

Council Policy 3.3.5 – Councillor and CEO Attendance at Events

Responsible Directorate	Corporate Services
Responsible Business Unit/s	Governance
Responsible Officer	Manager Governance
Affected Business Units	Governance Executive Services

Objective

The objective of this policy is to deal with matters associated with attendance at events by Councillors and the Chief Executive Officer (CEO), in accordance with Section 5.90A of the *Local Government Act 1995* (the Act).

Scope

This policy applies to Councillors and the CEO in respect to events that are offered at a discounted rate or free of charge, as part of a sponsorship agreement, or paid for by the Shire of Serpentine Jarrahdale (the Shire). Under legislation, the acceptance of this benefit (if not paid for by the Shire) is considered a gift and is subject to the disclosure of interest provisions, unless the event is of a type defined in this policy.

Legislation

A gift is defined under section 5.57 of the Act as a conferral of a financial benefit (including a disposition of property) made by one person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral. It includes any contributions to travel.

“Consideration in money or money's worth” refers to the value of a gift compared to a person's contribution. Training approved under Council Policy – Councillor Training and Professional Development or as part of the CEO's professional development when paid for by the Shire, is not a gift.

Councillors and the CEO are statutorily obligated to disclose the receipt of a gift received in their capacity as a Councillor or CEO where the value of the gift is over \$300 or the cumulative value of gifts received from the same person in a 12 month period is over \$300. This includes tickets to events covered by this policy.

The interest relating to gift provisions recognise that a relationship is created between the donor and a recipient of a gift, which could be perceived to affect, influence and possibly prejudice the decisions made by the gift receiver. This applies to any gift received.

Notwithstanding this, there are certain events whereby attendance by Councillors and/or the CEO provides a clear benefit to the Shire, the community and/or the professional development of the respective Councillor or the CEO, and due to this benefit, the respective Councillor and/or the CEO are encouraged to attend.

Section 5.62(1B) of the Act excludes gifts in the form of event tickets covered under this policy from declaration of interest provisions. Event tickets accepted under this policy at a value of \$300 or the cumulative value of gifts received from the same person in a 12 month is over \$300 must be declared and registered.



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Under Regulation 20B of the *Local Government (Administration) Regulations 1996*, Councillors and the CEO are not required to disclose financial interests in relation to gifts or event invitations from the following entities:

- Western Australian Local Government Association (WALGA);
- Local Government Professionals Australia WA (LG Pro);
- Australian Local Government Association (ALGA);
- A department of the public service;
- A government department of another State, a Territory or the Commonwealth; and
- A local government or regional local government.

Policy

Attendance at events by Councillors and the CEO will be administered in accordance with the following:

1. Key Considerations

Whether a benefit, such as an invitation to an event or hospitality given to a Councillor or the CEO is a gift for the purposes of the Act and Regulations, the key considerations are:

- who is providing the invitation to the event (the donor);
- the cost to attend the event, (or estimated value of the event per invitation) and any other expenses such as travel and accommodation;
- the location of the event in relation to the local government (within the district or out of the district);
- the role of the Councillor or CEO when attending the event (participant, observer, presenter) and the value of their contribution. If the value of the contribution outweighs the value of the benefit, it will not be a gift for the purposes of the Act and Regulations. For example, participation at the WALGA convention, which is a ticketed event, is not a gift because the event inherently involves a contribution from a Councillor or CEO in respect to advocacy and relationship building;
- the benefit of Councillor or CEO representation at the event;
- the number of invitations / tickets received;
- whether the event is sponsored by the Shire; and
- whether the event is paid for by the Shire.

2. Attendance at Events

Any event invitation accepted by a Councillor or CEO without payment, where a member of the public is required to pay, unless specified in this policy, will generally be classified as a gift to which the declaration of interest provisions will apply (depending on the value of the gift and if the gift is otherwise exempt under Regulation 20B of the *Local Government (Administration) Regulations 1996*).

