



# Council Policy

## Gift, Benefits and Hospitality Policy

Department/Unit	Governance & Risk	First Implemented	2015	Review Date	<del>March 2029</del>
Origin	Coordinator <del>Communications,</del> Governance & Risk	Reviewed	<del>November 2025</del>	Version	<del>4</del>
Authorising Officer	Endorsement by Council	Effective From	<del>18 March 2025</del>	TRIM Reference	E1533

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### Purpose/Objective

The Local Government Act 2020 (the Act) requires that councils adopt a Councillor Gift Policy. The policy must include procedures for the maintenance of a gift register and any matters prescribed in the Local Government (Governance and Integrity) Regulations 2020 (the Regulations).

This policy outlines Mansfield Shire Council's (Council's) position on Councillors, members of Delegated Committees and Council Officers responding to offers of gifts, benefits and hospitality from a person or organisation.

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It aims to:

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► comply with the Act;

► protect individuals from unknowingly having a conflict of interest;

► ensure that all gifts are appropriately recorded and disclosed; and

► ensure Councillors, members of Delegated Committees, staff and contractors follow sound and transparent business practices that can withstand any public scrutiny around the acceptance of gifts and hospitality.

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As a guiding principle, Councillors, members of Delegated Committees or staff should not accept gifts. A gift or hospitality can be perceived as intended to, or likely to, influence a person in the fair, impartial and efficient discharge of their duties as a Councillor or staff member.

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### Policy Statement

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

A reference to a Council representative in this policy is to be read as a reference to a Councillor, member of a Delegated Committee or Council employee.

Council acknowledges that as part of business or cultural practices, at times Council representatives will be presented a gift in appreciation. While Council is appreciative of such acts of generosity it is Council policy that typically gifts should not be accepted and be politely refused.

This policy confirms that all gifts and hospitality (as defined in this policy), whether accepted or declined, should be recorded in Council's Gift Register.

### Gifts must never be sought

Council representatives should not solicit, demand or request gifts or any personal benefit by virtue of their position which could prejudicially influence, or be perceived to influence, a person in the performance of their public or professional duties. To avoid a conflict of interest, acceptance of any gifts or benefits or hospitality in these situations must be declined.

### Gifts never to be accepted

The following gifts or benefits are considered totally inappropriate and must not be accepted:

- ▶ Money, regardless of the amount.
- ▶ Access to confidential information.
- ▶ Promise of a new job.
- ▶ Preferential treatment (may include reciprocal favours given in return for a service provided by Council).

### Gifts or benefits

Gifts or benefits are commonly offered in the course of a business relationship to express gratitude for assisting with a matter. However, gifts of gratitude may create a feeling of obligation in the recipient.

Gifts or benefits are often offered in good faith. However, they can also compromise the position of a Council representative as it may develop a position of influence in the gift giver and a sense of obligation in the recipient.

While a Council representative may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on their part, as a general rule Councillors or staff members should not accept gifts, benefits or hospitality to avoid reputational risk or being compromised by conflicts of interest.

A conflict of interest occurs when a public officer's duties conflict with their private or personal interests. Accepting a gift may constitute a conflict of interest or be considered disclosable under the Act. The definitions section of this policy contains information about what may constitute a conflict of interest. Further clarification can be sought by talking to the Governance & Risk team.

Councillors also have the option of discussing any potential conflict of interest matters with the CEO while Council Officers are encouraged to speak to their respective Executive Management Team member.

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**Deleted:** Councillors or staff members may be offered a gift or benefit during their time working with Council. The gift or benefit could be offered in good faith or could be an attempt to develop influence. Feelings of obligation can arise if Councillors or staff members accept a gift or benefit. Once it has been accepted, your position as Councillor or staff member may be compromised as often persons attempting to corrupt Councillors or staff members start with small inducements that appear to have no improper motive behind them. ¶

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**Deleted:** By politely refusing such gifts, benefits or hospitality, Councillors or staff members can avoid feeling compromised and contributing to a public perception of bias either at the time or in future dealings.

**Deleted:** Before accepting any gift, benefit or hospitality you must consider the ramifications/perceptions of such offer must be considered and the questioned asked as to ask yourself whether a conflict of interest may arise.

**Deleted:** Clarification of what may constitute a Conflict of Interest can be sought from referring to this policy, talking to the Coordinator Governance & Risk team or for Councillors speaking to the CEO and staff to your their respective General or Executive Manager.

