



# Gifts and Donations Policy

(Policy Number – K-GOVPOL007)

(Policy Type – Council)

## 1 Aim

This Gifts and Donations Policy provides guidance for Council officials regarding the declaration of gifts and donations.

The Policy aims to meet the high level of community expectations in respect of transparency and accountability, by ensuring the proper recording of gifts and/or donations made to Council officials.

This Policy supports the statutory requirements outlined in the *Local Government Act 1993* relating to the receipt of gifts or donations. The Policy does not replace any of the requirements set out in legislation relating to conflicts of interest, gifts, and/or electoral donations.

## 2 Policy Statement

This Policy applies to all gifts and donations offered to, or received by, all Council officials. Gifts given in a private context are not the focus of this Policy.

Gifts are usually unsolicited and are meant to convey a feeling of gratitude on behalf of the giver to the receiver. In providing local government services to the community there should be no expectation of repayment.

Gifts and donations may also be offered to individuals in the course of their business relationships. Such gifts and donations are often given for commercial purposes and serve to create a feeling of obligation by the receiver.

Those gifts and donations given in the course of business relationships are the focus of this Policy.

## 3 Policy Detail

Definition	Description
Council Officials	Mayor, councillor, and staff (including staff engaged through an employment agency), Council Committee members and volunteers.
Gift	A gift is usually something with a tangible value provided at no charge. Gifts may include, but are not limited to items such as cash, property (real or otherwise), goods and services made available at heavily discounted prices, alcohol, clothes, products, invitations to social functions and tickets to dinners, sporting, theatrical or musical events.
Donation	A donation is an act or instance of presenting something as a gift, grant, or contribution.



<b>Definition</b>	<b>Description</b>
Cumulative Value	A series of gifts of nominal value from the same person or organisation over a specified period which may have an aggregate value that is significant.
Nominal Value	The monetary limit of the value of gifts or donations that may be accepted (i.e. total value of gift or donation received). A gift or donation is of nominal value when it has no significant or lasting value.
Significant Value	A gift or donation that has a value above the nominal value limit.
Token	Often mass produced (i.e. pens, calendars, ties, or items with a company logo on them), offered in business situations to individuals. Will usually have a value under the nominal value limit
Non-Token	Items that are of a more individual nature, with a value above the nominal value limit.

<b>Purpose</b>	<b>Description</b>
General Purpose	<p>Council officials must be seen to be fair, impartial, and unbiased. Council officials should actively discourage offers of gifts and donations and must not solicit them.</p> <p>Council officials must not take advantage of their position to secure an unreasonable personal profit or advantage. People doing business with the Council should be encouraged to understand that they do not need to give gifts or donations to Council officials in return for provision of service.</p> <p>From time to time Council officials may be offered gifts or donations. In some limited circumstances gifts and donations may be accepted. Token gifts of nominal value may generally be received. Non-token gifts of significant value should not be accepted.</p> <p>Council officials should always be aware of the wider situation in which an offer of a gift or donation is being made. For example, Council officials should consider whether the donor is in, or may be seeking to, enter a business relationship with Council or may be applying to Council in relation to the exercise of a Council function/s.</p> <p>Council officials must avoid situations that suggest may that a person or body, through the provision of gifts or donations, is attempting to secure favourable treatment from Council.</p> <p>When deciding whether to accept or decline a gift or donation, consideration should be given to both the value of the gift or donation and the intent of the gift or donation being offered.</p> <p>As education or training programs are identified as being relevant to this policy, they will be offered to all Council officials.</p>