Acceptance of reasonable and modest hospitality by a Councillor or CEO, in his or her capacity as a Councillor or CEO, is not to be classified as a 'gift' where the contribution by the Councillor or CEO to the event is reasonably considered to outweigh the value of the hospitality.

Any event that is not specified as a pre-approved event or otherwise approved in accordance with this policy, or the event invitation is received in a personal capacity would not be considered an approved event.



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If the event is a free event to the public, then no action is required.

If the event is ticketed and the Councillor or CEO pays the full ticketed price and does not seek reimbursement, then no action is required.

If the event is ticketed, and the Councillor or CEO pays a discounted rate or is provided with a free ticket, then the recipient must adhere to the gift and declaration of interest provisions.

3. Pre-Approved Events

In accordance with section 5.62(1B) of the Act, Councillors and the CEO are exempt from declaring a financial interest that ordinarily would have been required if a matter related to the event organiser was before Council for Council's decision. However, gift declaration provisions still apply for these events if the value is over \$300 and received in an official capacity, and otherwise not exempt.

For the purposes of section 5.62(1B) of the Act, the following are defined as "Pre-Approved Events":

- Awards functions specifically related to local government;
- Shire hosted ceremonies and functions;
- Shire organised/run tournaments or events;
- Community cultural events/festivals/art exhibitions;
- Events hosted by Clubs or Not for Profit Organisations within the Shire, to which the Councillor or CEO are officially invited; and
- Events run by schools within the Shire.

The exemption from declaring interests only applies to the event ticket or otherwise relates to the person's attendance. Caution should be exercised in accepting gifts related to attendance, for example, lucky door prizes or gifts in recognition of speaking. These can be interpreted as being ancillary to a person's attendance and subject to both disclosure of interest and declaration requirements.

4. Approval Process

Council approval is required prior to acceptance of all invitations for events to be attended in an official capacity, valued at \$300 or over, except for those specified as 'pre-approved events' or is from an exempt entity under Regulation 20B of the *Local Government (Administration) Regulations 1996*.

Invitations to events valued at \$300 and over (or the cumulative value of \$300 and over within a 12 month period) are considered gifts for the purposes of the Gift Framework, and must be disclosed. However, declarations of interest are not required if the event is listed in this policy as a "Pre-approved Event".

5. Approval Process Considerations

(1) The following are the pertinent factors that should be considered in determining approving attendance at a non "Pre-Approved Event"; subject to 5(2):

- The donor providing the invitation or ticket to the event (for example; the donor is a person who is undertaking or seeking to undertake an activity involving a Council decision or discretion);
- The location of the event in relation to the Shire (whether within the district);
- The role that the Councillor or CEO will have when attending the event (participant, observer, presenter) and the value of their contribution;



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- Whether the event is sponsored by the Shire;
- The benefit to the Shire of a Councillor or the CEO attending;
- Alignment to the Shire's Strategic Objectives;
- The number of Shire representatives already approved to attend; and
- Any justification provided by the applicant when the event is submitted for approval.

(2) Events that will not be considered for approval are:

- Political party events and fundraisers;
- Social events;
- Entertainment events with no link to the Shire; and
- Events that primarily benefit Councillors in a personal capacity or in a role other than their role at the Shire.