While a single gift or benefit may be of modest value, when viewed in total, the value of the hospitality or gifts may be substantial. Councillors and staff members have a legal obligation to aggregate the value of even token gifts or hospitality over the past five years and if the hospitality exceeds the threshold of \$500 in that period it can give rise to a material conflict of interest.

### Anonymous Gifts

Councillors must dispose of any anonymous gifts within 30 days of the gift being received in line with the requirement in section 137(2) of the Act.

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### Token or Nominal Gifts

Given their token nature and small monetary value such gifts are appropriate to accept, notwithstanding the requirements of the Act, particularly if the gift is offered in an open or public forum, where the refusal of the gift would be impolite.

Generally speaking, nominal gifts and moderate acts of hospitality could include:

- ▶ Gifts of a nominal value (\$30 or less) that are infrequently offered.
- ▶ Gifts of single bottles of reasonably priced alcohol as acknowledgement for giving a presentation or being the guest speaker.
- ▶ Free meals of a modest nature and/or beverages provided at a work related event such as training, workshops, or seminars.
- ▶ Refreshments of a modest nature provided at a conference where a Council representative is the guest speaker.
- ▶ Marketing or corporate mementos such as ties, scarves, pens, coasters, tie pins, diaries or chocolates.
- ▶ Flowers and small amounts of beverages.
- ▶ Invitations to out of hours functions or social events organised by groups such as Council committees and community organisations.

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If a Council representative receives a token or nominal gift worth less than \$30 value, they must:

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1. complete the Gifts, Benefits and Hospitality Form (Appendix 1) - available on the Intranet/Councillor Portal;
2. have the form signed off by their supervisor/manager (Council staff only); and
3. provide the form to the Governance & Risk team who will record the details on the Gifts Register.

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Note: When the accumulation of token gifts from a single source exceeds \$30 in a 12 month period, this must be reported to the CEO, via the Executive Manager People, Communications & Governance and is to be noted on the Gifts Register.

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**Gifts valued over \$30**

These gifts should not be accepted unless refusal would be impolite or otherwise impractical – in this situation, the gift may be accepted on behalf of Council as a corporate gift. All offers, whether accepted or refused by Councillors or Council staff:

1. need to be recorded on a Gifts, Benefits and Hospitality Form ([Appendix 1](#)) - available on the Intranet/Councillor Portal;
2. the form needs to be signed off by supervisor/manager (Council staff only);
3. provide the form to the Governance & Risk team who will arrange for the relevant approver (CEO or Mayor) to sign off and record the details on the Gifts Register.

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**Hospitality**

Hospitality is often offered to demonstrate a good working relationship. Where hospitality is less than the nominal value and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

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Hospitality is not considered a gift if the following conditions are met:

- ▶ Where attending a function in an official capacity
- ▶ The hospitality is reasonable. For most this is sandwiches and tea/coffee.

Hospitality IS considered to be a gift where a Council representative or contractor attends an event or function:

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- ▶ using free tickets received and has NO official duties to perform;
- ▶ where free membership is offered;
- ▶ where the hospitality is generous and exceeds \$30 in value.

Any hospitality in excess of \$30 must be recorded in the Gifts Register within five business days of their acceptance.

**Official gifts**

This is a gift presented to the Shire or Council and include gifts received from a Sister/Friendship City, organisations or corporations that are bestowing a corporate gift (plaques, plates, vases, trophies and artwork) or souvenirs.

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Individuals may be involved in social, cultural or community events where official gifts are presented or exchanged. 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. A letter of thanks will be prepared and sent by Council staff acknowledging the gift to Council and not the individual Council representative.

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All official gifts received are to be reported to the CEO and recorded in the Gift Register within five business days of receipt. 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.

## Christmas

Christmas is a time when Council representatives are often offered gifts and invitations to functions. Annual notification to all staff and Councillors of their obligations in respect to the receipt of gifts and invitations will be sent out by the CEO's office in late November.

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## EOIs/Tender Documentation

Expression of Interest (EOIs) and tender documentation (specifications and contracts) must state that:

*"No offers of gifts, of whatever value, must be made to Councillors or staff and that any such offer in the process will automatically exclude that participant in the tender process".*

## Gifts Register

All offers of gifts and acts of hospitality must be declared. A Gifts Register is maintained by the Governance & Risk team.

