

Councillor Gifts, Benefits and Hospitality Policy

Policy Number: 2004/27	Directorate: Customer and Performance
Approval by: Council	Responsible Officer: Manager Governance and Risk
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1. Purpose

The purpose of the Councillor Gift, Benefits and Hospitality Policy is to:

- provide a transparent and consistent framework regarding offers of gifts, benefits and/or hospitality made to Councillors.
- support Councillors and subsequently Council to avoid conflicts of interest.
- minimise offers of gifts, benefits and hospitality made to and accepted by Councillors to maintain, protect and promote public confidence in the integrity of the Council.

2. Context

Section 138 of the Local Government Act 2020 requires Council to adopt a Councillor Gift Policy that includes procedures for the maintenance of a gift register.

Schedule 1, section 3 of the Local Government (Governance and Integrity) Regulations 2020 highlights that the Councillor Gift Policy is “required for delivering good governance for the benefit and wellbeing of the municipal community.”

This policy has been developed to support Council in complying with their responsibilities outlined in the legislation and regulations.

3. Scope

This Policy applies to all Knox City Council Councillors.

This Policy does not cover donations made to candidates during election campaigns which are subject to Part 8 Division 10 of the Local Government Act 2020 (LGA 2020).

4. Council Policy

Policy Principles

4.1. Councillors will uphold the following principles in applying this Policy:

4.1.1. Impartiality

Councillors have a duty to place the public interest above their private interests when carrying out their duties as a Councillor

4.1.2. Integrity

Councillors strive to earn and sustain public trust through providing or responding to offers of Gifts, Benefits and Hospitality in a manner that is consistent with community expectations.

4.1.3. Accountability

Councillors ensure they and their fellow Councillors are accountable in accordance with this policy.

4.1.4. Risk-based approach

Councillors must ensure they consider the reputational and legal risks inherent with Gifts, Benefits and Hospitality when dealing with offers.

Risks of Accepting Gifts, Benefits and Hospitality

4.2. Council considers that the proper management of Gifts, Benefits and Hospitality is a practical demonstration of Councillors' integrity, impartiality and accountability and contributes to community confidence in the Council's decision making.

4.3. Although this Policy permits the acceptance of gifts valued over \$30, Council's preferred position is that such gifts be declined where practicable. All monetary gifts, regardless of the value of the gift, must be declined and declared as soon as practicable.

4.4. The impact of accepting Gifts, Benefits and Hospitality are not always immediately clear or apparent. Councillors may be offered Gifts, Benefits and Hospitality for many reasons. While these offers may be genuine gestures of appreciation or goodwill, accepting them carries risks, such as:

- The giver expecting favourable treatment.
- The recipient feeling a sense of obligation to the giver.
- The public perceiving the Gifts, Benefits and Hospitality has influenced the Council's decision-making.

4.5. The consequences of failing to recognise the risks associated with accepting Gifts, Benefits and Hospitality may be:

For Councillors	For Council
<ul style="list-style-type: none"> • reputation • internal or external inquiry • disqualification • criminal prosecution 	<ul style="list-style-type: none"> • reputation • external inquiry • legal action • loss of public trust

Conflict of Interest

4.6. There may be occasions when Councillors, in their official capacity, may be offered gifts, benefits or other hospitality. Whether accepted or declined, the offering of gifts by a resident, external party or business to a Councillor may lead to an actual or perceived conflict of interest.

4.7. Under section 128 of the Act, a material conflict of interest exists if a Councillor has received \$500 or more in Gift, Benefits or Hospitality (in total) from the same person or organisation within the previous 5 years and:

- Is making a decision involving that person or organisation; and
- The giver would gain a benefit or suffer a loss depending on the outcome of a matter.

A material conflict will also arise if the Gift, Benefits or Hospitality were or will be required to be disclosed in an election campaign donation.

