be published on Council's website.

Council's Gift Register will be made available in accordance with South Gippsland Shire Council's *Public Transparency Policy (C75)*.

Communications regarding the existence of the Policy are to be sent to Councillors in August/September each year (AFL finals, Racing Season, Christmas).

The Policy is to be included in Council's Councillor Induction Program.

Members of the public may view Council's Gift Register in accordance with the *Public Transparency Policy (C75)*.

5.2 Roles and Responsibilities

Councillors are to always act in accordance with their respective obligations for good governance. These include, but are not limited to:

- a. Reading, understanding and abiding by the Act at all times. In particular in relation to receipt, disposal and management of any gift, donations, hospitality, or benefit.'
- b. Refusing all prohibited gifts



- c. Declining anything that is offered as an attempt to influence, bribe or create an expectation or an obligation on the Councillor or Council.
- d. Not accept any offer that suggests a guarantee of a future benefit that may be deemed to be as real and tangible as money-in-the-bank.
- e. Not soliciting gifts for themselves or anyone else, in any form.
- f. Disclosing of any gift valued at \$500 or more (accumulative in the past 5 years or as a single gift) in their biannual Personal Interest Return form, unless the gift is from a family member.
- g. Declaring conflicts of interest as result of receiving a gift or gifts from a person, in accordance with the *Governance Rules (C82)*.
- h. Declaring gifts of over \$50 or more, including aggregates in the Council's Gift Register, within 14 days of receipt of the gift, in accordance with register requirements.
- i. Declaring gifts above the threshold that are election campaign donations in their *Election Campaign Donation Return form*.
- j. Councillors are responsible for completing and submitting the Council's *Gift and Donation Declaration Form* and provide them to the CEO office for updating on Council's Gift Register.

The Executive Office maintains Council's Gift Register for recording all gifts declarations for Councillors, Staff and Contractors.

The Protected Disclosure Officer will manage any disclosures made in regard to questionable gifts or conduct and refer these to the respective authorities to investigate.

A copy of Council's Gifts Register may be provided to the Audit and Risk Committee and Council (via the Audit and Risk Committee) every 12-months for their consideration. Monitoring Council's Gifts Register will allow for any identified trends developing to be identified and considered by the Committee.

The Governance Department is able to provide public access to the Council's Gift Register in accordance with Council's *Public Transparency Policy (C75)* via Council's email address council@southgippsland.vic.gov.au..

5.3 Human Rights Charter

This Policy is a key mechanism for providing assurance to the Council that Councillors are meeting their obligations to declaring the acceptance of gifts and donations and/or a conflict of interest as a result of receiving a gift as required by the *Local Government Act 2020* and the *Charter of Human Rights and Responsibilities Act 2006* and associated obligations.

5.4 Non-compliance with this Policy

A Councillor has a duty to act in the public interest above their private interests when carrying out their official capacity and functions of a Councillor and to abide by this Policy.



If a member of the community wishes to question the release of information on Council's Gifts Register, this should be raised directly with the Executive Office via Council's email address council@southgippsland.vic.gov.au.

5.5 Monitoring, Evaluation and Review

Council will undertake a four-yearly periodic review of this policy to ensure changes required to strengthen or update the policy to meet changing circumstances are made in a timely manner, or earlier if changes to legislation or practices require an earlier intervention.

6. LEGISLATIVE PROVISIONS

This policy has been developed to support the Council to comply with its good governance and conduct obligations in line with various legislation, principally the *Local Government Act 2020*.

South Gippsland Shire Council is a public body subject to the *Local Government Act 2020*. The objective of the Act is to establish a legislative framework that provides for Councils to be accountable to their local communities in the performance of functions and exercise of power and use of resources.