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The Gifts Register is available for public inspection on request and contains the following information:

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- ▶ Date
- ▶ Description of the Gift, Benefit or Hospitality
- ▶ Estimated Value
- ▶ Recipient name
- ▶ Donor/Provider Details
- ▶ Treatment (ie, was it personally accepted, placed on display, or retained by Council to be pooled for staff use.)

## Annual Reporting

The Coordinator Communications, Governance & Risk is responsible for maintaining the details in the Gifts Register. An annual report of the gifts received within a calendar year is to be presented to the Audit and Risk Committee within three months of the following calendar year.

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## Quick Reference Guide to Gift, Benefits & Hospitality Procedure:

Type of Gift	OK to accept?	Complete Form	Form to Manager*	CEO Sign off required**	Recorded on Gifts Register
Gift from a <u>current or potential</u> supplier to Council	No	Yes	Yes	Yes	Yes
Token gift (value less than \$30)	Yes, if conditions in policy are met	Yes	Yes	<u>Yes</u>	Yes

Type of Gift	OK to accept?	Complete Form	Form to Manager*	CEO Sign off required**	Recorded on Gifts Register
Accumulated token gifts (total value <u>over</u> \$30 in 12mth period)	Yes, if conditions in policy are met	Yes	Yes	Yes	Yes
Gift (anything other than token gift)	No, unless conditions in policy are met	Yes	Yes	Yes	Yes
Hospitality as part of normal Council duties	Yes, if reasonable hospitality	No	No	No	No
Hospitality not linked to normal Council duty, or beyond what is reasonable	No	Yes	<u>Yes</u>	Yes	Yes

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\*Staff forms are to be signed off by supervisor/manager prior to sending to Governance & Risk team. Councillor and members of delegated committee forms to be provided directly to Governance & Risk team.

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\*\*CEO forms to be signed off by the Mayor.

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## Definitions

Term	Definition
<u>the</u> Act	<i>Local Government Act 2020</i>
Benefit	Is something which is believed to be of value to the receiver, such as access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, and pleasure/vacation trips.
CEO	Chief Executive Officer
Conflict of Interest	<p>A conflict of interest means a general conflict of interest within the meaning of section 127 of the LGA and a material conflict of interest within the meaning of section 128 of the Act.</p> <ul style="list-style-type: none"> <li>▶ A <u>general conflict of interest</u> is where an impartial, fair-minded person would consider that a person's private interests could result in that person acting in a manner that is contrary to their public duty.</li> <li>▶ A <u>material conflict of interest</u> is where an affected person would</li> </ul>

Term	Definition
	gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise or the loss incurred either directly or indirectly and in a pecuniary or non-pecuniary form. A relevant person means a person who is a Councillor, member of a delegated committee or a member of Council staff.
<u>Council representative</u>	<u>For this Policy a Council Representative means a Councillor, Delegated Committee Member or Council employee</u>
Disclosable Gift	<p>A Disclosable Gift has the meaning given to it in section 128(4) of the Act and <u>means</u> one or more gifts with a total value of, or more than, \$500 that was received from a person in the 5 years preceding the decision on the matter:</p> <ul style="list-style-type: none"> <li>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</li> <li>b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation—</li> </ul> <p>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.</p> <p>To accord with the Act on public transparency, Mansfield Shire Council's policy is that ALL gifts, or offers whether accepted or not, are disclosable.</p>
Gift	<p>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>
Gift disclosure threshold	in the case of a Council, other than the Melbourne City Council, \$500 or a higher amount or value prescribed by the regulations
Nominal Value	Is an item with a face or estimated value of less than \$30

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## Scope

This policy applies to all Councillors, ~~members of Delegated Committees~~, staff, ~~contracted employees and~~ volunteers in relation to any gifts, benefits or hospitality offered to or received by ~~from external parties~~.

~~This policy does not apply to gifts from a family member or gifts disclosed in an election campaign donation return made under Division 10 of the Act.~~

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## Responsibilities

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

~~Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of this policy within their areas of responsibility.~~

Council staff or Councillors must immediately report to the CEO any attempt to bribe them or their colleagues with money or other benefits and are encouraged to report any colleague who tries to solicit a bribe.

~~Councillors and staff members must familiarise themselves with their obligations under the Act in respect to gifts.~~

**Deleted:** All Mansfield Shire Council employees, Councillors and contractors are responsible for adhering to and implementing this policy.