Note: Generally, reasonable hospitality provided in the course of official duties (such as light refreshments at events) is not typically regarded as giving rise to a conflict of interest, though each offer should be carefully considered and advice sought where required.

Disclosable Gifts

4.8. Section 9(k) of the Local Government (Governance and Integrity) Regulations 2020 requires disclosable gifts to be declared as soon as practicable.

A disclosable gift means one or more gifts with a total value of \$500 or more, received from a person in the 5 years preceding the decision on the matter if:

- the relevant person held the office of Councillor, or was a member of Council staff, or was a member of a delegated committee at the time of receiving the gift;
- if the gift or gifts were or will be required to be disclosed as an election campaign donation.

Note: Reasonable hospitality during official duties (like food or drinks at events) is not included.

4.9. Disclosable gifts must be declared on the gift declaration form and also via a Councillor's Personal Interest Return Form.

Anonymous Gifts

4.10. Section 137 of the Act states that Councillors must not accept, directly or indirectly, a gift that benefits a Councillor if the value of the gift is equal to or exceeds \$500 unless:

- a) the name and address of the person/s giving the gift is known at the time the gift was made;
- b) the Councillor is given the name and address of the person making the gift; and
- c) the Councillor reasonably believes that the name and address given are the true name and address of the person making the gift.

4.11. Although the LG Act 2020 does not ban anonymous gifts under \$500, they must be declined and treated as Reportable Gifts under this Policy to uphold transparency, protect the integrity of decision-making, and avoid any perception of undue influence or reputational risk to Council.

4.12. If the Councillor is unaware of the name and address of the gift giver, they can avoid breaking the law if they, within 30 days of the offer:

- lodge a gift declaration through the Governance and Risk Department; and
- provide the gift to the Governance and Risk Department for disposal under this Policy and the Act.

A Councillor who is found guilty of a breach of the Act must pay to the Council the amount or value of the gift accepted. Penalty units can be applied for any contravention of the Act.

Limited circumstances in which a gift may be accepted

4.13. There are limited circumstances in which a gift may be accepted. For instance, if a gift is determined to be tokenistic and symbolic in value (less than \$30) or would cause cultural offence or offence to the gift giver by a Councillor not accepting.

While the Local Government Act 2020 and integrity agencies do not prescribe a specific dollar amount for what constitutes a token gift, setting a \$30 threshold provides a practical guide to assist Councillors in assessing whether a gift is of low value or symbolic in nature.

This benchmark supports good governance and aligns with integrity agency expectations that all offers, regardless of value, should still be considered in terms of risk, community perception and the potential for a real or perceived conflict of interest.

4.14. If Councillors are considering accepting a gift, Councillors are encouraged to consult the GIFT test below, developed by the Victorian State Services Commission and consider the impact of accepting a gift, benefit or other hospitality:

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select contractors, award grants, regulate industries or determine government policies?</p> <p>Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage, or to influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is there a clear distinction between public and private roles in this case?</p> <p>Is it a courtesy or a token of appreciation; or valuable non-token offer?</p> <p>Does its timing coincide with a decision I am about to make or my endorsement of a product or service?</p> <p>Is the hospitality proportionate to the occasion, or is it lavish or extravagant so as to be influential? (Consider particularly how the availability and quantity of alcoholic beverages might be perceived.)</p> <p>Is free entry to an event of token value to enable engagement, or a valuable benefit intended to influence?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly?</p> <p>Has the person or organisation made several offers over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift or benefit?</p> <p>Would accepting free entry/ hospitality uphold the reputation of the sector?</p> <p>What would my colleagues, family, friends or associates think?</p>

Value of the gift, benefit or hospitality

4.15. In addition to the above, Councillors must consider the value and nature of any gift, benefit or hospitality offered.

As a general guide, gifts, benefits or hospitality valued at \$30 or less and that are token in nature, being offered in a business or official setting, having a practical purpose or representing a small gesture such as a souvenir or memento, are generally low risk.

