


DOCUMENT TYPE:	Council policy
DOCUMENT STATUS:	Approved
POLICY OWNER POSITION:	Manager Executive and Commercial Services
INTERNAL COMMITTEE ENDORSEMENT:	Not applicable
APPROVED BY:	Council
DATE ADOPTED:	23/03/2021
VERSION NUMBER:	1
REVIEW DATE:	23/03/2025
DATE RESCINDED:	
RELATED STRATEGIC DOCUMENTS, POLICIES OR PROCEDURES:	Gift register Gift procedure Staff, volunteer and contractor Code of Conduct Councillor Code of Conduct Anti-fraud and corruption policy DELWP model policy on Gifts, benefits and hospitality - responding to gift offers
RELATED LEGISLATION:	Local Government Act 2020
EVIDENCE OF APPROVAL:	 _____ Signed by Chief Executive Officer
FILE LOCATION:	K:\EXECUTIVE\Strategies policies and procedures\Policies - adopted PDF and Word\POL Councillor Gift Policy v1.docx

**Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version. Please consult the policies on the Loddon Shire website (Council Policies) or Intranet (Organisational Policies) to ensure that the version you are using is up to date.**

**This document is available in alternative formats (e.g. larger font) if requested.**

## 1 PURPOSE

The purpose of this policy is to provide guidance to Councillors relating to the acceptance or otherwise of a gift or other benefit such as hospitality and professional development opportunities offered to them.

This policy is intended to:

- support Councillors and Loddon Shire Council in avoiding conflicts of interest and maintaining high levels of integrity and building public trust
- comply with section 138 of the Local Government Act 2020 (the Act).

## 2 SCOPE

This policy applies to Councillors.

## 3 POLICY

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

- **Obligations:** Councillors have a requirement to obey the provisions of the Act and to meet minimum accountabilities.
- **Impartiality:** Councillors have a duty to place the public interest above their private interests when carrying out their official functions and will not accept any offer of a gift, benefit or hospitality that may jeopardise this trust.

Councillors will not accept gifts, benefits or hospitality that could be perceived to influence decision making or service delivery.

Councillors must not accept offers from those whom are currently awarded or likely to apply for quotes, tenders and contracts.

- **Accountability:** Councillors are accountable for:
  - appropriately responding to the offer and provision of gifts, benefits and hospitality
  - declaring all non-token offers of gifts, benefits and hospitality
  - declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer
  - the responsible provision of gifts, benefits and hospitality, and
  - modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.
- **Integrity:** Councillors strive to earn and sustain public trust through responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations.

Councillors will refuse any offer that may lead to an actual, perceived or potential conflict of interest. The acceptance of gifts, benefits and hospitality may be considered to influence, reflect bias or preferential treatment to the giver.

- **Risk-based approach:** Council, through its policies, processes and Audit and Risk Management Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed.

## 4 MANAGEMENT OF OFFERS OF 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 Director Corporate Services.

### 4.1 Gift Register

A Gift Register will be maintained to keep a register of gifts, benefits or hospitality offered to Councillors. The Gift Register will be updated within 28 days of a Councillor being offered a gift, benefit or hospitality.

The public Gift Register will be published on the Loddon Shire Council website quarterly by 31 March, 30 June, 30 September and 31 December each year.

An internal Gift Register will contain more detail than the public Gift Register. Access to the internal Gift Register is restricted to relevant persons within Council.

The following information will be captured on the internal Gift Register:

- Offered to
- Date offered
- Date received
- Offered by (giver's name, organisation)
- Nature of gift item / benefit / hospitality
- Occasion
- Estimated value
- Circumstances of offer
- Was the gift retained by the recipient?
- Date recorded

The internal and public Gift Registers will be maintained by the Executive and Commercial Services.

### 4.2 Conflict of interest and reputational risks

When deciding whether to accept an offer, Councillors should first consider if the offer could be perceived as influencing them in the performance of their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest exists or reputational damage will occur. The GIFT test provides guidance on the assessment of offers.

## 4.2.1 GIFT test

<b>G</b>	Giver	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?
<b>I</b>	Influence	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 or my endorsement of a product or service?
<b>F</b>	Favour	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?
<b>T</b>	Trust	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?

