

## AGENDA ITEM 9.2 ATTACHMENT



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### GIFTS AND DONATIONS

| <b>Policy No.:</b>                   | GTC-10                          | <b>Approved by:</b> | George Town Council  |                    |
|--------------------------------------|---------------------------------|---------------------|----------------------|--------------------|
| <b>Version No. and Reference</b>     | <del>V.2- MinRef. 185/183</del> | <b>Approved on:</b> | Nov-2018             |                    |
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| <del>V2<br/>MinRef.<br/>185/18</del> | <del>Nov 2018</del>             | <del>Updated</del>  | <del>Corporate</del> | <del>Council</del> |

\*This Policy has been reclassified under GTC 12 – Policy Governance. A cover sheet with the new title and classification is provided. The content of the previous policy No.45 V.2 remains extant until review.

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## 1. Introduction

The purpose of this policy is to:

- Outline the obligations and responsibilities of Council's officials when dealing with offers of gifts or donations and to
- Assist Council officials make appropriate judgments in relation to gifts and donations and therefore 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
- Council officials are defined as Mayors, Councillors, Council staff (including staff engaged through an employment agency), Council committee members, volunteers and contractors.

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## 2. Scope of Policy

The policy applies to all gifts and donations offered to or received by all Council officials in their role as officers of the Council.

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## 3. Policy Objective

In a private context gifts and donations 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.

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.

The policy is to be applied in conjunction with provisions in the Council's Code of Conduct and other relevant Council policies and procedures.

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## 4. Link to Strategic Plan

**Goal-05**

~~Ensure Council listens to and understands community needs and continues to make responsible decisions on behalf of the community.~~

**Key Objective**

~~Consistently achieve a high standard of internal financial and governance arrangements.~~

**Key Priority**

~~Manage and seek to minimise risk throughout Council.~~

**Future Direction 4 – Leadership and accountable governance**

Culture of ~~en~~engagement and participation; planning and regulatory responsibilities; working relationships and collaborations; change management and accountability.

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## 5. Legislation

~~Local Government Act 1993~~

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George Town Council – Gifts and Donations Policy No. ~~45~~GTC-10

Local Government (General) Regulations 2015 The particular legislation relevant to this policy is the Tasmanian Local Government Act 1993. Section 339A specifies penalties in relation to the misuse of office by councillors and employees; section 28E deals with the Code of Conduct for councillors and section 62 identifies the functions and powers of the general manager.

This policy should be read in conjunction with any other relevant State and Federal legislation.

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## 6. Definitions

**Council official** – Mayors, Councillors, Council staff (including staff engaged through an employment agency), Council Committee members, volunteers and contractors.

**Gifts or donations** – an item, service, loan of money, loan of property or any other benefit with a monetary value of \$50 or more. Is usually a tangible item provided at no charge. Gifts may include, but are not limited to items such as cash, property (real or otherwise), goods and services made available at heavily discounted prices, alcohol, clothes, products, invitations to social functions and tickets to sporting, theatrical or music events.

**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.

**Gift of influence** – a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

**Gift of gratitude** – a gift offered to an individual or department in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude.

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)

**Hospitality** – the provision of accommodation, meals, refreshments or other forms of entertainment.

**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.

**Cash** – money or vouchers which are readily convertible.

**Nominal value** – is the monetary limit of the value of gifts or donations that may be accepted (i.e. total value of gift or benefit received). A gift or benefit is of nominal value when it has no significant or lasting value.

**Significant value** – a gift or benefit that has a value above the nominal value limit.

**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.

**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.

**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.

**Public perception** – the perception of a fair-minded person in possession of the facts.

**Gifts and Donations Declaration Form** – a form to be completed (example template at attachment 1), when an individual receives a gift or benefit of a non-token nature above the nominal limit or receives a

series of ~~token gifts~~ token gifts or donations in a specified time that may have significant aggregate value (Cumulative Gift).

