

Responsible Directorate	Office of the Chief Executive Officer
Responsible Business Unit/s	Governance
Responsible Officer	Manager Governance
Affected Business Unit/s	All

Objective

The purpose of this policy is to establish guidelines for appropriate conduct in circumstances where Elected Members and/or Employees are offered gifts, benefits, hospitality or are granted awards or win prizes, whether part of their official duties or while attending functions as Council representatives.

Scope

This policy applies to all Elected Members and/or Employees and operates in accordance with Section 5.82 and 5.74 *Local Government Act 1995*, *Local Government (Rules of Conduct) Regulations 2007*, *Local Government (Administration) Regulations 1996*, and City of Stirling Code of Conduct.

Policy

1. Responsibility

Elected Members and/or Employees are responsible for ensuring that when any gift, benefit or hospitality offer is received the following are addressed:

- A high standard of probity and accountability is maintained;
- Legislative requirements and community expectations are met;
- Council activities are not influenced or perceived to be influenced by the receipt of gifts, benefits or hospitality; and
- Gifts that are accepted or declined are properly disclosed and managed.

Elected Members and/or Employees must:

- At all times be ethical, transparent, fair and honest in the conduct of official duties.
- Be aware that corruptly receiving a gift (including a benefit or hospitality) is an offence under the *Local Government Act 1995*.
- Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions are beyond reproach and can withstand audit scrutiny.
- Not present a conflict of interest with their performance as an Elected Member and/or Employee.
- Not seek, solicit or use their position with Council to obtain gifts or benefits from external organisations or people.
- Ensure that a person or organisation is not placed in a position in which they feel obliged to offer gifts, benefits or hospitality to secure or retain Council business.
- In the case of an Elected Member, report any incidences immediately to the Chief Executive Officer or Manager Governance, and in the case of an Employee to their Manager and/or Chief Executive Officer or Director where a bribe and/or cash are offered.

2. The GIFT Test

G (Giver)	Who is providing the gift, benefit or hospitality and what is their relationship to me? <i>Does my role require me to select contractors, award grants, regulate industries or determine a Council policy? Could the person or organisation benefit from a decision I have made?</i>
I (Influence)	Are they seeking to influence my decisions or actions? <i>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it courtesy, a token of appreciation or valuable? Does its timing coincide with a decision I am about to make, have made or contributed to?</i>
F (Favour)	Are they seeking a favour in return for the gift, benefit or hospitality? <i>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers in the last 12 months? Would accepting it create an obligation to return the favour?</i>
T (Trust)	Would accepting the gift, benefit or hospitality diminish public trust? <i>How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends, associates or a member of the community think?</i>

3. Principles

3.1 Gifts must never be sought

Elected Members and/or Employees must not solicit, demand or request gifts or any personal benefit for themselves or another person by virtue of their position.

3.2 No sense of obligation

No gift should be accepted that could influence or be perceived to influence an Elected Member and/or Employee in the performance of their public duty.

3.3 Prohibited Gifts

In addition to other limitations imposed by this policy, monetary gifts of any value and an individual gift from a person or organisation with a value exceeding \$300 must not be accepted.

3.4 Gifts of Appreciation

A person or organisation wishing to demonstrate their appreciation for services received from Council or Employee should not involve the presentation of a gift or benefit. Acceptable alternatives may include a letter of thanks or a thank you card as these are considered less likely to result in a situation that may compromise or perceived to compromise either party.

3.5 Token Gifts

Gifts of token value may be accepted by an Elected Member and/or Employees provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for an Elected Member and/or Employee in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:-

- a) Such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- b) Acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- c) The gift does not have a significant monetary value (as a guide, less than \$10); and
- d) The gift is not offered on a regular basis.

There is no requirement to record token gifts in the Register of Notifiable Gifts.

3.6 Offer to attend a “Free” event

There is no such thing as a free event. In these circumstances there needs to be a reasonable calculation or assessment of the value of attendance as a member of the “paying public”. The threshold of \$300 also applies in these circumstances.

