

**CITY OF
BALLARAT**



Gift and Hospitality Policy

**BS - RC-Gov-4.1
Corporate
Compliance**

**BALLARAT CITY COUNCIL
Town Hall
Sturt St
Ballarat VIC 3350
Tel. 5320 5500**

TABLE OF CONTENTS

1	DOCUMENT CONTROL INFORMATION.....	3
2	POLICY STATEMENT.....	3
3	OWNER.....	4
4	APPLICABILITY.....	4
5	DEFINITIONS.....	4
6	LEGISLATION.....	5
7	PROCEDURE AND GUIDANCE NOTES.....	7
	7.1 GIFTS AND BENEFITS.....	8
	7.2 TOKEN GIFTS.....	8
	7.3 OFFICIAL GIFTS.....	8
	7.4 GIFTS OF APPRECIATION.....	8
	7.5 MONETARY GIFTS.....	8
	7.6 OWNERSHIP.....	9
	7.7 DISPOSAL OF GIFTS.....	9
	7.8 HOSPITALITY.....	9
	7.9 SPONSORSHIP GIFTS.....	10
	7.10 GENERAL.....	10
	7.11 NOT APPLICABLE.....	10
	7.12 APPROVAL AND PROCESSING.....	10
8	COMPLIANCE RESPONSIBILITIES.....	11
9	CHARTER OF HUMAN RIGHTS COMPLIANCE.....	11
10	REFERENCES AND RELATED POLICIES.....	11

1 DOCUMENT CONTROL INFORMATION

DOCUMENT CONTROL

Policy Name	<i>Gifts and Hospitality</i>
Business Unit	Safety, Risk and Compliance Services
File Location	
Document status	<i>Draft</i>
Version	4.1
Version Date	November 2018
Next Review date	November 2022

DOCUMENT HISTORY

	Version	Date	Author
Initial Draft	1	Aug 2010	Annie De Jong
Final Draft	2	Oct 2010	Annie De Jong
Approved Internally	2	Oct 2010	Leadership Team
Approved Council	2	10/11/2010	Council Resolution
Review 1	3	Oct 2011	Bill Hutcheson
Approved Council	4	Oct 2011	Council Resolution
Review 2	4.1	Nov 2018	Darren Whitford
Approved Council	4.1		Leadership Team

2 POLICY STATEMENT

Intent:

This policy has been developed to ensure transparency and the principles of good governance and accountability are practised by Councillors and staff when receiving gifts and hospitality in the course of their duties.

Objectives:

To establish guidelines for appropriate conduct in circumstances where Councillors or staff are offered gifts, benefits, or are granted awards or win prizes, whether part of their official duties or while attending functions as Council representatives.

Statement:

1. As a Council Officer or Councillor, non -official gifts should not be accepted where possible.
2. Gifts are not to be sought, demanded or requested.

3. All gifts accepted, which are greater than nominal value, must be recorded in the Gift Register.
4. 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.

3 OWNER

The owner of this policy is the Chief Executive Officer.

All enquiries regarding this policy should be initially directed to the Statutory Compliance Unit.

4 APPLICABILITY

The Policy applies to all Councillors, full-time and part-time employees, contractors, temporary and casual employees engaged by Council.

5 DEFINITIONS

Act	<i>Local Government Act 1989</i>
Benefit	Is something which is believed to be of value to the receiver, including access to a sporting event, preferential treatment (queue jumping), access to confidential information, accommodation, personal services, pleasure or vacation trips.
Gift	Is an item, travel, hospitality, entertainment or other token of appreciation that is not deemed to be of a nominal value.
Gifts of appreciation	Are gifts that are presented to an individual to express thanks, such as flowers, chocolates or moderately priced alcohol and the like. These gifts are generally a one-off occurrence.
Hospitality	Is a meal or service which is offered, has a value greater than \$50, and is not viewed as being connected to official Council business or part of a meal accepted at a conference or seminar.
Monetary Gifts	Defined as cash, cheques, money orders, travellers' cheques, direct deposits or items which can be easily converted to cash.
Nominal Value	Is an item with a face or estimated value of less than \$50.
Official Gifts	Are gifts presented to the Council and include gifts received from a Sister City, organisations or corporations that are bestowing a corporate gift (plaques, plates, vases, trophies, and artwork) or souvenir.
Reasonable	

