

COUNCIL POLICY

Councillor Gift Policy

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REVISION RECORD

MANDATORY – Use 1.0, 2.0 for adopted / approved versions and 1.1, 1.2 for drafts or revisions without change.

Date	Version	Revision description
6 April 2021	1.0	Adopted - in accordance with s138 of the <i>Local Government Act 2020</i>

1. Purpose

The Alpine Shire Council is committed to protecting its assets, integrity and reputation and protecting its Councillors from allegations of impropriety.

The purpose of this Policy is to provide clear guidelines for Councillors on the treatment of gifts, including benefits or hospitality from individuals or other entities that are external to Council.

2. Scope

This Policy applies to the Councillors of Alpine Shire Council.

The statutory gift disclosure threshold set by the *Local Government Act 2020* (LGA 2020) is \$500 or such higher amount or value as prescribed by the regulations. Gifts of this value must be disclosed in initial and biannual Personal Interests Returns, as required by sections 132-136 of the LGA 2020.

This policy deals with the offer of gifts, benefits and hospitality **below** the statutory gift disclosure threshold.

The following gifts are not considered within the scope of this policy:

- Attendance at events paid for by Council such as external training, education sessions, and workshops, including any food and beverages; or
- Council organised events where Council provides or pays for the hospitality.

3. Policy details

3.1 WHAT IS A GIFT?

For the purposes of this policy, "gift" refers to any gift, benefit, or hospitality offered to a Councillor as a result of their role with Council. This includes anything of monetary or other value that is offered by an external source (organisation or individual) – refer to definitions.

3.2 CONFLICT OF INTEREST

Councillors must not accept a gift that is likely to create a conflict of interest, whether real, potential, or perceived. Councillors should also be mindful that gifts extended to their family and friends could also constitute a conflict of interest.

Councillors must familiarise themselves with the conflict of interest provisions in sections 126-131 of the *Local Government Act 2020* (LGA 2020) and ensure that they are complying with those requirements in the first instance. The LGA 2020 separates conflict of interest into two main types: a general interest or a material interest. A failure to disclose a conflict of interest is a breach of the LGA 2020 and the Councillor Code of Conduct.

3.3 PROHIBITED GIFTS

3.3.1 Anonymous gifts

Councillors must not accept anonymous gifts under any circumstances.

Section 137 of the *Local Government Act 2020* (LGA 2020) stipulates that a Councillor must not accept a gift exceeding the gift disclosure threshold, unless the name and address of the person making the gift are known or made available to the Councillor at the time the gift is made. A 60 penalty unit fine is applicable to a breach of this section of the LGA 2020.

If the name and address of the person making the gift are not known to the Councillor (for whom the gift or benefit is intended), the Councillor must transfer the gift to Council within 30 days of the gift being received to avoid being in breach of the LGA 2020.

3.3.2 Other gifts that must be refused

Councillors must not accept or receive:

- Cash or suppliers' goods or services at no cost.
- Gifts from current or potential suppliers who are in the process of tendering for the supply of goods, the provision of services or the carrying out of works with Council.
- Invitations to attend a supplier's Christmas party, event, or function
- Gifts extended to family and friends that could also constitute a conflict of interest.

3.3.3 Attempts to bribe

A bribe is an offer of money or other inducement made with the intention to corruptly influence a Councillor in the performance of their duties.

A Councillor who receives a gift offer that they believe is an attempted bribe must refuse the offer. They must immediately notify the Mayor and CEO and lodge a Gift Declaration Form so that their refusal can be properly recorded.

The CEO must determine whether the matter constitutes corrupt conduct which must be disclosed to IBAC.

3.3.4 No soliciting of gifts

Councillors must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position or corrupt conduct, leading to a breach of the *Local Government Act 2020*, and the Councillor Code of Conduct.

3.3.5 Recording of prohibited gift offers

Where offers of prohibited gifts are made to a Councillor, the Councillor must refuse the offer, and record the offer and subsequent refusal by lodging a Gift Declaration Form.

3.4 RECEIPT OF GIFTS

3.4.1 Determining whether to accept a gift

Councillors are encouraged to decline any gift offer in the first instance.

When deciding whether to accept an offer, Councillors should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

Councillors should offer the GIFT test (Appendix A) when offered a gift, including hospitality that exceeds a token offer.

