

# Gifts, Benefits, Hospitality and Attendance at Events Policy

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**Policy Owner:** Governance  
**Person Responsible:** Chief Executive Officer  
**Date of Approval:** 15 July 2020  
**Amended:**

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## 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; and to establish guidelines for appropriate disclosure and management of acceptance of invitations to events or functions, or other hospitality occasions, where elected members and employees are invited free of charge, whether as part of their official duties as council or Shire representatives or not.

## Scope

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

## Policy

### 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 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 case of an Elected Member, report any incidences immediately to the Chief Executive Office, and in the case of an Employee to their Manager and/or Chief Executive Officer where a bribe and/or cash are offered.

### **The GIFT Test**

**G (Giver) - Who is providing the gift, benefit or hospitality and what is their relationship to me?**

*Does my role require me to select contractors, award grants, regulate industries or determine a Council policy? Could a person or organisation benefit from a decision I have made?*

**I (Influence) - Are they seeking to influence my decisions or actions?**

*Has the gift, benefit or hospitality been offered to me publically or privately?*

*Is it a courtesy, a token of appreciation or valuable? Does its timing coincide with a decision I am about to make, have made or contributed to?*

**F (Favour) - Are they seeking a favour in return for the gift, benefit or hospitality?**

*Has the gift, benefit or hospitality 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, benefit or hospitality diminish public trust?**

*How would I feel if the gift, benefit or hospitality became public knowledge?*

*What would my colleagues, family and friends, associates or a member of the public think?*

In considering whether a benefit such as an invitation to an event or hospitality given to an elected member or an employee is a gift for the purposes of the Act and Regulations, the key issues include:

1. What is the value of the benefit?
2. Does the elected member or employee of the benefit contribute anything of value to the donor in return for the benefit such as formally opening or speaking at the event or presenting prizes/awards?
3. If so, does the value of that contribution outweigh the value of the benefit?  
If so, it will not be a gift for the purposes of the Act and Regulations.

### **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 and 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 Employees 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.

### **3.6 Offer to attend a “Free” Event**

There is no such thing as a free event. In these circumstances there needs to be 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.

#### **3.6.1 Commercial entertainment events**

Any tickets accepted by an elected member or employee without payment for any commercial entertainment event, for which a member of the public is required to pay whether sponsored by the Shire or not will generally be classified as a gift for the purposes of the Act and Regulations.

An exception to this is where the Shire President or his / her representative attends the event in an official capacity to perform a civic or mayoral function.

Where there is a commercial entertainment event that, in the opinion of the Chief Executive Officer, it is in the interests of the Shire for one or more elected members or employees to attend in order to assess and understand first-hand the impacts on the community or business, then one or more tickets for that event will be purchased for the relevant elected member or employee by the Shire at full cost.

#### **3.6.2 Other commercial (non-entertainment) events**

For other commercial (non-entertainment) events, such as a conference or seminar, for which a member of the public is required to pay, where the Chief Executive Officer is of the opinion that it is in the interests of the Shire for one or more Elected Members or employees to attend (such as for their professional

development or to undertake a function as an Elected Member or employee), then one or more registrations or other benefits for that event will be purchased for the relevant Elected Member or employee by the Shire at full cost to enable attendance.

If the Shire does not pay for the event, free registration or any other benefit (such as hospitality) given to an Elected Member or employee would be classified as a 'gift' unless the contribution of the Elected Member or employee to the event (such as by way of a paper or speaking engagement) is reasonably considered to outweigh the value of registration or other benefit given to the Elected Member or employee.

#### *3.6.3 Community/local business events*

Acceptance of reasonable and modest hospitality by an Elected Member or employee at an unpaid event run by a local community group for local business would not generally be classified as a 'gift' where the contribution by the Elected Member or employee to the event is reasonably considered to outweigh the value of the hospitality.

This is more likely where the Elected Member or employee attends the event in his or her capacity as an Elected Member or employee - preferably where the attendance has been specifically authorised by the Shire, but otherwise where the person is performing his or her functions as an Elected Member or employee.

### **3.7 Event Attendance Register**

The CEO shall maintain an event attendance register listing events attended by elected members in their civic capacity, where they have been invited or received tickets, regardless of value. Elected members are required to declare their event attendance within ten (10) days.