Gifts, benefits or hospitality valued above \$30, or that are other than token in nature, should be regarded cautiously and a default position of refusal should apply, unless there is a clear and defensible justification for acceptance (for example, a ceremonial or protocol-based gift offered to Council).

The fact that a gift, benefit or hospitality is valued under \$30 does not of itself mean it can automatically be accepted. All offers must be assessed having regard to the circumstances, the relationship between the parties, and the potential for a real or perceived conflict of interest.

Gift types and purposes

Gifts can take many forms:

4.16. Gift of gratitude

A gift offered to an individual Councillor or the organisation in appreciation of the performance of specific tasks or for exemplary performance of duties.

Example of a gift of gratitude:

A gift to thank a Councillor who speaks at a conference.

Gifts of gratitude should be regarded cautiously, particularly where they are offered by a person or organisation that has, or may reasonably be perceived to have, an interest in Council decisions or outcomes. Councillors should have particular regard to the circumstances of the offer, the nature of the relationship between the parties, and the potential for a real or perceived conflict of interest. Unless there is a clear, defensible and low-risk justification for acceptance, such gifts should generally be declined.

4.17. Token Gift

Councillors may generally accept token gifts without declaring the offer on the Council's Gift Register, if the offer is not over \$30, does not create a conflict of interest or lead to reputational damage or as otherwise prohibited under this Policy.

Example of a token gift:

- Inexpensive stationery items such as pens or pads inscribed with a company logo handed out at a conference or training session.
- Consumables, such as food or beverages at a conference or training session
- Free entry to an event hosted by a community group, where a Councillor is invited to attend in their official role. For example, season launches, building openings or community celebrations.

Note: Where tickets are of considerable value; are limited in availability to a select group, or where there is limited engagement opportunity of benefit to Council; a complimentary ticket may not be perceived as a token benefit, but as a gift of influence and therefore a Reportable Gift. Complimentary event tickets must be assessed on a case-by-case basis.

4.18. Gift of influence

A gift of influence is:

- intended to generally ingratiate the giver with the recipient for favourable treatment in the future; and/or
- is likely to affect, or be reasonably perceived to affect, the independent and impartial performance of the Councillor's duties.

Example of a gift of influence:

Tickets to a social, cultural or sporting event offered by a contractor or supplier. These could be seen as reward for engaging them on past contracts, and or an inducement to engage them again in the future.

Gifts of influence are inherently high risk and should not be accepted. Any offer of a gift that may reasonably be perceived to influence, or be an attempt to influence, a Councillor's independent and impartial performance of their duties must be declined and declared in accordance with this Policy.

4.19. Ceremonial gifts

Ceremonial and Official gifts may be provided as part of the culture and practices of communities and government, within Australia or internationally. These gifts are the property of Council, irrespective of value.

Any gift received by the Mayor or Councillor on behalf of the Council must be declared and added to the Council Gifts register as soon as practicable. Gifts may be displayed in the Office of Mayor or Councillor's suite for the duration of the relevant Mayoral or Council term, after which they may be archived and viewable as a digital record (such as a photograph).

In some circumstances, including where the item may not be suitable for public display or the gift is of a personal nature to the recipient, the Governance and Risk Department will provide the Chief Executive Officer advice as to the appropriate use or disposal of the ceremonial or official gift.

Example of a ceremonial gift:

A gift given to Council by a visiting delegation such as Council paraphernalia.

4.20. Internal gift

Gifts made to Councillors by the Council (with the Chief Executive Officer's approval) are not covered by this policy and do not need to be declared.

Example of an internal gift:

- A gift at the end of a Mayoral term
- A gift for Councillor recognition at the end of their term.

(In accordance and as provided for by the Councillor Recognition Policy).

4.21. Bribe and/or monetary gifts

Bribes and/or monetary gifts refer to a gift that is offered to a Councillor as a corrupt inducement for a particular action or decision.