## 4.3 Requirement for refusing offers

Councillors should consider the GIFT test and the requirements below to help decide whether to refuse an offer. Councillors should refuse offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest
- that could bring them or Council into disrepute
- made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:
  - made by a current or prospective supplier
  - made during a procurement or tender process by a person or organisation involved in the process
  - likely to be a bribe or inducement to make a decision or act in a particular way
  - that extend to their relatives or friends
  - of money, or used in a similar way to money, or something easily converted to money
  - where, in relation to hospitality and events, 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 would unfairly advantage the sponsor in future procurement decisions
  - made by a person or organisation with a primary purpose to lobby Council
  - made in secret.

If a Councillor considers they have been offered a bribe or inducement, the offer must be reported to the Chief Executive Officer or Director Corporate Services (who should report any criminal or corrupt conduct to the Independent Broad-based Anti-corruption Commission or Victoria Police).

#### **4.4 Token offers**

A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting. A token offer cannot be worth more than \$50.

All token offers should be declared on Council's Gift Register.

#### **4.5 Non-token offers**

Councillors can only accept non-token offers if they have a legitimate business benefit. All accepted non-token offers must be approved in writing by the Chief Executive Officer, recorded in the Gift Register and be consistent with the following requirements:

- it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual or Council into disrepute, and
- there is a legitimate business reason for acceptance. 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.

Councillors may be offered a gift or hospitality where there is no opportunity to seek written approval from the CEO prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the Councillor must seek approval from the CEO within five business days.

Where the gift would likely bring the Councillor or Council into disrepute, Council should return the gift. If it represents a conflict of interest for the Councillor, Council should either return the gift or transfer ownership to Council to mitigate this risk.

#### **4.6 Repeat offers**

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Councillors should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

#### **4.7 Ceremonial gifts**

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of Council. The receipt of ceremonial gifts should be recorded on Council's Gift Register but this information does not need to be published online.

#### **4.8 Anonymous gifts**

It is an offence for a councillor to receive an anonymous gift that has a value of or more than the gift disclosure threshold. The gift disclosure threshold is defined to be \$500 or a higher amount or value prescribed in regulations. A breach of these provisions could result in a maximum penalty of 60 penalty units and a requirement to pay the Council an amount equal to the value of the gift. A

Councillor is not in breach of this clause if the anonymous gift is disposed of to the Council within 30 days.

In accordance with section 137 of the Local Government Act 2020, anonymous gifts must not be accepted, unless:

- the name and address of the person making the gift is known to the Councillor or
- at the time when the gift is made:
  - the councillor is given the name and address of the person making the gift and
  - the councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.

#### **4.9 Recording non-token offers of gifts, benefits and hospitality**

All non-token offers, whether accepted or declined, must be recorded in Council's Gift Register. The business reason for accepting the non-token offer must be recorded in the register within 14 days and include sufficient detail to link the acceptance to the individual's work functions and benefit to Council or the municipality.

Councillors should consider the following examples of acceptable and unacceptable levels of detail to be included in Council's register when recording the business reason:

##### **Unacceptable**

- "Networking"
- "Maintaining stakeholder relationships"

##### **Acceptable**

- "Councillor is the designated representative on the Disability Advisory Committee and receives an invitation to Event A. Councillor attended Event A in an official capacity and reported back to Council on the event."
- "Councillor presented to a visiting international delegation. The delegation presented the Councillor with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The gift was accepted on behalf of Council."

#### **4.10 Ownership of gifts offered to councillors**

Non-token gifts with a legitimate business benefit that have been accepted by an individual for their work or contribution may be retained by the individual where the gift is not likely to bring them or Council into disrepute, and where the CEO has provided written approval. Councillors must transfer to Council official gifts or any gift of cultural significance or significant value.

#### **4.11 Monitoring and reporting**

Council's Audit and Risk Management Committee will receive a report at least annually on the administration and quality control of the Councillor Gift Policy, processes and register. The report will include analysis of Council's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

#### **4.12 Summary**

In summary, record all offers, whether accepted or rejected, in the Gift Register. Ownership of accepted token offers will generally be retained by the Councillor. Ownership of accepted non-token offers will generally be transferred to Council.