3.7 Official Gifts

From time to time a person or organisation may offer gifts of goodwill to Council through conferences or social, cultural, community, industry events where gifts are presented or exchanged. It is reasonable for an Elected Member and/or Employee to accept the gift on behalf of Council and such gifts shall be considered to be the property of Council.

3.8 Hospitality

Elected Members and/or Employees in an official capacity will from time to time receive invitations of hospitality to attend various functions and events.

Where hospitality is only modest in nature and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Such incidental refreshments at meetings, working lunches, community events or similar are not considered to be a gift and need not be recorded unless they occur at a frequency that may give rise to the perception of a conflict of interest under the Act.

If acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Elected Member and/or Employee, or could be perceived as a conflict of interest, the offer of hospitality should be politely declined and recorded.

Where possible any offer of hospitality made to an Elected Member and/or Employee should be declared and approved prior to the event.

4. PROCEDURAL GUIDELINES

4.1 Declaration of Gifts –Elected Members and/or Employees in their role (r12 of the Local Government (Rules of Conduct) Regulations 2007 and City of Stirling Code of Conduct)

Nothing in this policy shall be construed to override the provisions of the Act.

4.1.1 Individual Gift (Single item)

An Elected Member and/or Employee is to disclose a notifiable gift where the value is between \$50 and \$300, or where a gift is one of two or more gifts given by the same person or organisation within a period of six months that are in total valued between \$50 and \$300.

No Elected Member and/or Employee is to accept a gift valued at \$300 or more or where the value is one of two or more gifts given to the Elected Member and/or Employee by the same person or organisation within a period of six months that are in total valued \$300 or more.

An Elected Member and/or Employee may accept a gift with a value of less than \$50. It is the Elected Member and/or Employees' discretion to complete a Disclosure of Notifiable Gifts, Benefits and Hospitality Form if the provision of the gift could be perceived as influencing any decisions of the relevant person.

Gifts from relatives, statutory authorities, government instrumentalities, non-profit associations for professional training, WALGA, the Australian Local Government Association or Local Government Managers Australia (WA Division) are not required to be disclosed.

4.1.2 Multiple Gift (More than one item in the same batch)

An Employee may receive a multiple gift from a person or organisation on behalf of the City on the condition that the value of each item is less than \$300.

Note: A batch of individual tickets to attend a community event is defined as a multiple gift, whereas, a basket of confectionery gift wrapped is defined as an individual gift.

The Holder of a multiple gift is not permitted to receive a benefit from the batch and must notify their Manager or Director immediately by completing a Disclosure of Notifiable Gifts, Benefits and Hospitality Form ensuring the details on what has been received is clear and precise. The Form is to be returned to the Corporate Compliance within 10 days of acceptance.

Note: Some individual items may be below the \$50 minimum limit and as they are part of a multiple gift, a Disclosure of Notifiable Gift Form is to be completed.

The relevant Manager or Director shall determine the disbursement of the individual item.

The recipient of each individual item must also complete a Disclosure of Notifiable Gifts, Benefits and Hospitality Form and return to the Corporate Compliance for reconciliation with the Form submitted by the Holder. The Holder is to ensure the recipient is aware of their responsibility to disclose the item on the Disclosure of Notifiable Gifts, Benefits and Hospitality Form and submit to Corporate Compliance.

The Holder is not permitted to accept further multiple gifts from the same provider within 6 months if the individual items total \$300 or more.

4.2 Declaration of Gifts – An Elected Member and/or Employee with delegated authority who accept a gift from a person other than a relative outside their role as an Elected Member or Employee (s5.82 of the Act)

Nothing in this policy shall be construed to override the provisions of the Act.

An Elected Member or Employee with delegated authority is to disclose the acceptance of a gift worth more than \$200, or where a gift is one of two or more gifts given by the same person or organisation within a period of 12 months that are in total valued more than \$200.

Gifts from relatives are not required to be disclosed.