Purpose	Description
Acceptance of Gifts and Donations	<p>Gifts or donations of a token nature at or below a nominal value may generally be accepted by Council officials without the need for formal disclosure.</p> <p>Council officials who receive a series of token gifts or donations from the same donor where the aggregated monetary value is equal to or more than the nominal value (currently \$50), in any 12 month period, must disclose that fact in the Gifts and Donations Register. If a Council official has any doubt if a gift or donation is token or of nominal value, they should seek the advice of the General Manager.</p>
Nominal Value	<p>For the purpose of this policy the current nominal value limit is \$50.00 as prescribed in the <i>Local Government (General) Regulations 2015</i>.</p> <p>Council officials who receive a series of gifts or donations from the same donor, where the aggregate monetary value of the series of gifts or donations in a financial year is \$50.00 or more, must disclose the receipt of each gift, regardless of the individual monetary value.</p>
Token Gifts and Donations	<p>Gifts or donations of a token nature which are unlikely to create the appearance of a conflict of interest may be accepted. Examples of token gifts and donations include:</p> <ul style="list-style-type: none"> <li>• items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers;</li> <li>• books given to individuals at functions, public occasions or in recognition of exceptional work done;</li> <li>• gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done;</li> <li>• free or subsidised meals of a modest nature and/or beverages provided infrequently (and or reciprocally) that have been arranged for, or in connection with, the discussion of official business;</li> <li>• free meals of a modest value and or beverages provided to Council officials who formally represent Council at work related events;</li> <li>• invitations to approved social functions organised by groups such as community organisations.</li> </ul>
Non-Acceptance of Gifts and Donations	<p>Not accepting gifts from people and organisations that Council officials have dealings with in any Council related capacity, can avoid the following consequences:</p> <ul style="list-style-type: none"> <li>• the recipient using their position for personal gain, rather than to serve the community; which reflects badly on the recipient and on the Council.</li> </ul>



Purpose	Description
	<ul style="list-style-type: none"> <li>prevents the recipient from undertaking duties that the recipient has been elected, appointed, or paid to perform.</li> <li>accepting a gift may constitute, or appear to constitute, a misuse of position.</li> </ul>
Non-Token Gifts and Donations	<p>Gifts or donations of a non-token nature may include:</p> <ul style="list-style-type: none"> <li>free or discounted travel;</li> <li>use of holiday homes;</li> <li>tickets to major sporting events;</li> <li>corporate hospitality at a corporate facility or sporting venue;</li> <li>free training experiences;</li> <li>discounted products for personal use.</li> </ul>
Corporate Gifts and Donations	<p>At times a gift of a non-token nature may be given from one authority to another. Such gifts are often provided to a host authority.</p> <p>These types of gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to the work of several people in Council and therefore the gift is considered to be for the Council as an entity, not a particular individual.</p>
Actual or Perceived Effect of Receiving a Gift or Donation	<p>Accepting gifts, where a reasonable person could consider that there may be influence applied because of the accepting of the gift or donation, is prohibited (gift of influence).</p> <p>Where it is suspected that a gift or donation has been offered for the purpose of influencing the behaviour of someone acting in their official capacity, the gift or donation must be declined, and the matter should be reported immediately to the General Manager.</p>
Bribes	<p>A bribe is a gift or benefit which is given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official.</p> <p>Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident immediately to the General Manager.</p> <p>Council will report any suspected case of bribery to Police immediately. Receiving a bribe is an offence under both Common Law and Tasmanian Legislation.</p>
Family Members	<p>Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or donations of a non-token nature or gifts or donations above the nominal value which are in any way related to Council business. Immediate family members include parents, spouses, children and siblings.</p>



Purpose	Description
<p>Gifts and Donations Register</p>	<p>Council officials, who receive a gift or donation near the nominal value limit (including a series of token gifts from the same person or organisation, (cumulative gift)) must disclose that fact on the Gifts and Donations Declaration Form.</p> <p>The Gifts and Donations Disclosure Form must be forwarded to the General Manager within 14 days of receipt of the gift or donation.</p> <p>If a Council official receives a non-token gift or donation in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or donation should be disclosed using the Gifts and Donations Declaration Form, which should also be forwarded to the General Manager within 14 days of the receipt of the gift or donation.</p> <p>All declared gifts and donations will be recorded in the Gifts and Donations Register. A separate register will be maintained for Councillors to ensure compliance with the <i>Local Government Act 1993</i>. The Register of gifts and donations received by Councillors will be published on the Council's website for inspection.</p>
<p>Disposal of Gifts</p>	<p>The General Manager will determine whether a gift or donation of a non-token nature should be disposed of.</p> <p>There are options for the disposal of gifts that have been accepted (because they could not reasonably be refused) but could not be retained by an individual.</p> <p>Examples of such circumstances where gifts or donations may be received include:</p> <ul style="list-style-type: none"> <li>• gifts accepted for protocol or other reasons, where returning it would be inappropriate;</li> <li>• anonymous gifts (received through the mail or left without a return address);</li> <li>• a gift received in a public forum where attempts to refuse or return it would cause significant embarrassment;</li> <li>• a gift or donation of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a Council related business relationship.</li> </ul> <p>Options for disposal may include:</p> <ul style="list-style-type: none"> <li>• surrendering the gift to Council for retention;</li> <li>• distributing the gift or donation amongst a selection of Council's officials - where a reasonable person would agree that the allocation was appropriate (public perception); or</li> <li>• donating the gift to an appropriate charity.</li> </ul>
<p>Breaches of Policy</p>	<p>All Council officials are obliged to comply with this policy.</p>



