



GIFTS AND DONATIONS POLICY

POLICY TYPE	DOCUMENT CONTROLLER	RESPONSIBLE MANAGER	POLICY ADOPTED	REVIEW DUE
Council	Executive Coordinator	General Manager	25 September 2023	September 2025
PURPOSE	<p>The purpose of this policy is to:</p> <ul style="list-style-type: none"> outline obligations and responsibilities relating to the receipt of gifts or donations; and assist both Councillors and employees to avoid being placed in a situation where they may become vulnerable to undue influence or threaten community confidence in the fairness, impartiality and integrity of the Council. 			
SCOPE	<p>The policy applies to all gifts and donations offered to or received by all Council officials in their respective role.</p> <p>In a private context, gifts are usually unsolicited and meant to convey a feeling on behalf of the giver such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.</p> <p>Gifts and donations may also be offered to individuals in the course of business relationships. Such gifts and donations are often given for commercial purposes and serve to create a feeling of obligation in the receiver. Gifts and donations given in the course of business relationships is the focus of this policy.</p> <p>The policy is to be applied in conjunction with provisions of Council's Code of Conduct and other relevant Council policies and procedures.</p>			
DEFINITIONS	<p>The following definitions will apply for the purposes of this policy:</p> <p>Council official – Mayor, Councillor, Council employee (including staff engaged through an employment agency), Council Committee members and volunteers.</p> <p>Gift – is usually a tangible item provided at no charge.</p> <p>Cumulative gift – a series of gifts of nominal value from the same person or organisation over a specified period which may have an aggregate value that is significant.</p> <p>Donation – an act or instance of presenting something as a gift, grant or contribution.</p> <p>Gift of influence – a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future</p> <p>Gift of gratitude – a gift offered to an individual or department in appreciation of performing specific tasks or for exemplary performance</p>			

	<p>of duties. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude.</p> <p>Benefit – a non-tangible item which is believed to be of value to the receiver (i.e. preferential treatment such as queue jumping, access to confidential information and hospitality).</p> <p>Hospitality – the provision of accommodation, meals, refreshments or other forms of entertainment.</p> <p>Bribe – a gift or benefit given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.</p> <p>Cash – money or vouchers which are readily convertible.</p> <p>Nominal value – is the monetary limit of the value of gifts or donations that may be accepted (i.e. total value of gift or donation received).</p> <p>Significant value – a gift or donation that has a value above the nominal value limit.</p> <p>Token - often mass produced (i.e. pens, calendars, ties or items with a company logo on them), offered in business situations to individuals. Usually have a value under the nominal value limit.</p> <p>Non-token – items that are of a more individual nature, with a value above the nominal value limit. Items may include, free or discounted travel; use of holiday homes; corporate hospitality at major sporting events; free training excursions; tickets to major events and access to confidential information.</p> <p>Conflict of interest – any situation in which an individual or corporation (either private or government) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.</p> <p>Public perception – the perception of a fair-minded person in possession of the facts.</p> <p>Gifts and Donations Declaration Form – a form to be completed when an individual receives a gift or donation of a non-token nature above the nominal limit or receives a series of token gifts or donations in a specified time that may have significant aggregate value (Cumulative Gift).</p> <p>Gifts and Donations Register – a register maintained by Council of all declared gifts and donations.</p> <p>Specified Period – refers to financial year.</p>
POLICY	<p>1. General</p> <p>Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased.</p> <p>Council officials should actively discourage offers of gifts and donations and must not solicit gifts or donations.</p>

Council officials must not take advantage of their official position to secure an unreasonable personal profit or advantage.

People conducting business with the Council should be encouraged to understand that they do not need to give gifts or donations to Council officials to receive high quality service.

From time to time, Council officials may be offered gifts or donations. In some limited circumstances gifts and donations may be accepted. Token gifts of nominal value may generally be received. Non-token gifts of significant value should not be accepted.

Council officials should always be aware of the broader context in which an offer of a gift or donation is being made. For example, Council officials should consider whether the donor is in or may be seeking to enter into a business relationship with Council or may be applying to Council in relation to the exercising of Council's functions.

Council officials must avoid situations that suggest a person or body, through the provision of gifts or donations, is attempting to secure favourable treatment from Council.

When deciding whether to accept or decline a gift or donation, consideration should be given to both the value of the gift or donation and the intent of the gift or donation being offered.

As education programs are identified to be relevant to this policy, they will be offered to Council officials.

2. Token gifts and donations

Token gifts and donations usually have a value under the nominal value limit, and may generally be accepted, and do not require disclosure, if under the nominal value. However, should a number of token gifts of a nominal value from the same person or organisation, in a specified period, be received, this must be disclosed and included in the Gifts and Donations Register.

If a Council official has any doubt if a gift or donation is token or of nominal value, they should discuss it with the General Manager or Mayor (in the case of Councillors).

3. Nominal value

For the purpose of this policy, the current nominal value limit is identified in Section 13.

4. Non-acceptable Gifts and Donations

Accepting gifts of money is strictly prohibited. This includes gift cards or anything that may be exchanged for cash/currency or that can be used in place of cash/currency.

If a Council official refuses a gift or donation because they believe that the gift was a deliberate attempt to receive "special

treatment', then such instances are to be reported immediately to the General Manager or Mayor.