Example of a bribe/ monetary gift:

Anything else that could be easily converted to cash including but not limited to:

- Cash
- Gift cards
- Reward points in any scheme
- Memberships or entitlements to discounts
- Shares
- Cheques
- Debit cards with credit on them
- Prepayments such as phone or internal credit
- Vouchers

Offering or accepting a bribe is a serious criminal offence. If a Councillor is offered money or a gift they believe is a bribe, they must immediately notify the Chief Executive Officer and Mayor. The Chief Executive Officer must also be advised, as any offer of money is a reportable gift under this policy. Victoria Police may be notified where appropriate.

4.22. Soliciting Gift, Benefits or Hospitality

Councillors must not solicit or use their position to obtain Gift, Benefits or Hospitality. Receiving a Gift, Benefits or Hospitality obtained through deception or coercion may constitute an offence under both common law and the Act.

5. Procedure

Responding to offers of Gift, Benefits or Hospitality

Element	Requirement
Considering offers	<p>Before accepting any Gift, Benefits or Hospitality the Councillor should consider the 'GIFT' test (section 4.14), which was created by the Victorian State Services Commission.</p> <p>Even small or repeated offers from the same person or organisation can create a perception of undue influence. Under the LG Act, if gift, benefit or hospitality from one source totals \$500 or more over 5-years, it creates a material conflict of interest (section 128(h)).</p>
Accepting gifts	<p>There are limited circumstances in which a reportable gift, benefit or hospitality should be accepted and only after careful assessment, including where practicable and appropriate, consultation with the Chief Executive Officer and/or Mayor. If the recipient is the Mayor, then consultation should include the Deputy Mayor.</p> <p>Councillors must declare any Reportable Gift they accept but in the interests of transparency, should declare any gift that is accepted as soon as practicable.</p> <p>It is good practice to inform the donor that the gift will be declared, and this will include their identity as the donor.</p>
Declining gifts	<p>When declining a gift, Councillors should take care to avoid causing offence or embarrassment to the giver.</p> <p>Councillors must declare any Reportable Gift (including monetary gifts), even if declined.</p> <p>In the interests of transparency, Councillors should also declare any other gift they decline.</p> <p>It is good practice to inform the donor that the offer will be declared, and this will include their identity as the donor.</p>

Element	Requirement
<p>Considerations for Gift, Benefits or Hospitality management</p>	<p>Once declared, the Chief Executive Officer (CEO), in consultation with the Mayor, (or Deputy Mayor) may provide guidance on whether the gift is:</p> <ul style="list-style-type: none"> • Shared, • Retained by Council, or • Otherwise managed. <p>The following factors are considered when determining how to treat or retain a gift:</p> <ul style="list-style-type: none"> • Whether the gift was intended for the Councillor or for Council. • Whether donating the gift or its proceeds to charity is appropriate. • Whether returning the gift is appropriate or possible.
<p>Ownership of Gift, Benefits or Hospitality</p>	<p>All reportable Gift, Benefits or Hospitality received by a Councillor is considered Council property until:</p> <ul style="list-style-type: none"> • A Gift Declaration Form is completed and submitted, and • A decision is made on how the gift will be managed. <p>Any gift of gratitude, ceremonial gift or gift of influence that is reportable and accepted by a Councillor is automatically deemed Council property.</p>
<p>Display or disposal of Gift, Benefits or Hospitality</p>	<p>The Chief Executive Officer may action or recommend disposal dispose of gifts through any of the following methods:</p> <ul style="list-style-type: none"> • Return to the original recipient; • Return to the giver; • Disposal by Council resolution; • Transfer to another public agency or authority; • Donation to a recognised charitable, aid or non-profit organisation; • Archival by the Victorian Museum or State Library; • Reduction to scrap; • Destruction; or • Or such other course of action as deemed appropriate in consultation with the Mayor (or Deputy Mayor as required).