**Gifts and Donations Register** – a register maintained by Council of all declared gifts and donations (attachment 2).

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## 7. General

Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased.

Council officials should actively discourage offers of gifts and donations and must not solicit gifts or donations.

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

People doing business with the Council should be encouraged to understand that they do not need to give gifts or donations to Council officials to get 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 generally be accepted.

Council officials should at all times be aware of the wider situation in which an offer of a gift or benefit 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 exercise of Council's functions.

Council officials must avoid situations that suggest that 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 benefit, consideration should be given to both the value of the gift or benefit and also the intent of the gift or benefit being offered.

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## 8. Acceptable Gifts and Donations

Gifts or donations of a token nature at or below nominal value may generally be accepted by Council officials without disclosing details to a supervisor, General Manager or Mayor and without recording the details of the gift or benefit on the Gifts and Donations Declaration Form or Register (attachments 1 and 2).

That said, Council officials who receive more than ~~the specified~~two (2) number of token gifts of a nominal value from the same person or organisation, in a ~~specified~~six-month period must disclose that fact in the gifts and donations register.

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## 9. Token gifts and donations

Gifts or donations of a token nature do not create the appearance of a conflict or interest and include:

- Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers;
- Books given to individuals at functions, public occasions or in recognition of exceptional work done;
- Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done;
- Free or subsidised meals of a modest nature and/or beverages provided infrequently (and or reciprocally) that have been arranged for or in connection with the discussion of official business;
- Free meals of a modest nature and or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops;
- Invitations to approved social functions organised by groups such as Council Committees and community organisations.

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## 10. Nominal Value

The current nominal value limit is \$50. If a Council official has any doubt if a gift or benefit is token or of nominal value they should discuss it with a supervisor, General Manager or Mayor.

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## 11. Non Acceptable Gifts and Donations

Accepting gifts of money is prohibited.

Council officials should generally not accept gifts or donations that appear to be non-token in nature or more than of a nominal value.

If a gift or benefit of a non-token nature or above nominal value is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the gift or benefit must be declared via completion of A Gifts and Donations Declaration Form (at attachment 1) and the details must be recorded on the Council Gift Register (at attachment 2).

If a Council official refuses a gift or benefit because they believe that the gift was a deliberate attempt to receive "special treatment", then such instances are to be reported to a supervisor, the General Manager or Mayor.

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## 12. Non Token Gifts and Donations

Gifts or donations of a non-token nature include:

- Free or discounted travel
- Use of holiday homes
- Tickets to major sporting events
- Corporate hospitality at a corporate facility or sporting venue
- Free training excursions
- Access to confidential information
- Discounted products for personal use
- Goods and services provided via a determination in a Will

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.

### **Significant value**

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

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### 13. 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 relevant supervisor, General Manager or Mayor.

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### 14. Bribes

Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under both the common law and the Local Government Act Section 339A of the Local Government Act 1993 (Misuse of Office).

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### 15. Family Members – Receiving of Gifts or Donations

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.

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### 16. Records – Gifts and Donations Registers

Council officials, who receive more than the specified number of token gifts or donations near the nominal value limit from the same person or organisation, (cumulative gift) must disclose that fact on the Gifts and Donations Declaration Form and Register (attachment 1 and 2).

If an official of the Council receives a non-token gift or benefit in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or benefit should be disclosed and the details recorded on a Gifts and Donations Declaration Form (at attachment 1) and in the Gifts and Donations Register (at attachment 2).

The Register will be available for public inspection [on Council's website and updated on a monthly basis](#).

The content of the Registers will be monitored by the General Manager on a regular basis (quarterly).



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## 17. Notification period

A councillor is to give notice within 14 days of receiving a gift or donation. The notice must be in writing and include:

- The name of the councillor who received the gift or donation;~~;~~
- The name of the donor (if known);
- The councillor's relationship to the donor (if known);
- The suburb/locality where the donor resides (if known);
- The date on which the gift or donation was received; and
- The estimated monetary value of the gift or donation.