Purpose	Description
	<p>Any person may report an alleged breach of this policy by a Council official to the General Manager or Mayor as appropriate, who shall investigate any report received and take such action as is considered necessary.</p> <p>If this policy has been breached, such action may include counselling, code of conduct complaint, disciplinary action (including termination of employment), referral to the Integrity Commission, the laying of charges, and the taking of civil action.</p>

## 4 Associated Documents and References

### 4.1 Local Government Act 1993 Reference

#### [Local Government Act 1993 – Part 5A – Gifts and Donations](#)

##### **Section 56A – Councillor to notify of Gifts and Donations**

- (1) A councillor who receives –
- (a) a gift or donation prescribed by the regulations for the purposes of this section; or
  - (b) a gift or donation of a class prescribed by the regulations, for the purposes of this section –
- must notify the general manager of that gift or donation.

Penalty: Fine not exceeding 10 penalty units.

- (2) A notice is to –
- (a) be in writing; and
  - (b) contain the details prescribed by the regulations; and
  - (c) be provided to the general manager within the period prescribed by the regulations.

##### **Section 56B – Gifts and Donations Register**

- (1) The general manager is to keep a register of the gifts and donations referred to in [section 56A\(1\)](#) that have been received by councillors.
- (2) The register is to include the following information:
- (a) the name of the councillor;
  - (b) a description of the gift or donation;
  - (c) any other information required by the regulations to be included.
- (3) The register is to be –
- (a) available for public inspection at the relevant council's office; and
  - (b) available on the relevant council's website; and
  - (c) updated at least monthly.



## **Local Government (General) Regulations 2015 - Part 3A – Gifts and Donations**

### **29A. Gifts or donations**

For the purposes of [section 56A\(1\)\(b\)](#) of the Act, the following classes of gift or donation are prescribed:

- (a) an item, service, loan of money, loan of property or any other benefit with a monetary value of \$50 or more;
- (b) an item, service or other benefit that is part of a series of gifts or donations received by a councillor from the same donor, where the aggregate monetary value of the series of gifts or donations in a financial year is \$50 or more.

### **29B. Details to be contained in notice**

For the purposes of [section 56A\(2\)\(b\)](#) of the Act, the following details are prescribed:

- (a) the name of the councillor who received the gift or donation;
- (b) a description of the gift or donation;
- (c) the name of the donor, if known;
- (d) the councillor's relationship to the donor, if known;
- (e) the suburb or locality where the donor resides, if known;
- (f) the date on which the gift or donation was received;
- (g) the estimated monetary value of the gift or donation.

### **29C. Timeframe for provision of notice**

For the purposes of [section 56A\(2\)\(c\)](#) of the Act, the prescribed period is –

- (a) within 14 days of receiving a gift or donation; or
- (b) in the case of a gift or donation that was received by a councillor outside of Australia, within 14 days of the councillor returning to Australia.

### **29D. Information to be included in register**

For the purposes of [section 56B\(2\)\(c\)](#) of the Act, the register is to contain the following information:

- (a) the name of the donor of the gift or donation, if known;
- (b) the councillor's relationship to the donor, if known;
- (c) the suburb or locality where the donor resides, if known;
- (d) the date on which the gift or donation was received;
- (e) the estimated monetary value of the gift or donation.



## 4.2 Strategic Plan Reference

Area	1	Governance and Organisational Development
Program	1.2	Governance
Objective	1.2	To provide consistent, accountable, transparent and effective governance of the Council
Strategy	1.2.7	Communicate the Council's decisions, policies and activities and the reasons behind them, through the Council's website and standardised publications

## 4.3 Other Associated Documents

- Code of Conduct
- Gifts & Donations Register – Councillors
- Gifts & Donations Register – Other Council Official

APPROVED BY COUNCIL: 23 January 2024 Minute: 12.1

EFFECTIVE DATE: 23 January 2024

ADMINISTERED BY: General Manager

This policy will be reviewed periodically to ensure its relevance in terms of community needs and expectations and Council goals, targets, budget and statutory requirements.