Each elected member is required to declare the following information on the register:

- a) who invited the member or provided the tickets to the event;
- b) the description of the event;
- c) the location of the event;
- d) the date of the event;
- e) the role that the elected member fulfilled at the event (i.e. presenter, observer or participant);
- f) the benefit of the elected member attending the event for the Shire of Chittering; and
- g) the value of the event (if any)

Where the value of the event attended exceeds \$300, or the invitations received from a donor has exceeded \$300 over a twelve-month period, the elected member or CEO must declare the event as a gift in accordance with sections 5.87A and 5.87B of the Act.

### **3.8 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 the Shire.

### **3.9 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 considered 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.

## **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 Shire of Chittering 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 less than \$50, but the Elected Member and/or Employees' disclosure will be made in a prompt and full manner and in writing in the Gifts Register, including the name(s) of the person(s) who gave the token gift, the date of receipt and its estimated value.

Gifts from relatives, statutory authorities, government instrumentalities, non-profit associations for professional training, WALGA, the Australian Local

Government Association or Local Government Professionals Australia WA 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 Shire, 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 gift wrapped confectionery 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 immediately, ensuring the details on what has been received is clear and precise.

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

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**

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 Gift Register**

All gifts received by an Elected Member and/or Employee between \$50 and \$300 must be declared. Disclosure will be made in a prompt (within 10 days of receipt) and full manner and in writing in the Gifts Register, including the name(s) of the person(s) who gave the token gift, the date of receipt and its estimated value.

#### **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 Conferences/ Seminars**

In circumstances 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 over \$100 that are won at functions, attended at the Shire's expense, must immediately become the property of the Shire.

#### 4.6 Other Benefits must not be accepted

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

- a) Benefits under loyalty schemes where the Shire 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 Shire where they occur often and may be perceived as a conflict of interest; and
- e) Offers of articles or accessories where the Shire has business dealings with the person or organisation may lead to perceptions of improper influence.

References:	<i>Local Government Act 1995</i> <i>Local Government (Rules of Conduct) Regulations 2007</i> <i>Local Government (Administration) Regulations 1996</i> <i>Local Government Regulations Amendment (Gifts) Regulations 2019</i> Shire of Chittering Code of Conducts
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DEFINITIONS	
<b>Acceptance</b>	The date the gift was received, not the date of the event or function.
<b>Act</b>	<i>the Local Government Act 1995.</i>
<b>Benefit</b>	An item which is believed to be of value to the receiver such as a service (ie access to a sporting event, preferential treatment, access to confidential information, accommodation, pleasure or vacation trips.
<b>Bribe</b>	A corrupt inducement to reward.
<b>Donor</b>	A person or organisation that provides a gift to the Shire
<b>Gift of Appreciation</b>	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.
<b>Holder</b>	The custodian of the multiple gifts of the Shire, prior to the gift being disbursed.
<b>Hospitality</b>	Where a meal or service is offered which has a value and is not viewed as being connected to official Shire business or part of the accepted meal at a conference or seminar.
<b>Item</b>	An article or thing
<b>Monetary Gift</b>	Cash, cheques, gift cards, frequent flyer points, money orders, traveller's cheques and direct deposits, lottery tickets and scratchies.
<b>Notifiable Gift</b>	A gift between \$50 and \$300 or; 2 or more gifts from the same donor within a 6 month period that combined value is between \$50 and \$300

<b>Official Gift</b>	A gift received by an employee, as the representative of the Shire or Council. These gifts may be received from an organisation bestowing a corporate gift (ie plaques, vases, trophies art work) or souvenir to the Shire, or as a token of appreciation for a contribution to a conference or industry event.
<b>Organisation</b>	Company or corporation
<b>Prohibited Gift</b>	A gift worth \$300 or more or; 2 or more gifts from the same donor within a 6 month period that combined value is \$300 or more.
<b>Relative</b>	Is defined in s5.74 of the Act – as a spouse or de facto partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or 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 written law.
<b>Token Gift</b>	Of such a 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.
<b>Value</b>	The face value or estimated retail value.