



**CORANGAMITE
SHIRE**

Councillor Gift Policy

Corangamite Shire

January 2021



Council Policy

Councillor Gift Policy

Introduction

Corangamite Shire is committed to the principles of public transparency, maintaining good governance, and ensuring the ethical behaviour of Councillors.

Purpose

This policy has been developed to ensure transparency and the principles of good governance and accountability are practised by Councillors when being offered gifts, benefits and hospitality in the course of their duties. The policy also ensures compliance with section 138 of the *Local Government Act 2020*.

Scope

This policy applies to all Corangamite Shire Councillors.

Definitions

In this policy:

Council means Corangamite Shire Council

Councillor means an elected official of the Council

Act means the *Local Government Act 2020*

Benefit means something which is believed to be of value to the receiver. For example, access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services or vacation trips

Disclosable Gift has the same meaning as in the *Local Government Act 2020*, that is one or more gifts with a total value of \$500 or more received within the preceding five (5) years

Gift has the same meaning as in the *Local Government Act 2020*, that is “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:

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

A gift may include (but is not limited to) an item, goods, services, travel, hospitality, entertainment or other token of appreciation

Gift Disclosure Threshold has the same meaning as in the *Local Government Act 2020*, that is \$500 (or threshold amount fixed by the Secretary under the regulations) or a higher amount or value prescribed by the regulations

Hospitality means a meal or service which is offered and is not viewed as being connected to an event or function attended in an official capacity as a Councillor, part of Council business or part of the accepted meal at a conference or seminar

Monetary Gifts means cash, cheques, money orders, traveller's cheques, direct deposits, vouchers, gift certificates or items which can easily be converted to cash

Regulations means the *Local Government (Governance and Integrity) Regulations 2020*

Token Gift means a gift that is nearly insignificant in value. These gifts include (but is not limited to) homegrown flowers or food such as homemade cakes or homegrown produce

Value means face value or estimated retail value.

References

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

Charter of Human Rights and Responsibilities Act 2006 (Vic).

Policy Detail

Responsibilities of Councillors

To ensure good governance and transparency relating to gifts, Councillors are required to:

- Abide by the Councillor Code of Conduct and the legislated Standards of Conduct.
- Be ethical, fair and honest in the conduct of their official duties.
- Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions relating to gifts are beyond reproach and can withstand audit and risk processes and proper scrutiny.
- Be aware that anonymous gifts are not to be accepted, as per section 137 of the *Local Government Act 2020*.
- Not seek, solicit, or use their position with Council to obtain gifts or benefits from external organisations or individuals.
- Ensure that a person, company or organisation is not placed in a position in which they feel obliged to offer gifts or hospitality in order to secure or retain Council business.
- Avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.
- Take all reasonable steps to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.
- Report any incidences where a bribe and/or monetary gift is offered.
- Complete a gift declaration form for any gifts offered, whether or not they have been accepted.

Conflicts of Interest and Disclosable Gifts

Under the Act, a Councillor is considered to have a material conflict of interest in a matter when a person that has gifted the Councillor a disclosable gift, gains a benefit or suffers a loss depending on the outcome of the matter.

For the purposes of completing an initial or biannual personal interest return, where disclosable gifts are declared as an item of 'other interest', excluded gifts include any reasonable hospitality received by the Councillor at an event or function that the Councillor attend in an official capacity as a Councillor. In relation to gifts declared on campaign donation returns following a Council election, these gifts are also excluding from personal interest returns, however a material conflict of interest would still exist.

Gifts During Council Election Campaigns

The Act governs gifts received by candidates standing for election as part of their election campaign. Councillors standing for re-election must be aware of their obligations, including certain gifts not to be accepted in accordance with section 309 of the Act.

Gifts and Declaration Procedures

Councillors must never accept gifts from anonymous sources or monetary gifts. Any offer of a monetary gift must be declined and reported to the CEO. A gift declaration form must also be completed, noting the gift had been offered and declined.

Councillors must not accept gifts in their roles as Councillors or where it could be perceived to influence their role as a Councillor except:

- Where the gift would generally be regarded as a token gift of nearly insignificant value that could not be perceived to influence actions. A gift declaration form is completed for token gifts only when the value exceeds \$10.
- Where refusal may cause offence or embarrassment. In which case the gift can be accepted and a gift declaration form completed.

The CEO will determine if the gift may be kept by the Councillor or if it should become the property of the Council.

When completing gift declaration forms for token gifts in excess of \$10 in value, and all other gifts offered (both accepted and declined), Councillors must disclose:

- The name of the person or who offered the gift.
- If the gift was offered on behalf of another person or organisation and the name of that person or organisation.
- Address or suburb of the individual or organisation offering the gift.
- A description of the gift.
- The monetary value of the gift, or an estimate if the value is unknown.
- If the gift was declined or accepted.
- The reason given for offering the gift.
- Any legitimate business reason for accepting the gift.
- Whether the gift is ceremonial in nature.
- Any actual, potential or perceived conflicts of interest or reputational risks (to the individual or Council) that the offer raises.
- Any other details required by the CEO.

Gift declaration forms must be signed and submitted to the Governance office. The CEO will review and sign all gift declaration forms by Councillors prior to the details being added to the Gift Register.

Gift Register Procedures

All gift declarations, including declarations of declined gifts, will be recorded on Council's Gift Register.

The register records sufficient information to identify trends and key risks and forms the basis of risk-based monitoring. Council will maintain the Gift Register for Councillors and staff and it will include the following information:

- Name of person who accepted / declined the gift.
- Date the gift was accepted / declined.
- Name of the person or organisation offering the gift.
- Address or suburb of the individual or organisation offering the gift.
- Description of the gift.
- The estimated value of the gift.
- If the gift was accepted or declined.
- Whether the gift entered the property of Council.
- The record number of the completed gift declaration form.
- Any relevant notes.

Privacy

Council will consider its requirements under relevant privacy legislation, including the Information Privacy Principles under the *Privacy and Data Protection Act 2014*, when recording items in the Gift Register and when publishing the summaries of personal interest returns containing disclosable gifts on Council’s website. Reasonable steps will be taken to protect the personal information collected and held by Council.

Access to completed gift declaration forms will be restricted to relevant persons within Council. Access to the Gift Register will be available to members of the public following a request to the Chief Executive Officer.

References to Related Council Policies, Procedures or Guidelines

Councillor Code of Conduct

Governance Rules, incorporating the Election Period Policy.

Review Date

This policy must be reviewed a minimum of every four years or in-line with legislative changes.

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