3.4.2 Commemorative gifts

Commemorative gifts are occasionally offered to the Mayor and Councillors as part of the culture and practice of visiting delegations (including overseas delegations) meeting with Council.

The Mayor and Councillors should ensure these gifts are registered in the Gift Register, and must donate these gifts to Council for display in the Mayor's office.

3.4.3 Declaration of gifts

All gifts offered to Councillors valued >\$50 must be declared and registered in the Gift Register, whether they are accepted or declined.

The monitoring of gifts offered to Councillors, whether accepted or declined, ensures that repeated offers of gifts from a single source – and any inappropriate attempts to sway the opinion of Councillors or Council – can be monitored.

Where a Councillor receives numerous gifts from the same source and the cumulative value is in excess of the statutory gift disclosure threshold in the LGA 2020 (\$500) within a 12 month period, these gifts must be reported in a Councillor's Personal Interest Return as required by sections 132-136 of the LGA 2020.

Gifts valued >\$200

Details of gifts offered or received in excess of \$200 must be documented, and submitted to the Mayor for consideration, before they may be accepted. The gift offer must be declared and registered in the Gift Register, whether accepted or declined.

Gifts valued >\$500

Councillors must follow gift disclosure threshold requirements as governed by the LGA 2020.

3.5 GIFTS REGISTER

The CEO will maintain a Councillor Gift Register to record all gifts offered to Councillors during their term of office. A Gift Declaration Form is available in the Councillor portal and must be lodged with Council's EA to CEO within five (5) working days of being offered a gift.

A Councillor Gift Register will be maintained to record all gifts valued >\$50 offered to Councillors, regardless of whether they are accepted or declined. The details to be recorded in the Councillor Gift Register include:

- Date of Declaration
- Date Gift offered / received
- Name of Councillor
- Description of Gift
- Approximate value (\$)
- Name of individual or organisation offering the Gift
- Reason for offering the Gift
- Whether the Gift was accepted or politely refused

An extract from the Councillor Gift Register will be made available on Council's website.

Where a Councillor reasonably believes that an offer of a gift has been made in an attempt to influence the outcome of Council business, details are to be provided to the Mayor and CEO as a matter of urgency.

4. Roles and responsibilities

The following positions are responsible for

Responsibility	Role / Position
Implementation of this Policy	Councillors CEO Director Corporate Performance Governance Officer
Compliance with this Policy	Councillors CEO Director Corporate Performance Governance Officer
Development and review of this Policy	Governance Officer
Interpretation of this Policy and the provision of advice	CEO Director Corporate Performance Governance Officer

5. Breaches

Failure to comply with this Policy, supporting procedures or guidelines will be subject to investigation, which may lead to disciplinary action.

Penalties apply for breaches of the *Local Government Act 2020* relating to receipt of anonymous gifts, lodgement of personal interests returns, and declarations of conflict of interest.

6. Human Rights Charter compatibility

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006*.

7. Supporting documents

This Policy should be read in conjunction with all other relevant, Council policies and procedures, as well as relevant legislative requirements.

Related Legislation

- *Local Government Act 2020*

Related Guidelines, Operational Directives or Policies

- Councillor Code of Conduct
- Council Fraud & Corruption Policy

8. Definitions and abbreviations

Term	Meaning
Benefit	Something that is believed to be of value to the receiver. This includes preferential treatment, privileged access, favours or other advantage offered. Examples of benefits include: <ul style="list-style-type: none"> • Invitations to sporting, cultural or social events • Access to discounts and loyalty programs • Promises of a new job
Bribe	Money, reward or service offered to procure an action, decision, or preferential treatment.
Complimentary ticket	Means free access to an event or function where other attendees or the general public would otherwise be required to purchase a ticket / pay money in order to attend the event or function.