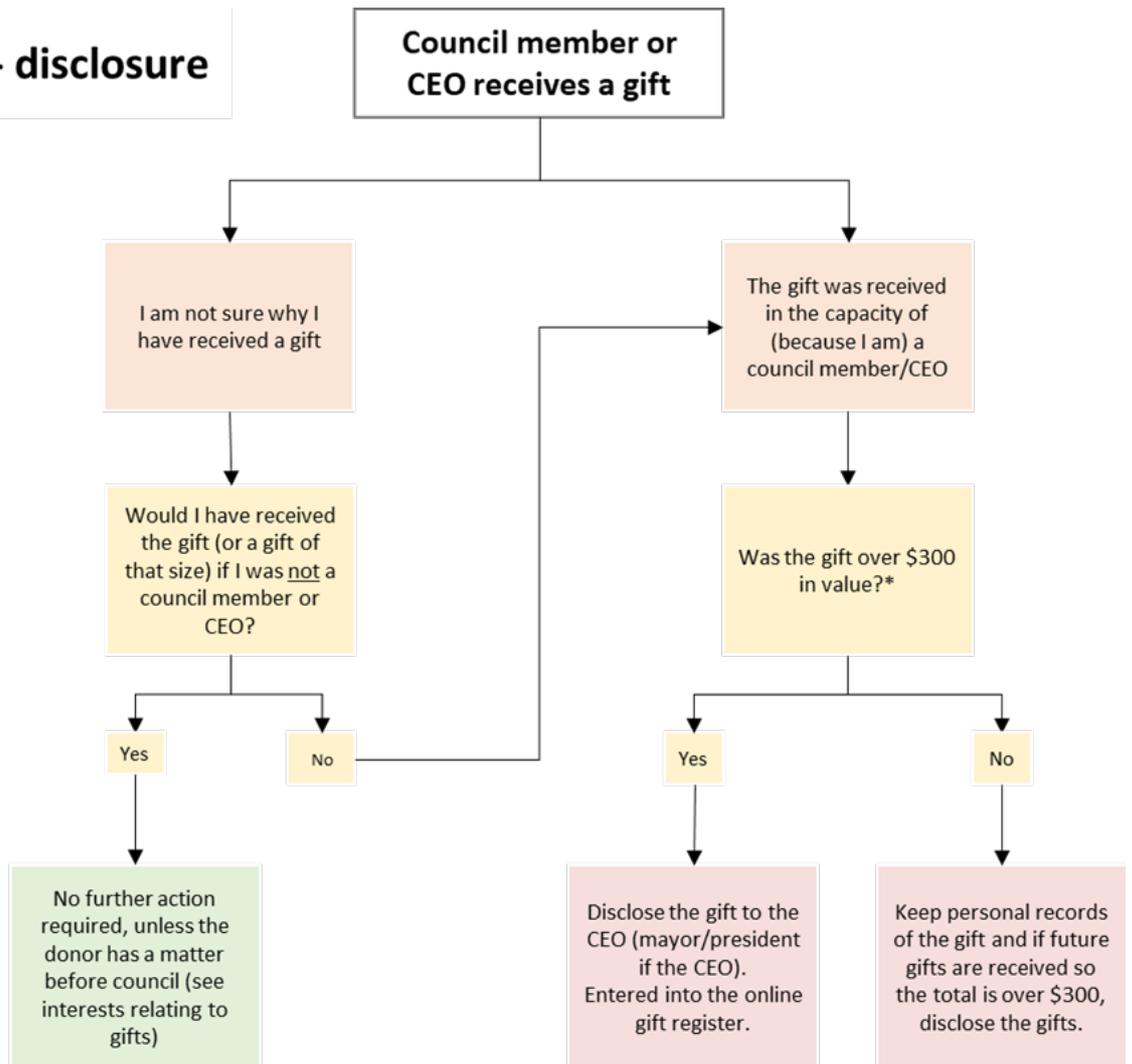


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Gift Framework

To illustrate, the Department of Local Government, Sport and Cultural Industries has prepared the following flow-charts to guide Councillors and CEOs.