4.3 Notifiable Gifts Register

All gifts received by an Elected Member and/or Employee between \$50 and \$300 (r12 or Code of Conduct) or more than \$200 (s5.82) must be declared by completing the Notifiable Gifts, Benefits and Hospitality Form and return to Corporate Compliance within 10 days of acceptance of the gift and/or invitation.

4.4 Disposing of Gifts That Are Unable to be Returned

In instances where returning the gift would be inappropriate due to protocol, the gift is anonymous and/or returning it would cause significant embarrassment, the Executive Team will determine how the gift will be disposed of.

4.5 Awards and Prizes Won at Conference/Seminars

Circumstance where an Elected Member and/or Employee is able to keep a prize or award is restricted to personal payment for the attendance, or the Elected Member and/or Employee pays for the raffle ticket that wins the prize or award.

Prizes or awards valued at over \$100 that are won at functions attended at the City's expense, must immediately become the property of City.

4.6 Other Benefits Must Not to be Accepted

Other benefits may be offered and must not be accepted under any circumstance include:

- a) Benefits under loyalty schemes where the City is able to obtain the benefit;
- b) Discounts on commercial items;
- c) Discounts from local suppliers not available to the general public;
- d) Offers for coffee/drinks/lunch/food when meeting with external service providers to the City where they occur often and may be perceived as a conflict of interest; and
- e) Offers of articles or accessories where the City has business dealings with the person or organisation may lead to perceptions of improper influence.

Definitions

Acceptance means the date the gift was received, not the date of the event or function.

Act means the *Local Government Act 1995*.

Benefit means an item which is believed to be of value to the receiver such as a service i.e. access to a sporting event, preferential treatment, access to confidential information, accommodation, pleasure or vacation trips.

Bribe means a corrupt inducement to reward.

Donor means a person or organisation that provides a gift to the City.

Gift of Appreciation means a gift that is presented to an Elected Member and/or Employee to express their appreciation and a feeling of goodwill on behalf of the giver where there is no expectation of repayment or reciprocal arrangement. These gifts are generally a one-off occurrence.

Holder means the custodian of the multiple gifts of the City prior to the gift being disbursed.

Hospitality means where a meal or service is offered which has a value and is not viewed as being connected to official Council business or part of the accepted meal at a conference or seminar.

Item means an article or thing.

Monetary Gift means cash, cheques, gift cards, frequent flyer points, money orders, travellers cheques and direct deposits, lottery tickets and scratchies.

Multiple Gifts means a voluntary transfer of something without the expectation of receiving something in return and includes but is not restricted to, tickets, vouchers, flowers, confectionary or personal accessories.

Notifiable Gift means a gift between \$50 and \$300 or; 2 or more gifts from the same donor within a 6 month period that's combined value is between \$50 and \$300.

Official Gift means a gift received by an employee as the representative of the City or Council. These gifts may be received from an organisation bestowing a corporate gift (i.e. plaques, vases, trophies, art work) or souvenir to the City, or as a token of appreciation for a contribution to a conference or industry event.

Organisation means company or corporation.

Prohibited Gift means a gift worth \$300 or more or; 2 or more gifts from the same donor within a 6 month period that's combined value is \$300 or more.

Relative is defined in s5.74 of the Act and means a spouse or de facto partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner, or a spouse or de facto partner of any relative, whether or not the relationship is a natural relationship or a relationship established by a written law.

Token Gift means of such nature and value that it could not reasonably be regarded as capable of influencing any actions or decision of the relevant person in relation to the matter.

Value means the face value or estimated retail value.

Relevant management practices/documents

City of Stirling Code of Conduct
Disclosure of Notifiable Gifts, Benefits and Hospitality Form

Legislation/local law requirements

Local Government Act 1995
Local Government (Rules of Conduct) Regulations 2007
Local Government (Administration) Regulations 1996

Office use only				
Relevant delegations			Not applicable	
Initial Council adoption	Date	1 September 2015	Resolution #	0915/011
Last reviewed	Date	26 May 2020	Resolution #	0520/027
Next review due			Date 2021	