SUPPORTING INFORMATION	
Legislative Provisions	<i>Local Government Act 2020</i> <i>Local Government (Electoral) Regulations 2020.</i> <i>Public Interest Disclosure Guidelines (CE21)</i> <i>Public Transparency Policy (C75)</i> <i>Crimes Act 1958</i>
Council Supporting Documents	<i>Councillor Code of Conduct (C14)</i> <i>Governance Rules (C82), including the Election Period Policy (C30)</i> <i>Code of Conduct for Staff (CE20)</i> <i>Council Plan 2020-2024</i> <i>South Gippsland Shire Council Governance Framework</i> <i>Local Law No 2 2020</i> <i>Audit Policy C65</i> <i>Fraud and Corrupt Conduct Policy C19</i> <i>Human Rights Policy C52</i> <i>Information Privacy Policy C22</i>
Related Documents	<i>Gift and Donation Declaration Form (D2093011)</i> <i>Conflict of Interest, A Guide for Councillors October 2012, Department of Planning and Community Development</i> <i>Victorian Public Sector Commission – Gifts, Benefits and Hospitality Policy Framework - 2016</i> <i>Independent board-based anti-corruption commission (IBAC) Local Government Integrity Frameworks Review (2019)</i> <i>Victorian Ombudsman Conflicts of Interest in Local Government Report (2008)</i> <i>Guidelines for Making and Handling Protected Disclosures January 2020, Independent board-based anti-corruption commission (IBAC)</i> <i>Victorian Public Sector Commission (vpsc.vic.gov.au)</i>
File Number	D1313021



7. DEFINITIONS

Council	South Gippsland Shire Council
Councillor	Is an elected member of the Council as defined by the <i>Local Government Act 2020</i> (the Act).
Chief Executive Officer / CEO	Is the Chief Executive Officer appointed by Council as defined by the <i>Local Government Act 2020</i> (the Act).
Conflict of Interest	<p>The <i>Local Government Act 2020</i> requires Councillors to declare General or Material Conflicts of Interest.</p> <p>A conflict of interest is a conflict between a Councillor's public duty to act in the best interest of the Council and their private interests (financial or non-financial). A conflict exists whether it is:</p> <ul style="list-style-type: none"> • Real – it currently exists • Potential – it may arise, given the circumstances • Perceived – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to the Council, now or in the future.
General Conflict of Interest	Has the same meaning as defined in s.127 of the <i>Local Government Act 2020</i> .
Material Conflict of Interest	Has the same meaning as defined in s.128 of the <i>Local Government Act 2020</i> .
Gift (s3 LGA)	<p>Means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including—</p> <p>(a) the provision of a service (other than volunteer labour); and</p> <p>(b) the payment of an amount in respect of a guarantee; and</p> <p>(c) the making of a payment or contribution at a fundraising</p>
Declarable gift	A gift that is valued \$50 or more must be registers in Council's Gifts Register.
Anonymous Gift	Is to not be accepted by a Councillor as per s.137 of the Act
Gift Disclosure Threshold	Has the same meaning as defined in s. 128 (4) of the <i>Local Government Act 2020</i> .
Disclosable Gift	<p>A 'disclosable gift' means any gift valued at or above \$500 or a higher prescribed amount that a relevant person received in the preceding five years if:</p> <ul style="list-style-type: none"> • the relevant person was a councillor, member of council staff or member of a delegated committee at the time the gift was received, or • the gift was an election campaign donation. <p>If multiple gifts are received from a person, they must be treated as a single gift with an aggregate value.</p> <p>A gift includes any good or service (other than volunteer labour) that is provided for free or at an inadequate price. It includes a payment or contribution at a fundraising function.</p>



