

1.0 AUTHORITY

Local Government Act 2020, section 138.

Local Government (Governance and Integrity) Regulations 2020.

2.0 INTENT

The purpose of this policy is to ensure transparency and the principles of good governance and accountability are practiced by Councillors when responding to offers of gifts.

The policy supports Councillors to maintain high levels of integrity and public trust by avoiding potential, actual or perceived conflicts of interest reducing opportunities for fraud and corruption.

This policy complements personal interest returns by recording gifts that are below the gift disclosure threshold.

3.0 SCOPE

This policy applies to all Councillors of the Mornington Peninsula Shire.

This policy does not apply to gifts from a family member or gifts disclosed in an election campaign donation return made under section 306 of the Act.

4.0 GOVERNANCE PRINCIPLES

Under the *Local Government Act 2020*, Council must give effect to the following overarching governance principles:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- the transparency of Council decisions, actions and information is to be ensured.

5.0 POLICY STATEMENT

Accountability

5.1 Councillors should decline all offers of gifts where possible.

5.2 Councillors must not accept gifts that could prejudicially influence or be perceived to influence them in the performance of their public duties or lead to reputational damage to the Shire. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists. To avoid an actual or perceived conflict of interest, acceptance of any gifts in these situations must be declined.

5.3 The GIFT test (developed by the Victorian State Services Commission) is a good example of what to think about when deciding whether to accept or decline a gift:



G	Giver	Who is providing the gift and what is their relationship to me? Does my role require me to select suppliers, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?
I	Influence	Are they seeking to gain an advantage or influence my decisions or actions? Has the gift been offered to me publicly or privately? Is it a courtesy or a token of appreciation or a valuable non-token offer? Does its timing coincide with a decision I am about to make?
F	Favour	Are they seeking a favour in return for the gift? Has the gift been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?
T	Trust	Would accepting the gift diminish public trust? How would the public view acceptance of this gift? What would my colleagues, family, friends or associates think?

Declaring Gifts

- 5.4** Councillors must declare all gifts offered with a value greater than \$50 whether they are accepted or declined.
- 5.5** Gifts offered with a value of \$50 or less do not need to be declared. Councillors must be mindful of sections **5.2** and **5.3** of this policy when deciding whether to accept a gift with a value less than \$50.
- 5.6** Where multiple gifts from a single donor that have an individual value of less than \$50 are offered within a Council term, and the cumulative value exceeds \$50, Councillors must declare the gifts.
- 5.7** If a gift is accepted, a Councillor may choose to hand it back to the Shire. The gift then becomes the property of the Shire and the Chief Executive Officer will dispose of it in line with the relevant policy having regard to the item type.

Official Gifts

- 5.8** Councillors may be involved in social, cultural or community events where official gifts are presented or exchanged. In such circumstances, where it would appear impolite or inappropriate to decline the offer, it is reasonable for Councillors to accept the official gift on behalf of the Shire.
- 5.9** All official gifts are to be reported to the Mayor and recorded in the Gift Register
- 5.10** The gift is considered the property of the Shire, and where suitable, will be displayed in an appropriate and secure location for public viewing.

Gifts which must be declined

- 5.11** Councillors must not accept any of the following gifts:
- **Anonymous Gifts** as prescribed by section 137 of the Act, anonymous gifts above the Gift Disclosure Threshold must not be accepted. If a Councillor finds themselves in possession of a gift without knowing the name and address of the donor, the Councillor must report the anonymous gift to the Manager – Legal and Governance, and seek guidance on its disposal, within 30 days to avoid committing an offence.
 - **Monetary gifts** of any amount must never be accepted.

Soliciting of gifts

- 5.12** Councillors must not solicit gifts for themselves, or others as it may constitute a misuse of their position under the Act.

Maintenance of a Gift Register

- 5.13** Councillors must complete a Gift Declaration Form and provide it to the Governance Team for inclusion in the Gift Register.
- 5.14** Gift Declaration Forms must be submitted within two weeks of an offer of a gift being made or received and must be completed whether accepted or declined.
- 5.15** In accordance with the Shire's Public Transparency Policy, the Gift Register will be available on the Shire's website.
- 5.16** The Gift Register includes:
- A description of the gift and its estimated value
 - The name of the donor who offered the gift
 - The date the gift was offered or received
 - Whether the gift was accepted or declined and what was done with the gift



5.17 The Manager - Legal and Governance is to monitor the Gifts Register and report 6 monthly to the Executive Team on any identified systematic pattern of gifts offered and accepted. A report is to be presented annually to the Audit & Risk Committee.

Breaches of this Policy

5.18 As stipulated in the Councillor Code of Conduct, Councillors must ensure they comply with legislative policies adopted by Council.

5.19 Should a breach of this policy be identified, or a failure to avoid, wherever possible, or identify, declare and manage a conflict of interest related to gifts, further action consistent with the Councillor Code of Conduct may be taken.

6.0 HUMAN RIGHTS CHARTER COMPATIBILITY

This policy has been assessed as being compatible with *the Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

7.0 ASSOCIATED DOCUMENTS

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- Public Transparency Policy
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- Councillor Code of Conduct 2021
- Councillor Expenses, Reimbursement, Resources and Facilities Policy
- Councillor Gift Declaration Form
- Councillor Gift Register

8.0 DEFINITIONS

Anonymous Gift

A gift given to a Councillor by an unknown donor.

Conflict of Interest

Conflicts may be:

Actual: There is a real conflict between a Councillor's public duties and private interests.

Potential: A Councillor 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.

Perceived: The public or a third party could reasonably form the view that a Councillor's private interests could improperly influence their decisions or actions, now or in the future.



Gift	Means anything a Councillor is given without expectation of payment that others would have to pay for. This includes a service, benefit or hospitality or other token of appreciation such as flowers, chocolates or alcohol.
Gift Disclosure Threshold	\$500 or such higher amount prescribed by the <i>Local Government (Governance and Integrity) Regulations 2020</i> (separate to the Councillor Gift Policy declaration threshold of \$50).
Gift Register	A register maintained by the Governance Team which records details prescribed by the Act and regulations of gifts offered to or received by Councillors.
Monetary Gifts	Defined as cash, cheques, money orders, traveller's cheques, direct deposits, gift vouchers or items which can easily be converted to cash.

9.0 POLICY SPONSOR

The Manager – Governance is responsible for overseeing the application and review of this Councillor Gift Policy.

10.0 DOCUMENT CONTROLS

Council will review this policy within four years or earlier as required.

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, the change to an existing policy or document referred to in this policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.

Approved by: Council

Approval date: 03/05/2022

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Document issue is correct at the time of print. For printed copies, use https://mornpen.sharepoint.com/Lists/Policies/Corporate_Policies.aspx

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