

# Council Policy (WCC.007)

## Acceptance of Gifts & Donations (Councillors)

**Responsible Officer:**

General Manager

**Date of Issue:**

24 January 2023

**Review Date:**

30 December 2024



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## 1 Purpose

To provide Councillors with a clear understanding of the definition of gifts and donations and to outline the legislative requirements to Councillors when presented with gifts and donations.

## 2 Objectives

The policy objective is to:

- a) Set clear guidelines for Councillors to enable them to deal with any offer of a gift or benefit;
- b) Protect Councillors from being compromised and to avoid public perception of bias;
- c) Provide a productive work environment by minimising situations that could cause undue stress and anxiety;
- d) Demonstrate that Council deals with all matters honestly, with integrity, in an impartial, open and accountable manner.
- e) Demonstrate that Councillors are responsible for their actions and the perceived public image of Council.

## 3 Scope

This policy applies to Councillors of the West Coast Council.

(Note: a separate policy is in place for Council staff).

## 4 Policy

### 4.1 Gifts or Donations

A Councillor is to notify of gifts or donations if the Councillor receives:

- 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. (For example, a \$10 lunch bought for a councillor each week over a period of time).

The Regulations refer to “donations “generally. This is any donation and includes political donations of \$50 or more.

## 4.2 Declaration – Receipt of Gifts and Donations

A Councillor who receives a gift or donation must notify the General Manager, in the prescribed manner, of that gift or donation within 14 days of receiving a gift or donation.

### 4.2.1 Details to be Contained in the Declaration

The following details (*Local Government (General) Regulations 2015 Part 3A – Gifts & Donations*) must be declared by the Councillor in writing on receipt of gifts and donations

- a) the name of the councillor who has 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.

## 4.3 Accepting a Gift or Donation

Councillors need to consider the below information when accepting a gift or donation.

### 4.3.1 Personal versus Public Capacity

Councillors may need to assess whether a gift or donation has been given to them in a personal or public capacity.

To help distinguish this, Councillors may wish to ask themselves the following questions:

- Who is the giver of the gift or donation and what is their relationship to me?

*Would I receive the gift or donation if I were not an elected member?  
Could the person or organisation benefit from a decision I make?*

- Are they seeking to influence my decisions or actions?

*Has the gift or donation been offered to me publicly or privately?  
Does its timing coincide with a decision I am about to make?*

- Are they seeking a favour in return?

*Would accepting it create an obligation (overt or otherwise) to return a favour?  
Has the person or organisation made several offers over the last 12 months?*

- Would accepting the gift or donation diminish public trust?

*How would I feel if the gift or donation became public knowledge?  
What would my colleagues, family and friends think?*

### 4.3.2 Should Gifts and Donations be Accepted?

Councillors should also ask themselves the above questions when determining whether to accept an offered gift or donation.

While there may be instances where it is appropriate to accept a gift, for example cultural differences, judgement should be exercised to determine whether gifts or donations be accepted, refused or donated to the Council.

Councillors should also consider whether accepting a gift or donation would amount to a breach of Part 5 (Interests) of the *Local Government Act 1993* or the Council's Code of Conduct.

In addition to the above policy provisions, Councillors should note the following:

#### **339A. Misuse of Office**

*(1) A councillor, an employee or a member must not procure the doing or not doing of anything by the council to gain, directly or indirectly, an advantage or to avoid, directly or indirectly, a disadvantage for –*

*(a) the councillor, employee or member; or*

*(b) a close associate of the councillor, employee or member; or*

*(c) a member of the councillor's, employee's or member's family.*

*Penalty: Fine not exceeding 50 penalty units.*

*(2) In addition to any penalty imposed under this section, a court may make an order –*

*(a) barring the councillor from nominating as a candidate at any election for a period not exceeding 7 years; or*

*(b) dismissing the councillor or member from office.*

*(3) In this section – member includes a member of an audit panel.*

## 5 Register of a Gift or Benefit

The General Manager will record gifts and donations declared by Councillors in the gifts and donations register. Councilor declarations will be requested monthly with the register updated and be made available for public viewing via the West Coast Council website.

### **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.*

## 6 Legislation and Related Documents

*Local Government Act 1993 – Part 5A (56A) (56B)*

*Local Government (General) Regulations 2015 – Part 3A (29A) (29B) (29C) (29D)*

West Coast Council Code of Conduct



Appendix 1.

**GIFT AND BENEFITS COUNCILLOR DECLARATION FORM**

I declare that I have received the below reportable gifts and benefits during the relevant reporting period.

I understand that declarations will be added to the Gifts & Donation Register held by the General Manager and that the information provided will be made available for public viewing via the West Coast Council website.

Name of Councillor.....

Reporting Period.....

Signed.....

Date.....

<b>Date gift received</b>	<b>Description of gift or benefit</b>	<b>Value (\$)</b>	<b>Name of donor and organisation</b>	<b>Name of recipient</b>	<b>Reasons for accepting the gift</b>	<b>Disposal (Yes/No)</b>	<b>Name and signature of accountable officer</b>