Element	Requirement
Declaring offers	<p>Whether accepted or declined, Reportable Gifts must be declared on a Gifts and Benefits Declaration Form as soon as practicable.</p> <p>The form is available in hardcopy or online. It is strongly encouraged that all non-material and token gifts are also declared using the Form.</p> <p>It is the individual Councillor's responsibility to complete the appropriate form and forward it to the Manager Governance and Risk.</p> <p>All declared gifts and benefits will be recorded in the Gifts and Benefits Register. However, this does not remove the responsibility of Councillors to also report these gifts in their Personal Interest Returns, or to disclose them as part of any conflict of interest disclosure.</p> <p>In accordance with the Knox Public Transparency Policy, the Gifts Register will be available on Council's website.</p> <p>Consideration will be given to maintaining reasonable confidentiality in situations where public disclosure will prejudice a proposed development or business venture, legal advice or legal proceedings.</p>

Gift Register

5.1. The details of any reportable gift offered, received and/ or declined by a Councillor must be recorded on the Councillor gifts register by completion of a Gift Declaration Form, and submission of the form to the Governance and Risk Department.

The Councillor gifts register will be maintained by the Governance and Risk Department and published on Council's website on a quarterly basis. The public register will include an extract of the information provided as follows:

- The name of the Councillor whom the gift was offered
- A description of the gift
- The reason the gift was offered (if known)
- The date of the offer
- Estimated value of the offer
- The decision regarding the gift (declined, retained by Councillor, donated, other)
- A generic description of the person, company or body who offered the gift (e.g. resident, customer, a member of the public, local business, sports organisation, developer etc).

Responsibilities and Reporting

5.2. The below describes the roles and responsibilities for this policy and procedure.

Role	Responsibility
Councillors	<ul style="list-style-type: none"> • Understand and comply with this policy. • Complete training and seek advice when needed. • Track the value of the Gift, Benefits or Hospitality they receive over time to avoid the creation of a conflict of interest. • Declare Gift, Benefits or Hospitality and potential conflicts of interest.
Chief Executive Officer	<ul style="list-style-type: none"> • Promote and monitor compliance with this policy. • Provide advice regarding the acceptance, refusal, recording, management and appropriate treatment of gifts, benefits and hospitality, in consultation with the Mayor (or Deputy Mayor) as appropriate or required.
Manager Governance and Risk	<ul style="list-style-type: none"> • Oversee the implementation, monitoring and maintenance of this policy. • Maintain the Gifts and Benefits Register. • Report quarterly to the Executive Leadership Team on any identified systematic pattern of gifts offered and accepted to ensure that unacceptable cultures do not develop within sections of the Council.

Breaches

- 5.3. Alleged breaches must be reported in writing to the CEO as soon as the breach is discovered and will be investigated by the Protected Interest Disclosure Coordinator.
- 5.4. Actions inconsistent with this policy may constitute misconduct under the Councillor Code of Conduct or relevant legislation.

6. References

5.1 Knox Council and Health and Wellbeing Plan 2025-2029

Theme 4: Leading, listening and governing responsibly

Strategy 4.1: Council demonstrates its accountability through transparent and responsible decision making and working together productively.

5.2 Relevant Legislation

- Local Government Act 2020
- Local Government (Governance and Integrity) Regulations 2020
- Privacy and Data Protection Act 2014

5.3 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights.