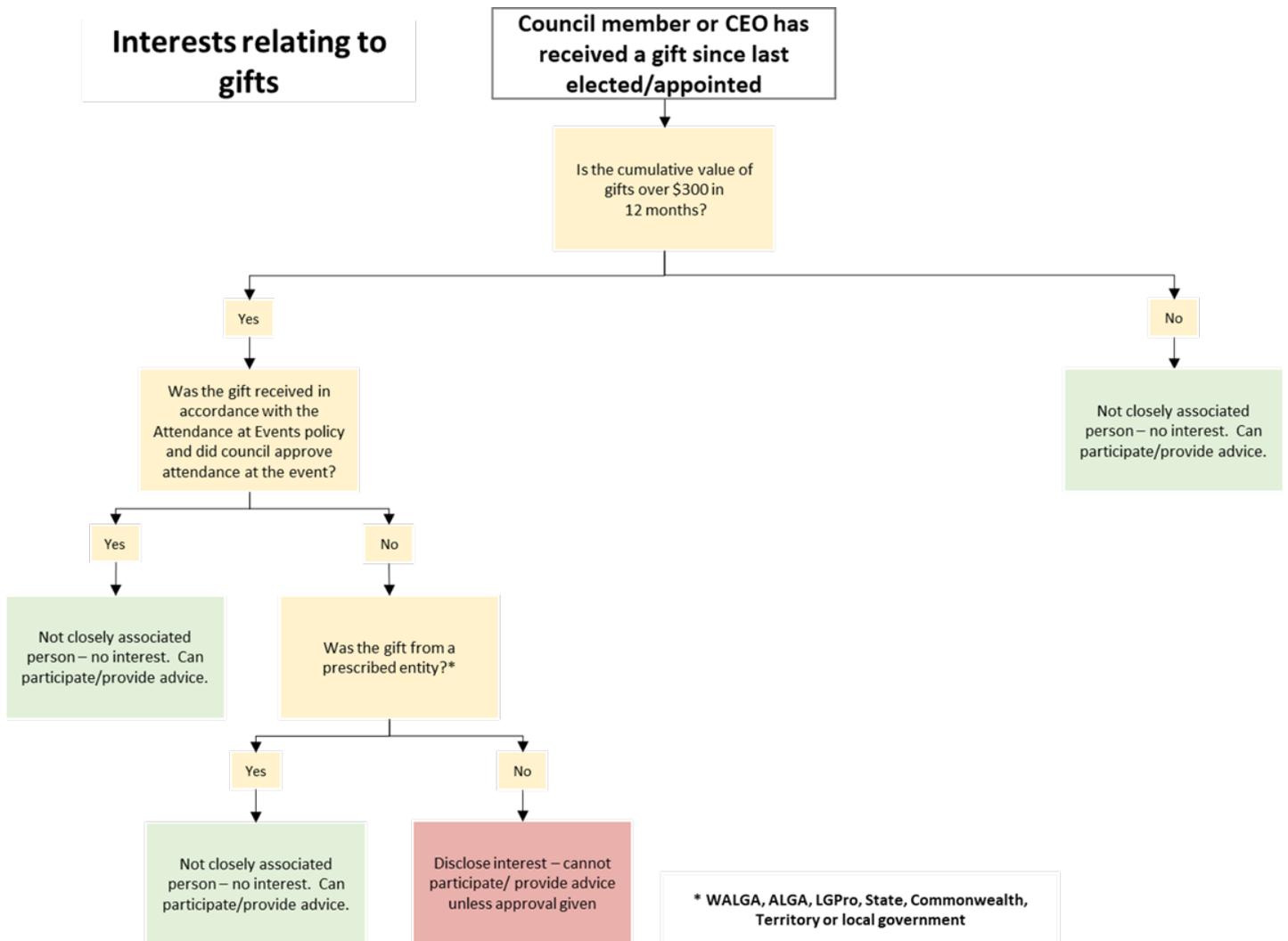
Gift framework - disclosure



* Or a series of gifts from that person in a 12 month period was over \$300 in value



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Relevant Policies/Council Documents

- Elected Member Code of Conduct
- Employee Code of Conduct
- Council Policy - Councillor Fees and Entitlements
- Council Policy – Councillor Training and Continuing Professional Development
- Council Policy – Council Delegates and Representation on External Organisations, including Community Groups
- Councillor and CEO Disclosure of Gifts Declaration Form

Legislation/Local Law Requirements

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*



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Office Use Only				
Relevant Delegations	Nil			
Council Adoption	Date	21 September 2020	Resolution #	OCM297/09/20
Reviewed/Modified	Date		Resolution #	
Reviewed/Modified	Date		Resolution #	