## 5 DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Term	Definition
Gift (section 3 of the Act)	<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> <ul style="list-style-type: none"> <li>(a) the provision of a service (other than volunteer labour); and</li> <li>(b) the payment of an amount in respect of a guarantee; and</li> <li>(c) the making of a payment or contribution at a fundraising function.</li> </ul> <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>
Gifts explanation to support definition	<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"> <li>• A bottle of wine or spirits</li> <li>• Tickets to sporting events</li> <li>• Gift voucher</li> <li>• Corporate hospitality at a corporate facility</li> <li>• Discounted products for personal use</li> <li>• Use of a holiday home</li> <li>• Free or discounted travel</li> <li>• Free training excursions</li> <li>• Door prize or voucher if an individual has not personally paid to attend.</li> </ul>
Gift disclosure threshold (section 3 of the Act)	<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"> <li>• the relevant person was a councillor, member of council staff or member of a delegated committee at the time the gift was received, or</li> <li>• the gift was an election campaign donation.</li> </ul> <p>If multiple gifts are received from a person, they must be treated as a single gift with an aggregate value.</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>



Term	Definition
Item or service	<p>For example:</p> <ul style="list-style-type: none"> <li>• Christmas hamper</li> <li>• Desk calendar</li> <li>• Box of chocolates</li> <li>• Bottle of wine</li> <li>• Commemorative object</li> <li>• Door prize at a function</li> <li>• Tree lopping</li> <li>• House painting</li> </ul>
Benefit	<p>Examples include:</p> <ul style="list-style-type: none"> <li>• Preferential treatment</li> <li>• privileged access</li> <li>• favours or other advantage offered to an individual.</li> </ul> <p>This may include:</p> <ul style="list-style-type: none"> <li>• invitations to sporting, cultural or social events</li> <li>• access to discounts and loyalty programs, and</li> <li>• promises of a new job.</li> </ul> <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>
Hospitality	<p>Hospitality is considered a gift unless the hospitality was reasonable and you were attending the function or event in an official Council capacity:</p> <ul style="list-style-type: none"> <li>• Reasonableness test: the hospitality must be of a standard and type that an independent observer would consider appropriate and not excessive.</li> <li>• Official capacity test: it must clearly be your duty as a Councillor to attend the relevant function or event.</li> </ul> <p>Hospitality that exceeds common courtesy includes:</p> <ul style="list-style-type: none"> <li>• A 'fine dining and wines' working lunch at another organisation's premises</li> <li>• An offer to pay for a working lunch at a café</li> <li>• An offer of a free spot on an industry golf day</li> </ul> <p>Hospitality that does not exceed common courtesy and is therefore not a gift includes:</p> <ul style="list-style-type: none"> <li>• Sandwiches and pastries over a lunchtime meeting</li> <li>• A cup of coffee at another organisations premises</li> <li>• A cup of coffee at a café (unless there is a conflict of interest)</li> </ul>
Ceremonial gift	<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.</p> <p>Ceremonial gifts are the property of Loddon Shire Council, irrespective of value. The receipt of ceremonial gifts should be recorded on the register but does not need to be published online.</p>



Term	Definition
Gestures that are not considered gifts	<p>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.</p> <p>Small gestures of appreciation from the community or customers such as cut flowers from their garden or homemade baked goods.</p> <p>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.</p>
Internal gifts	Gifts received by Councillors from Loddon Shire Council are not covered by this policy and do not need to be declared, for example, recognition gifts after the end of the Mayor term or Councillor term.
Bribe	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.
Conflict of interest	<p>The Local Government Act 2020 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"> <li>• Real – it currently exists</li> <li>• Potential – it may arise, given the circumstances</li> <li>• 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.</li> </ul>
Contractor	A person or company supplying goods, services or works to the Council.
Value	Value means the face value or estimated retail value.
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 not legitimate business reasons:</p> <ul style="list-style-type: none"> <li>• it would have been impolite to refuse</li> <li>• refusal would offend (except in compelling circumstances that are in the public interest, for example accepting a gift onstage at an official ceremony)</li> <li>• networking</li> <li>• maintaining stakeholder relationships</li> </ul>
Business associate	An external individual or entity which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

Term	Definition
Token offer	<p>The offer of a gift benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the individual.</p> <p>Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50 (including cumulative offers from the same source over a 12-month period).</p>
Non token offer	<p>The offer of 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 value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register.</p>
Gift Register	<p>A record, preferably electronic, of all declarable gifts, benefits and hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.</p>

## 6 HUMAN RIGHTS STATEMENT

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act. Loddon Shire Council is committed to consultation and cooperation between management and employees. The Council will formally involve elected employee Health and Safety Representatives in any workplace change that may affect the health and safety of any of its employees.