5. Non-token gifts and donations

Non-token gifts and donations of significant value should generally not be accepted.

There may be circumstances however where a gift, donation or hospitality is offered, such as socialising and networking events, presentations and openings, sporting and other events, where the accepting of moderate hospitality or attendance at an event or function is permissible. This is where there is a clear and demonstrated benefit to the organisation and it is sufficiently connected to the remit of the recipient's role or employment.

The general rule applies that cash, sponsored travel or gifts and donations of a significant value should not be accepted in any circumstance.

At times, a gift of a non-token nature may be given from one authority to another. Such gifts are often provided to a host authority. These gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to the work of several people in the authority and therefore the gift is considered to be for the authority, not a particular individual.

6. Significant value

For the purpose of this policy a gift or donation with significant value has a value above the specified nominal value limit.

7. Actual or Perceived Effect of the Gift or Donation

Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift or donation is prohibited (gift of influence).

Where it is suspected that a gift or donation has been offered for the purpose of influencing the behaviour of someone acting in their official capacity, the gift or donation must be declined and the matter should be reported immediately to the General Manager or Mayor (for Councillors).

8. Bribes

Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident immediately to the General Manager or the Mayor. Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under both the common law and Tasmanian Legislation.

9. Family Members

Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or donations of a non-token nature or gifts or donations above the nominal value. Immediate family members include parents, spouses, children and siblings

10. Records – Gifts and Donation Register

Council officials, who receive a series of token gifts or donations near the nominal value limit from the same person or organisation, (cumulative gift), or those who accept a non-token gift or one above the nominal value must disclose that fact.

The employee's supervisor undertakes the initial assessment as to whether the gift or donation should be retained or disposed of by the employee, or other course of action. Further assessment is undertaken by the employee's Manager, with final determination of retention or disposal of the gift or donation at the discretion of the General Manager.

The employee must disclose details of any gifts or donations accepted on the Gifts and Donations Declaration Form (available via the Councillor Teams Site or the intranet for staff) within 14 days of receipt of the final gift.

These details are then automatically uploaded to the Gifts and Donations Register.

Councillors are also required to declare any gifts and donations received. Councillors are required to complete a Gifts and Donations Declaration form. Approval for the retention or disposal of gifts and donations by a Councillor is also at the discretion of the General Manager.

The Register of gifts and donations received by Councillors is available on Council's website for public inspection, in accordance with section 56B of the *Local Government Act 1993*.

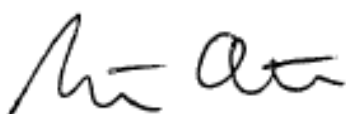
The content of the Register for gifts or donations received by Council employees is not publicly available, but is monitored by the General Manager on a quarterly basis to ensure that no conflicts of interest or contraventions of this Policy occur or are likely to occur.

11. Disposal of gifts

The General Manager will determine whether a gift or donation of a non-token nature should be disposed of.

There are options for the disposal of gifts that have been accepted because they could not reasonably be refused but should not be retained by an individual. Examples of such circumstances where gifts or donations may be received include:

	<ul style="list-style-type: none"> • Gifts accepted for protocol or other reasons, where returning it would be inappropriate; • Anonymous gifts (received through the mail or left without a return address); • A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment; • A gift or donation of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a council related business relationship. <p>Options for disposal include:</p> <ul style="list-style-type: none"> • surrendering the gift to Council for retention; • distributing the gift or donation amongst a selection of Council's officials - where a reasonable person would agree that the allocation was appropriate (public perception); or • donating the gift to an appropriate charity. <p>12. Breaches of Policy</p> <p>All Council officials are obliged to comply with this policy and sanctions may apply if the policy is breached. Sanctions may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.</p> <p>Any person may report an alleged breach of this policy by an official of the Council to the General Manager or Mayor as appropriate, who shall investigate any report received and take such action as is considered necessary.</p> <p>13. Details of Amounts and Frequencies Specified in the Policy</p> <p>For the purpose of this policy, the current nominal value limit is \$50.00 (In accordance with section 29(A) of the <i>Local Government (General) Regulations 2015</i>).</p> <p>Council officials who receive a series of gifts or donations from the same donor, where the aggregate monetary value of the series of gifts or donations in a financial year is \$50.00 or more, must disclose the receipt of each gift, regardless of the individual monetary value.</p>
LEGISLATION AND RELATED DOCUMENTS	<p><i>Local Government Act 1993</i> (S339A specifies penalties in relation to the misuse of office by Councillors and employees; S28E deals with the Code of Conduct for Councillors: and S62 identifies the functions and powers of the general manager)</p> <p><i>Local Government (General) Regulations 2015</i></p> <p><i>Local Government (General) Amendment Regulations 2018</i></p> <p>Integrity Commission's Gifts and Donations Fact Sheet</p> <p>Devonport City Council Strategic Plan 2009-2030</p>
ATTACHMENTS (IF APPLICABLE)	N/A

STRATEGIC REFERENCE	5.3 Council looks to employ best practice governance, risk and financial management		
MINUTE REFERENCE	23/189		
OFFICE USE ONLY	Update Register	Y	Training/Communication Y
	Advise Document Controller	Y	Advise HR / MCO Y
	Management Sign Off:  Date: 25 September 2023		