

# Councillor Gift Policy

Adoption date: 26 April 2021

Responsible Service Area: Finance and Governance

## Purpose

The purpose of this Policy is to establish compulsory standards, established pursuant to Part 6, Division 4 of the *Local Government Act 2020 Act (the Act)*, for the receipt and disposal of gifts and gratuities and to define parameters by which gifts and gratuities must be declined specifically in relation to Councillors.

## Background / Context

Section 138 of the Act provides a framework for the matter of gifts and benefits. A great deal of focus has been placed upon the Local Government sector regarding gifts and benefits and the conflict of interests that may potentially be created.

## Scope

This Policy applies to Councillors as defined in the Act.

## Objectives

The Objectives of this Policy are to build and maintain public confidence and trust in Councillors by ensuring decision making is transparent and impartial.

## Policy Principles

### Gifts Procedure

- Under Part 6, Division 4 of the *Act* section 137, it specifies the circumstances under which a gift may or may not be accepted.

Below tables provide a decision guide and course of action:

Table 1: Token gifts of a value equal to or less than \$50

If Decision Is	Course of Action
Decline	Gift is refused, no further action required.
Accept	Gift does not need to be declared to the Chief Executive Officer or recorded on the Gifts Register.

## Policy Control Schedule

Policy Title: <i>Council Gift Policy</i>		Policy type: <i>Councillor</i>
Current version approved: <i>26 April 2021</i>	Current version number: 1	Policy review date: <i>April 2024</i>
Parent policy: <i>N/a</i>	Child policy/policies: <i>N/a</i>	Policy responsibility: <i>Corporate Services, Finance and Governance</i>

Table 2: Gifts of a value greater than \$50

If Decision Is	Course of Action
Decline	Gift is refused, no further action required.
Accept	Gift must be declared to the Chief Executive Officer and recorded on the Gifts Register. Council has adopted the requirements of section 137 of the <i>Act</i> for gifts of a value greater than \$50.

For further information, refer to Appendix 3.

2. Section 137 of the Act stipulates that:

- i) A gift to the value of \$500 or more cannot be accepted, unless:
  - a. The name and address of the person (or organisation) making the gift are known to the Councillor; or
  - b. At the time the gift is made, the Councillor is provided with the name and address of the person making the gift and that the Councillor reasonably believes that the details provided are true and correct.
  - c. The Councillor receiving the gift is also to make the person making the gift aware that their details will be included in Council's Gift Register.

If the name and address details are not known, a Councillor will not be in breach of section 137 (1) if the Councillor disposes of the gift within 30 days of the gift being received.

- ii) However, as per table 2 of this Policy, Maroondah City Council has adopted the requirements of section 137 for all gifts to a value greater than \$50 or cumulative gifts received from the same person/organisation over the designated six-month period.

3. Where there is actual or a perceived conflict of interest, Councillors must always refuse a gift, regardless of value (as per the Councillor Code of Conduct).
4. Councillors must ensure that gifts are recorded on the designated Gifts Register within 10 working days of having received the gift.
5. Councillors must note that *any gift or benefit accepted may imply a relationship that could interfere with objectivity and independence (as per Councillor Code of Conduct)*.
6. Councillors may consider whether or not to refuse a gift where it is likely to cause embarrassment or offence (i.e. cultural perspective), however, point five above always takes precedent.

## Relationship to the Maroondah 2040 Community Vision

List the Maroondah 2040 Community Vision key outcome area that the policy is related to and any key directions that it seeks to address or respond to.

Community Outcome: | Act compliance.  
Key Directions: | section 138

## Alignment with Council's mission and values

This Policy supports and aligns with the principals contained within the Councillor Code of Conduct.

## Policy position

Councillors must at all times be mindful of their obligations to maintain and enhance public confidence in the integrity of Council. This means that duties must be performed impartially and with integrity. It is not appropriate for Councillors to be offered and to accept gifts and benefits that affect, are likely to affect or could reasonably be perceived to affect, the performance of their official duties.

Councillors must not seek or encourage the giving of any form of gift or benefit in connection with the performance of official duties.