If the gift or donation is received while the councillor is outside Australia, notice is to be provided within 14 days of returning to Australia.

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## 18. Disposal of Gifts

A ~~Team Leader~~Manager, General Manager or Mayor will determine whether a gift or benefit of a non-token nature should be disposed.

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:

- Gifts accepted for protocol or other reasons, where returning it would be inappropriate;
- Anonymous gifts (received through the ~~mail~~ or ~~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; or
- 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.

Options for disposal include:

- 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.

## 19. Breaches of Policy

All Council officials are obliged to comply with this policy and sanctions may be applied if the policy is breached.

Any person may report an alleged breach of this policy by an official of the George Town Council to the General Manager or Mayor as appropriate who shall investigate any report received and take such action as it is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

## 20. Implementation

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| <b>First issued/approved</b>                         | March 2015   |
| <b>Source of approval/authority</b>                  | <del>Council Resolution 185/18</del>   |
| <b>Last reviewed</b>                                 | November 2018 <del>Council Resolution 185/18</del>   |
| <b>Next review date and Process</b>                  | <del>November-2024</del> This policy to be reviewed as required, but at least every two years following the conduct of Local Government elections.   |
| <b>Version number</b>                                | <del>032</del>   |
| <b>Responsible Officer</b>                           | General Manager  |
| <b>Department responsible for policy development</b> | Governance   |
| <b>Related policies</b>                              | <ul style="list-style-type: none"><li>• Code of Conduct</li><li>• <del>Risk Management Policy No. 33</del>GTC-15</li><li>• Local Government Act 1993</li><li>• Local Government (General) Regulations 2015</li><li>• George Town Council Fraud Prevention and Procedures Policy No. <del>42</del>GTC-9</li></ul> |
| <b>Publication of policy</b>                         | Policy to be made available on Council's website and in hard copy at the Anne Street Council Offices.  |

**GIFTS AND DONATIONS DECLARATION FORM**

|  |  |
|--|--|
| Name   |  |
| Department   |  |
| Date gift offered  |  |
| What is the gift?  |  |
| What is the dollar value (approximate) of the gift?  |  |
| Who is the gift from?  |  |
| Individual (provide name)  |  |
| Organisation (provide name)  |  |
| Where was the gift offered? (i.e. at a function, over the counter, through the mail, at a meeting.....)? |  |
| Recipients relationship to the donor   |  |
| Should the gift or donation be accepted or declined  |  |
| If the gift or donation was accepted, should it be retained by the employee or organisation?             |  |
| If the gift or donation was retained by the organisation should it be disposed?                          |  |
| Council Official's signature   |  |
| Date   |  |
| Responsible Officer (Supervisor, General Manager, Mayor) comments  |  |
| Responsible Officer's name and signature   |  |
| Office Use   |  |
| Date details recorded on Gifts and Donations Register  |  |
| Government EO's signature  |  |

**GIFT AND DONATIONS REGISTER**

This register shows reportable gifts and donations that have been offered to and received by Council Officials for the financial year (enter year). The register includes instances where Council Officials have received more than the specified number of token gifts or donations of a nominal value from the same person or organisation, in a specified period.

| Date gift /donation received | Description of gift or donation | Estimated monetary value of gift/donation (\$) | Name of donor / organisation | Name of recipient | Recipients relationship to the donor (if known) | Locality/ Suburb of Donor (if known) | Disposal (Yes/No) | Name and signature of accountable officer |
|------------------------------|---------------------------------|--|------------------------------|-------------------|---|--------------------------------------|-------------------|---|
|                              |                                 |  |                              |                   |   |                                      |                   |   |
|                              |                                 |  |                              |                   |   |                                      |                   |   |
|                              |                                 |  |                              |                   |   |                                      |                   |   |

General Manager:.....

Register Review date:.....