Term	Meaning
Conflict of Interest	<p>A conflict of interest is a conflict between a Councillor’s public duty to act in the best interests of Council, and their private interests (financial or non-financial). A conflict exists whether it is:</p> <p>Actual / Real: There is a current conflict between Councillor’s public duties and private interests. i.e. an actual conflict currently exists.</p> <p>Potential: A Councillor has private interests that could conflict with their Council 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. i.e. it may arise, given the circumstances.</p> <p>Perceived: The public or a third party could reasonably form the view that the Councillor’s private interests could improperly influence their decisions or actions, now or in the future. i.e. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the Councillor’s performance of their duty to Council, now or in the future.</p> <p>Includes both general and material conflicts of interest as defined in the LGA 2020.</p>
Councillor	<p>A person officially elected to the position of Councillor of the Alpine Shire Council.</p>
Gift	<p>Anything of monetary or other value that is offered by an external person or organisation to a Councillor as a result of their position with Council. It includes free or discounted items or services, benefits or hospitality that exceeds common courtesy, and any item that would generally be seen by the public as a gift.</p> <p>Examples of gifts include:</p> <ul style="list-style-type: none"> • Alcohol, gift baskets, flowers, chocolates • Complimentary tickets • Gift voucher • Discounted products for personal use • Hospitality • Entertainment • Free or discounted travel including airfares • Accommodation including use of a holiday home <p>For the purposes of this policy, “gift” includes any gift, benefit or hospitality. See also “token offer”.</p> <p>Gifts are further defined in s3 of the LGA 2020.</p>

Term	Meaning
Hospitality	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.
LGA 2020	<i>Local Government Act 2020</i>
Supplier	Refers to any person or organisation who provides or is likely to provide goods, services or undertake works to Council.
Token offers	<p>Token offers are a gift that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic / common courtesies), and must not be reasonably perceived as raising an actual, potential, or perceived conflict of interest.</p> <p>Examples of a token offer include one of the following. A single offer containing multiple examples below (eg a bottle of wine and some chocolates) is likely to amount to more than a token gift. An internet search for current pricing will assist in determining an offer's value (nominally <\$50).</p> <ul style="list-style-type: none"> • Light refreshments offered and consumed during a meeting; • Budget bottle of wine; • Commemorative / marketing mementos such as ties, scarves, pens, coasters, etc; • Flowers; • Small box of chocolates.

9. Approval

THE COMMON SEAL OF THE ALPINE SHIRE COUNCIL was hereunto affixed this 6th day of April 2021 in the presence of:

KELLI PRIME
COUNCILLOR NAME


SIGNATURE

SARAH NICHOLAS
COUNCILLOR NAME


SIGNATURE

CHARLIE BIRD
CHIEF EXECUTIVE OFFICER NAME


SIGNATURE

Appendix A: GIFT test

When deciding whether to accept an offer, Councillors should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

Councillors should offer the GIFT test below when offered a gift (noting that 'gift' includes any gift, benefit or hospitality).

G	Giver	<p>Who is providing the gift 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? Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make or endorse a product or service?</p>
F	Favour	<p>Are they seeking a favour in return for the gift?</p> <p>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?</p>
T	Trust	<p>Would accepting a gift diminish public trust?</p> <p>How would the public view acceptance of this gift? What would my colleagues, family, friends or associates think?</p> <p>Consider the 'front page of the local newspaper' test – if your receipt of a gift was reported, how would it be perceived within the community?</p>

Appendix B: Attendance at Events and Functions

Councillors are often invited to attend events and functions in their official capacity, as a representative of Council. Sometimes there is an expectation that Councillors perform a ceremonial function, while in other cases the invitation is extended as a courtesy only.

The following is a brief guide when to register the invitation as a gift:

Events and functions held within the Alpine Shire

- Invitation to attend event or function, with a ceremonial role – i.e. an official opening / welcome speech, presentation of awards, judging best in show, etc – no requirement to register as a gift.
- Complimentary ticket for a Councillor to attend event or function, with no ceremonial role – Councillors are encouraged to report the complimentary ticket as a gift and include in the Gift Register.
- Complimentary ticket for a Councillor's spouse or family member to attend event or function – must be reported as a gift and included in the Gift Register.

Events and functions held outside the Alpine Shire

Where Councillors are provided with complimentary tickets to attend events and functions outside of the Alpine Shire, these must be reported as a gift and included in the Gift Register.

Events and functions specific to Local Government

Where Councillors are invited to or provided complimentary tickets to an event or function that is conducted solely for a Local Government audience, or to provide further education in their role as a Councillor, this is not required to be reported as a gift – see also 3.6.1.

Appendix C: Quick Reference Guide for Refusing / Accepting Gifts, Benefits and Hospitality