Hospitality	A meal or service provided by a not-for-profit organisation to the Mayor, Councillor or a member of Council staff who attends a function or event in an official capacity.
Sponsorship	Are items which are identified as part of a formal written sponsorship agreement between Ballarat City Council and a third party.
Token Gift	Are gifts of nominal value and infrequently received. These gifts may include low-priced promotional items, souvenirs or corporate gifts such as pens, mugs, single bottles of reasonably priced alcohol, free or subsidised meals of a modest nature, invitations to appropriate corporate or social functions organised by community groups or organisations, door prizes at conferences, trade shows etc.
Value	Is the face value or estimated retail value.

6 LEGISLATION

Local Government Act 1989 (as amended January 2015)

Definitions

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment, gift or other alienation of property including—

- (a) the allotment of shares in a company;
- (b) the creation of a trust in property;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;
- (e) the exercise by a person of a general power of appointment of property in favour of any other person;
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

gift 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—

- (a) the provision of a service (other than volunteer labour); and
- (b) the payment of an amount in respect of a guarantee; and
- (c) the making of a payment or contribution at a fundraising function;

gift disclosure threshold means \$500 or a higher amount or value prescribed by the regulations;

Whilst there is a legislated gift disclosure threshold applicable to Councillors during election campaigns, the City of Ballarat Councillors, in accordance with this policy, will disclose all gifts with a perceived value greater than \$50.00.

Section

77A *Direct and indirect interests*

- (3) *A relevant person has an indirect interest in a matter if the relevant person has—*
 - (d) *received an applicable gift as specified in section 78C;*

78C *Indirect interest because of receipt of an applicable gift*

- (1) *In this section, **applicable gift** means one or more gifts with a total value of, or more than, the gift disclosure threshold, received from a person or persons specified in subsection (2) in the 5 years preceding the decision or the exercise of the power, duty or function but does not include—*
 - (a) *reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or*
 - (b) *a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.*
- (2) *A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from—*
 - (a) *a person who has a direct interest in the matter; or*
 - (b) *a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or*
 - (c) *a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.*
- (3) *For the purposes of determining when a person became a Councillor or member of a special committee under subsection (1)(b), if the person is re-elected or reappointed as a Councillor or a member of a special committee, on completion of his or her term of office, the previous term of office served by that person as a Councillor or member of a special committee must be counted as continuous service with any service completed by the person after the person's re-election or reappointment.*

81 *Register of interests*

- (6) *A Councillor, a member of a special committee or a nominated officer must disclose the following information in the primary return as at the date of the primary return—*
- (7) *A Councillor, a member of a special committee or a nominated officer must disclose in an ordinary return the following information in relation to the return period—*

- (e) *particulars of any gift of or above the amount or value of the gift disclosure threshold received by him or her, either directly or indirectly, other than a gift received—*
- (i) *from a person who is a relative of him or her; or*
 - (ii) *as hospitality at an event or function he or she attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee;*

95 Conduct principles

- (1) *Council staff must in the course of their employment:*
- (a) *Act impartially;*
 - (b) *Act with integrity including any real or apparent conflicts of interest;*
 - (c) *Accepting accountability for results*
 - (d) *Provide responsive service*

188 Power to accept gifts

- A Council's powers in relation to property include the power—*
- (a) *to accept any devise of real property or any donation, gift or bequest; and*
 - (b) *to agree to carry out any lawful condition to the devise, donation, gift or bequest.*

7 PROCEDURE AND GUIDANCE NOTES

7.1 GIFTS AND BENEFITS

Non-official gifts should not be accepted where possible.

Individuals should not solicit, demand or request gifts, including business card raffles at events or receive any personal benefit by virtue of their position which could prejudicially influence, or be perceived to influence a person in the performance of his or her public or professional duties. To avoid a conflict of interest, acceptance of any gifts, benefits or hospitality in these situations must be declined.

If the organisation will not pay for Council staff attendance at an event or a function, the staff member can attend provided they personally pay the full value of the offer and approval is received from their Director.

If Councillors and staff attend functions or events personally paid for by them – it should be clearly stated that they are there as an individual and not as a Council representative. No identification badge or uniform should be worn that indicates the person is a Councillor or Council employee.