The ~~People, Communications & Governance Directorate~~ is the owner of this policy. Any reviews of this Policy must be made in consultation with the ~~Executive Manager People, Communications & Governance and~~ Coordinator ~~Communications, Governance & Risk~~.

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## References / Related Policies

- ▶ Mansfield Shire Fraud Prevention ~~and Control~~ Policy
- ▶ Mansfield Shire Council Employee Code of Conduct
- ▶ ~~Model~~ Councillor Code of Conduct
- ▶ Mansfield Shire Procurement Policy ~~and Procedure~~
- ▶ *Local Government Act 2020*

**Deleted:** Legal Obligations ¶

Councillors and staff members must familiarise themselves with their obligations under the Act in respect to gifts, particularly the following clauses:¶

**Councillors** ¶

Section 123 - misuse of position ¶

Section 125 - dealing with Confidential Information ¶

Sections 126, 127, 128, 129, 130 and 131 –Conflict of interests ¶

(note landmark case: Winky Pop Pty Ltd v Hobsons Bay City Council [2007] VSC 468 ¶

Sections 132, 133, 134, 135 and 136 – Personal Interests Return ¶

Section 137 – Anonymous gifts not be accepted ¶

Section 300 – bribery, treating and undue influence in respect to Council elections Sections 306 and 309– election campaign donations ¶

Section 319 – persons who are liable for offences for breaches of the LGA. ¶

**Officers/Contractors** ¶

Section 130 – staff to disclose any conflict of interest in respect of a number of matters, including matters under consideration at meetings, matters that arise in the course of the exercise of a power of delegation by a member of Council staff or arises in the course of a statutory function under the Act. ¶

Sections 132, 133, 134, 135 and 136 – Personal Interests Return ¶

Section 319 – persons who are liable for offences for breaches of the Act.¶

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## Gender Impact Assessment

~~The Gift, Benefits and Hospitality Policy has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Policy has been assessed as not requiring a Gender Impact Assessment (GIA).~~

~~The Policy is purely administrative in its nature and does not have the potential to influence broader social norms and gender roles.~~



## Implementation

This Policy is effective from 18 March 2025.

Deleted: 20 April 2021

## Review Date

This Policy is to be reviewed by March 2029.

Deleted: April

Deleted: 2025

## Authorisation to Implement Policy

Signed: \_\_\_\_\_

Councillor

Witnessed: \_\_\_\_\_

Chief Executive Officer

Approval dated: 18 March 2025

Deleted: 20 April 2021

Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.

**Appendix 1: Gift, Benefits & Hospitality Form****Details – Recipient to Complete**

<b>Name of Recipient</b>			
<b>Position Title</b>			
<b>Name of Donor</b>			
<b>Donor Address (Agency/Organisation)</b>			
<b>Relationship of Donor to Recipient</b>			
<b>Reason for Gift, Benefit, or Hospitality</b>			
<b>Estimated Value</b>		<b>Date Received</b>	
<b>Donor Acknowledged</b>			
<i>To my knowledge the donor is not currently subject to any tender, permit application processes, or matters under consideration, for which this gift may be perceived as exercising a beneficial interest over any Councillor or staff member, including myself.</i>			
<b>Recipient Signature</b>		<b>Date</b>	

**Treatment of Gifts**

Unless otherwise determined, all gifts remain the property of Council. The Mayor (Councillors or CEO) and/or the Chief Executive Officer (Mayor or Council staff) shall make a determination on the retention, use, or allocation of any items or services received.

**Gift Allocation – Manager to Complete**

<input type="checkbox"/> Gift to be retained and pooled for staff use <input type="checkbox"/> Gift to be retained by individual <input type="checkbox"/> Gift to be returned to donor <input type="checkbox"/> Other (explain below)			
<b>Manager Instructions/Comment</b>			
<b>Managers Signature</b>		<b>Date</b>	
<b>Managers Name</b>			
<b>Governance Comment (If Applicable)</b>			
<b>CEO or Mayor Comment (If Applicable)</b>			
<b>CEO or Mayor Signature</b>		<b>Date</b>	
<i>The personal information requested on this form is being collected by Council for the purpose of maintaining Council's Gift Register. The personal information will be used solely by Council for this primary purpose or directly related purposes. The employee understands that the personal information provided is for these purposes and that they may apply to Council for access and/or amendment of the information.</i>			