5.4 Related Council Policies and Procedures

- Governance Rules
- Councillor Code of Conduct
- Public Transparency Policy
- Councillor Recognition Policy

7. Definitions

Term	Definition
Benefit	<p>means preferential treatment, privileged access, favours or other advantage offered to a Councillor.</p> <p>The value of benefits may be difficult to define in dollars, but as they are valued by the Councillor, they may be used to influence the Councillor’s behaviour and decision-making.</p> <p>Examples may include:</p> <ul style="list-style-type: none"> • Access to sporting events • Access to discounted or loyalty programs • Cultural or social events • Preferential treatment • Promises of a job • Access to confidential information • Accommodation and/ or pleasure holiday trips • Personal services <p>The definition of benefits does not include:</p> <ul style="list-style-type: none"> • Discounted products or services that are reasonable and generally available or capable of being negotiated by others not connected with Council • A gift or gifts received in relation to personal membership of any industrial or professional organisation, club or other association or body • A Gift, Benefits or Hospitality received by a relative • A gift, award or prize received from Council
Bribe	<p>means money, reward, service or other consideration offered to a Councillor to persuade them not to exercise their common law or statutory powers or to bestow some privilege or favour. It might be offered to procure an action, decision or preferential treatment.</p>

Term	Definition
Conflict of Interest	<p>means a situation where a person’s private interests interfere with, or appear to interfere with, their public duties (refer to “the Act” for a comprehensive definition). A conflict exists whether it is real, potential or perceived.</p> <p>Conflicts may be:</p> <ol style="list-style-type: none"> 1. Actual: There is a real conflict between an employee’s public duties and private interests. 2. Potential: An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk. 3. Perceived: The public or a third party could reasonably form the view that an employee’s private interests could improperly influence their decisions or actions, now or in the future.
Council	means Knox City Council, whether constituted before or after the commencement of this Policy.
Councillor	means an individual who holds the office of member of Knox City Council.
Currency	means money, vouchers, or anything that is readily convertible to money.
Disclosable Gift	<p>has the same meaning as The Act being:</p> <p>one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter –</p> <ol style="list-style-type: none"> 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 b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation – <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>

Term	Definition
Family member	<p>means a:</p> <ul style="list-style-type: none"> • Spouse or domestic partner of the relevant person; • Parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the relevant person or their spouse; or • Any other relative that regularly resides with the relevant person.
Gifts	<p>has the same meaning as The Act being:</p> <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"> • 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. <p>Gifts is not limited to, but may include:</p> <ul style="list-style-type: none"> • items of high value (eg, artwork, jewellery, or expensive pens) • items of low value (eg, small bunch of flowers) • consumables (eg, chocolates) <p>They may be:</p> <ul style="list-style-type: none"> • Offered or given to a Councillor • Offered or given to a family member of the Councillor • Purchased, home-grown or home-made
Gift Declaration Form	means the form a Councillor uses to declare gifts.
Gift Disclosure Threshold	means \$500 or a higher amount or value prescribed by the regulations.
Gift Register	means the file containing all Councillor gift declaration forms. The register is maintained by the Governance and Risk Department in an electronic format to facilitate reporting and analysis.
Hospitality	<ul style="list-style-type: none"> • means the friendly reception and entertainment of guests • hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Immediate Family Member	means a Councillor spouse or domestic partner, son, daughter, mother, father, brother or sister.

Term	Definition
Material Value	means reasonably valued at more than \$30.
Money or monetary	means any form of cash, credit or cash-like item regardless of the amount or value.
Officer	means an individual employed by Knox City Council, including the Chief Executive Officer, Directors, Managers and any person engaged as a short-term employee or a contractor undertaking duties on behalf of Council.
Reportable gift	means a Gift, Benefits or Hospitality, whether accepted or declined including: <ul style="list-style-type: none"> • of material value (i.e. valued at more than \$30); and/or • any offer of money; and/or • Gift, Benefits or Hospitality from anonymous sources.
Token gift	means a gift, benefit or hospitality that is: <ul style="list-style-type: none"> • of inconsequential or trivial value to both the person making the offer and the recipient. They will be infrequently offered and not of material value. • Complimentary entry to an event hosted by a community group where a Councillor has been invited for the purposes of engaging with the community group and the value is within the reasonable expectations of the community.
Value	means the face value or current estimated retail value.

8. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively on approval of the Chief Executive Officer. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments, minor amendment to legislation or other change that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.