Councillors and staff are to ensure that attendance at private functions does not have potential implications for Council's reputation or image or may cause a conflict of interest.

In all cases, Councillors and Council staff must record the details of gifts and benefits over \$50 in the Gift Register maintained by the Statutory Compliance Unit.

7.2 TOKEN GIFTS

Such gifts of token value may be accepted by Councillors and Council Officers provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for Councillors and Council Officers in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- Such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- Acceptance would not cause any potential, perceived or actual compromise or conflict of interest;
- The gift does not have a significant monetary value (as a guide, less than \$50);
- The gift is not offered on a regular basis.

7.3 OFFICIAL GIFTS

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

All official gifts received are to be reported to the Mayor (Councillors) and/or the Chief Executive Officer (Councillors or Council staff) 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.

7.4 GIFTS OF APPRECIATION

Individuals must not seek a gift or benefit in appreciation of services rendered. 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. 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.

7.5 MONETARY GIFTS

The offer of monetary gifts (of any amount) must never be accepted.

7.6 OWNERSHIP

All gifts and benefits over the nominal value 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.

7.7 DISPOSAL OF GIFTS

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

- Disposal by resolution of Council;
- Sale of item in accordance with Asset Disposal policy
- 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.

7.8 HOSPITALITY

Councillors and Council Officers, in an official capacity, will from time to time receive invitations of hospitality to attend various functions and events.

Where hospitality provides an opportunity to network, or undertake business of a common purpose, it may be appropriate to accept such invitations.

Reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor or a member of Council staff is not considered as a conflict of interest under the *Local Government Act 1989*. This does not negate the need for that hospitality to be placed in Council's Gift Register if over the nominal value.

Official capacity is that the Mayor or Councillor receives the invitation in the name of Mayor... or Cr..... and the invitation is received by the Council Office or via the Councillors official e-mail.

In some circumstances a Councillor or Council Officer may attend the event if Council either fully reimburses the hosting organisation for the full cost of the hospitality or if the Councillor or Council Officer personally pays for their own attendance.

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

7.9 SPONSORSHIP GIFTS

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

7.10 GENERAL

If Councillors and Council employees refuse a gift on the basis that they believe the gift was a deliberate attempt to receive “preferential treatment”, the Chief Executive Officer or relevant Director must be advised immediately.

7.11 NOT APPLICABLE

This policy does not cover gifts received by Councillors during a donation period of an election campaign. Reference - *Local Government Act 1989 (as amended) Division 9 – Election Campaign Donation.*

7.12 APPROVAL AND PROCESSING

The following process must be followed for all gifts and hospitality.

7.12.1 OFFICER PROCESS

Value	Process – Roles and Responsibilities
\$50 - \$100	<p>Staff member</p> <ul style="list-style-type: none"> • Completes form through the online Gift Register App • Formally acknowledges the donor. <p>Manager</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
\$101 - \$499	<p>Staff member</p> <ul style="list-style-type: none"> • Completes form through the online Gift Register App • Formally acknowledges the donor. <p>Director</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

\$500 or more	<p>Staff member</p> <ul style="list-style-type: none"> • Completes form through the online Gift Register App • Formally acknowledges donor. <p>CEO</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
---------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

7.12.2 COUNCILLOR PROCESS

Value	Process – Roles and Responsibilities
\$50+ or Official Gift	<p>Councillor</p> <ul style="list-style-type: none"> • Completes the form through the online Gift Register App. <p>Coordinator Civic Support</p> <ul style="list-style-type: none"> • Formally acknowledges the donor on behalf of Councillor <p>CEO</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

8 COMPLIANCE RESPONSIBILITIES

The Statutory Compliance Unit will report on the Gift Register annually and provide a report to the Executive Leadership Team outlining gifts received for the year, highlighting any anomalies. A review of the Gift Register will be included in the Internal Audit Program.

9 CHARTER OF HUMAN RIGHTS COMPLIANCE

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*

10 REFERENCES AND RELATED POLICIES

Acts	<i>Local Government Act 1989.</i>
Regulations	Local Government Regulations (2004)
Codes of Practice	Councillor Code of Conduct Employee Code of Conduct