## 7 REVIEW

The Manager Executive and Commercial Services will review this policy for any necessary amendments no later than 4 years after adoption of this current version.

## 8 ATTACHMENTS

Gift disclosure form  
Example internal gift register



# COUNCILLOR GIFT POLICY



## COUNCILLOR GIFT DECLARATION FORM

### Details

Name of Councillor \_\_\_\_\_

Date gift offered \_\_\_\_\_

Date gift received \_\_\_\_\_

Name of individual, company or organisation offering the gift \_\_\_\_\_

Nature of gift: (please provide a brief description) \_\_\_\_\_

Occasion (if applicable) \_\_\_\_\_

Estimated value of gift \$ \_\_\_\_\_

Circumstances of offer \_\_\_\_\_

Action taken: (e.g. accepted as reasonable hospitality, accepted and provided to the Office of CEO/Mayor) \_\_\_\_\_

Councillor	Mayor	CEO
Signed: _____ Date: _____	I have noted the declaration. Signed: _____ Date: _____	I have noted the declaration. Signed: _____ Date: _____

Office Use    Receipt Number: \_\_\_\_\_    Date recorded: \_\_\_\_\_

### Privacy statement

Personal information collected by Council is held securely and used in accordance with the Privacy and Data Protection Act 2014. Council may disclose this information to other organisations if required or permitted by legislation. Should you wish to access or modify this information, please contact Council on (03) 5494 1200 or email [loddon@loddon.vic.gov.au](mailto:loddon@loddon.vic.gov.au)

Loddon Shire Council  
41 High Street, Wedderburn, Victoria  
PO Box 21, Wedderburn, Vic 3518  
Telephone: (03) 5494 1200 Facsimile: (03) 5494 3003  
Email: [loddon@loddon.vic.gov.au](mailto:loddon@loddon.vic.gov.au)  
Web: [www.loddon.vic.gov.au](http://www.loddon.vic.gov.au)

## EXAMPLE INTERNAL GIFT REGISTER

Councillor, Staff, Volunteer, Contractor	Offered to (insert name)	Date offered	Date received	Offered by (insert name)	Nature of gift	Occasion	Estimated value	Token or Non-token	Circumstances	Action taken	Was the gift retained by the recipient?	CEO Approval	CEO Approval date
example 1 Councillor	Cr Smith	18/12/2020	31/12/2020	Boral Industries	Two tickets to gain entry to New Years Eve event sponsored by Boral	New Years Eve event sponsored by Boral	\$ 40.00	Token	Councillor Smith is the designated member of the New Years Eve working group run by Council and was invited to open the event as Mayor and needed a ticket to gain entry	Gift was accepted as a token offer in accordance with clause 4.4 of the policy	Yes	No	not required
example 2 Councillor	Cr Smith	18/12/2020	31/12/2020	Boral Industries	Two tickets to gain entry to New Years Eve event sponsored by Boral	New Years Eve event sponsored by Boral	\$ 60.00	Non-token	Councillor Smith is the designated member of the New Years Eve working group run by Council and was invited to open the event as Mayor and needed a ticket to gain entry	Gift was accepted as a non-token offer with a legitimate business benefit in accordance with clause 4.5 of the policy	Yes	Yes	18/12/2020
example 3 Councillor	Cr Smith	18/12/2020	31/12/2020	Boral Industries	One ticket to gain entry to New Years Eve event sponsored by Boral	New Years Eve event sponsored by Boral	\$ 600.00	Non-token	Councillor Smith is the designated member of the New Years Eve working group run by Council and was invited to open the event as Mayor and needed a ticket to gain entry	Gift was accepted as a non-token offer with a legitimate business benefit in accordance with clause 4.5 of the policy	Yes	Yes	18/12/2020
example 4 Councillor	Cr Smith	18/12/2020	31/12/2020	Boral Industries	One ticket to gain entry to New Years Eve event sponsored by Boral	New Years Eve event sponsored by Boral	\$ 600.00	Non-token	Councillor Smith is the designated member of the New Years Eve working group run by Council and was invited to open the event as Mayor and needed a ticket to gain entry	Gift was declined due to raising an actual, potential or perceived conflict of interest with annual roadworks program tender in accordance with clause 4.5 of the policy	No	Yes	18/12/2020