	<p>A failure to comply is an offence that can be prosecuted in court. If found guilty a fine of up to 60 penalty units may be imposed, the value of the gift must be paid to the Council and the Councillor may be required to pay the costs of the prosecution.</p>
<p>Gifts explanation to support definition includes:</p> <ul style="list-style-type: none"> • Items & services • Benefits • Hospitality 	<p>A gift is anything of monetary or other value that is offered by an external organisation or individual to a Councillor, Officer or contractor as a result of their role with the agency. It includes free or discounted items or services, benefits or hospitality that exceeds common courtesy. Examples include:</p> <ul style="list-style-type: none"> • A bottle of wine or spirits • Tickets to sporting events • Gift Voucher • Corporate hospitality at a corporate facility • Discounted products for personal use • Use of a holiday home • Free or discounted travel • Free training excursions • Door prize or voucher if an individual has not personally paid to attend.
<p>Items or services</p>	<p>For example:</p> <ul style="list-style-type: none"> • Christmas hamper • Desk calendar • Box of chocolates • Bottle of wine • Commemorative object • Door prize at a function • Tree lopping • House painting
<p>Benefits</p>	<p>For example:</p> <ul style="list-style-type: none"> • Preferential treatment • Privileged access • Access to discount or loyalty programs • Promise of a new job
<p>Hospitality</p>	<p>Hospitality is considered a gift unless the hospitality was reasonable and the person attending the function or event in an official Council capacity.</p> <p><u>Reasonableness test:</u> the hospitality must be of a standard and type that an independent observer would consider appropriate and not excessive.</p> <p><u>Official capacity test:</u> it must clearly be your duty as a Councillor to attend the relevant function or event.</p> <p>Hospitality that <u>exceeds</u> common courtesy includes:</p> <ul style="list-style-type: none"> • A ‘fine dining and wines’ working lunch at another organisation’s premises • An offer to pay for a working lunch at a café • An offer of a free spot on an industry golf day



	<p>Hospitality that does <u>not</u> exceed common courtesy and is therefore <u>not</u> a gift includes:</p> <ul style="list-style-type: none"> • Sandwiches and pastries over a lunchtime meeting • A cup of coffee at another organisation's premises • A cup of coffee at a café (unless there is a conflict of interest)
Ceremonial Gifts	<ul style="list-style-type: none"> • 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. • Ceremonial gifts are the property of South Gippsland Shire Council, irrespective of value. The receipt of ceremonial gifts should be recorded on Council's Gift Register but does not need to be published online.
Gestures/tokens that are not considered gifts	<ul style="list-style-type: none"> • A souvenir received from a person or company as a result of attending a seminar or conference held, conducted or sponsored by them, for which an appropriate fee was paid to attend. For example ties, pens or mugs. • Small gestures of appreciation from the community or customers such as cut flowers from their garden or homemade baked goods. • Door prizes and raffle prizes at functions or conferences are <u>not</u> considered a gift if the individual has personally paid for their attendance, or where the individual has paid for the raffle ticket.
Internal Gifts	<p>Gifts received by Councillors from South Gippsland Shire Council are not covered by this Policy and do not need to be declared.</p> <p>For example recognition gifts after the end of the Mayor term or Councillor term</p>
Aggregated Gifts/Benefits	<p>If multiple gifts, donations, benefits or hospitality are received from a person, they must be treated as a single gift with an aggregate value.</p> <p>This applies to multiple token gifts and gestures aggregating to \$50 or more in one financial year, or to a 'disclosable gift' value of \$500 aggregated within five years.</p>
Bribe	<p>A bribe is an offer of money or other inducement made with the intention to corruptly influence a Councillor, officer or contractor in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.</p>
Supplier/ Contractor	<p>Person or company supplying goods, services or works to the Council.</p>
Legitimate Business Reason	<p>A legitimate business reason is a business purpose that furthers official business or other legitimate goals of the Council.</p> <p>The following are <u>not</u> legitimate business reasons:</p> <ul style="list-style-type: none"> • 'it would have been impolite to refuse' • 'Refusal would offend' (except in compelling circumstances that are in the public interest, for example accepting a gift onstage at an official ceremony) • 'Networking' • 'Maintaining stakeholder relationships'
Value	<p>Value means the face value or estimated retail value.</p>



REVISION HISTORY			
Version	Approved	Approval Date Range	Sections Modified
1.0	Council Meeting	19 March 2014	New Policy
1.1	Council Meeting	23 November 2016	Revised
2	Council Meeting	21 April 2021	Significant revisions to align with Local Government Act 2020, incorporating separation from the staff gift policy and a name change for the retained policy.

8. ATTACHMENT

Nil