## Policy implementation

This policy requires community consultation followed by Council endorsement.

## Roles and Responsibilities

Role	Responsibility
Manager Finance & Governance and Coordinator Risk, Information and Integrity	Draft and undertake process for Council adoption
Manager Communications and Engagement	Publishing for Community Consultation

## Related legislation, policies, strategies, procedures and guidelines

Local Government Act 2020 (and regulations).

Councillor Code of Conduct.

## Definitions

As per section 3 of the Act, the definition of a "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.

A "Token Gift" means a gift or benefit that is inconsequential or trivial in value (less than or equal to \$50) to both the person making the offer and the individual accepting it. It may include promotional items such as pens and note pads that would be considered a basic courtesy.

As per Local Government (Governance and Integrity) Regulations 2020 section 9, subsection 4, the definition of a gift does not apply in respect of the following;

- (a) gifts received by a specified person from a family member;
- (b) gifts disclosed in an election campaign donation return made under section 306 of the Act
- (c) any reasonable hospitality received by the specified person at an event or function that the person attended in an official capacity as a Councillor, Chief Executive Officer, member of Council staff or member of a delegated committee.

"Gift disclosure threshold" is \$500 or a higher amount and includes multiple gifts that together equal or exceed that amount, which was received at anytime since the Councillor lodged the preceding initial or biannual personal interest return.as prescribed in section 9 (k) the *Local Government (Governance and Integrity Regulations 2020* or threshold fixed by the Secretary whichever is greater).

## Appendices

### APPENDIX 1 - COUNCILLOR GIFTS REGISTER 2021

Date Offered	Offered to - Name	Offered by (entity and individual name)	Reason Offered	Description of Gift	Estimated Value	If Gift meets Council's threshold, provide the address of the person/entity making the gift
20 June 2021	Cr John Citizen	Service Club (name) - Mr. Smith	Oversaw election of office bearers at AGM	Plant – Large Azalea and decorative pot	\$55	NA
20 July 2021	Cr Josephine Citizen - Mayor	Art Club - Ms Smith	Formal opening of Art Show	Artwork	\$500	1 Smith Street, Melbourne

## APPENDIX 2 - WORKED EXAMPLES

- A. A Councillor is approached by a constituent who runs a local business in Maroondah. The constituent is known for his generosity and offers the Councillor an 'all expenses paid' return business class holiday to Queensland in recognition of the great work Council has been doing over the past 12 months. It is estimated that the holiday is valued at \$5500. The Councillor declines the offer.

**Action Required:** no further action.

- B. A Councillor is presented with a hand-woven silk and gold thread head scarf following a citizenship ceremony. The donor of the scarf told the Councillor that the scarf is culturally significant, and refusal of the gift would cause great offence. The Councillor accepted the gift on behalf of Council, and notified the Chief Executive Officer who recorded the gift on the Councillor Gift Register. The scarf was placed in a glass display cabinet in Council's office foyer.

**Action Required:** Councillor to estimate value of scarf, notify Chief Executive Officer and record details on Councillor Gifts Register.

- C. A Councillor attends a function for the local football club. The Councillor is given a raffle ticket which is valued at \$5. The Councillor wins first prize which is an overnight stay in a luxury city hotel. The value of the prize is \$650.

**Action Required:** If the Councillor accepts the gift, the Councillor consults the CEO to advise of the win, Councillor records Gift and Football Clubs details, as well as key person providing the gift on Councillor Gifts Register. If the Councillor declines the gift, no further action is required.

However, if the ticket was purchased by the Councillor in their private capacity and they won the prize, no further action would be required. Refer to flow chart at Appendix 3 to assist with decision making.

- D. A Councillor is invited to deliver a speech for a local Community group and to take the Chair while elections are being held at the Annual General Meeting. On stage, at the close of the meeting the President of the Community group presents the Councillor, and others involved in running of the meeting with a box of chocolates / bottle of wine / potted plant etc. as a thank you for their assistance in running the meeting.

**Action Required:** No further action required if the token gift is valued under \$50.

## APPENDIX 3 - DECISION FLOW CHART

