



Department of  
Local Government, Sport  
and Cultural Industries

# Local Government Operational Guidelines

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December 2019

## Attendance at events policy



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#### About DLGSC

The DLGSC works with partners across government and within its diverse sectors to enliven the Western Australian community and economy through support for and provision of sporting, recreational, cultural and artistic policy, programs and activities for locals and visitors to the State.

The department provides regulation and support to local governments and the racing, gaming and liquor industries to maintain quality and compliance with relevant legislation, for the benefit of all Western Australians. This publication is current at December 2019.

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# 1. Introduction

Council members are expected to make decisions in the best interests of their community. To do this, they must consider each issue on its merits.

Decision-making could be influenced – or perceived to be influenced – in a number of ways, including through financial relationships, personal relationships and the receipt of gifts. The *Local Government Act 1995* sets out requirements on council members, Chief Executive Officers (CEOs) and other employees to ensure transparency and accountability in decision-making.

Certain gifts received by council members and CEOs are specifically excluded from the conflict of interest provisions (section 5.62(1B)), including a gift that is received in accordance with an Attendance at Events policy. This guideline gives an overview of matters which could be included in the Attendance at Events policy.

Note: this guideline does not apply to the gift provisions in the code of conduct that relates to employees (other than the CEO).

Other related operational guidelines:

- Operational Guideline: Disclosure of gifts and disclosure of interests relating to gifts
- Operational Guideline: Disclosure of interests affecting impartiality
- Operational Guideline: Primary and annual returns

## 2. Gifts

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.

For the purposes of both disclosure of receipt and disclosing an interest when a matter comes before council, a gift is any gift valued at over \$300 or a cumulative value of \$300 where the gifts are received from the same donor in a 12-month period.

### 2.1. Interests in matters before council

The interest provisions are aimed at ensuring that decision-making is free from influence and so decisions can be made in the best interests of the community.

An interest created from receipt of a gift recognises that a relationship is formed between the donor and a recipient of a gift which could be perceived to affect decision-making. This applies to any gift received, not just a gift that must to be disclosed under sections 5.87A and 5.87B.

The basic principle is, that unless the gift is an excluded gift (section 5.62(1B) and Administration Reg. 20B), the council member who has received the gift is not to participate in any part of the meeting dealing with the matter. They must be absent from any deliberations (unless approval is granted by the council or the Minister).

If the council member has such an interest they must disclose this interest before the meeting to the CEO or to the presiding member before the matter is discussed.

If it is the CEO who has the interest due to receipt of a gift, they are not to provide advice to council or prepare reports for council, either directly or indirectly. They must disclose their interest to the mayor or president.

## 2.2. Gifts excluded from the interest provisions

Any gift received over \$300 is specifically excluded from the conflict of interest provisions if:

- the gift relates to attendance at an event where attendance has been approved by the council in accordance with the council endorsed Attendance at Events policy, or
- the gifts is from specified entities.

Regulation 20B of the *Local Government (Administration) Regulations 1996* prescribes the specified entities as WALGA (but not LGIS), ALGA, LG Professionals, a State public service department, a Commonwealth, State or Territory government department or another local government or regional local government.

Excluded gifts are still a gift that must be disclosed and published on the gifts register if over the value of \$300 and received in the capacity of council member or CEO.

# 3. Attendance at events policy

Section 5.90A of the Local Government Act requires that local governments have an attendance at events policy. The purpose of the policy is for the council to actively consider the purpose of and benefits to the community from council members and CEOs attending events.

The policy provides a framework for the acceptance of invitations to various events and clarifies who will pay for tickets or the equivalent value of the invitation.

The tickets should be provided to the local government and not individual council members. A ticket or invitation provided by a donor to an individual in their capacity as a council member or CEO is to be treated as a gift to that person, unless the tickets or invitation is referred to the local government to be considered in accordance with the policy.

## 3.1. The legislation [section 5.90A]

### 5.90A. Policy for attendance at events

- (1) In this section —

**event** includes the following —

- (a) a concert;
  - (b) a conference;
  - (c) a function;
  - (d) a sporting event;
  - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
- (a) the provision of tickets to events; and
  - (b) payments in respect of attendance; and
  - (c) approval of attendance by the local government and criteria for approval; and
  - (d) any prescribed matter.
- \* Absolute majority required.
- (3) A local government may amend\* the policy.
- \* Absolute majority required.
- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

## 4. Matters for consideration in developing the policy

In developing the policy, there are a number of matters which need to be considered. Principally, the council needs to consider what is the benefit to the community or local government in having members of council or the CEO attend the event.

The Attendance at Events policy is to enable council members to attend events as a representative of council without restricting their ability to participate in council meetings. It is not intended to be used as a mechanism to avoid conflict of interest provisions where significant matters are likely to come before council from the provider of the invitation.

While attending events is generally considered an important function for council members and the CEO to represent the local government, if there are costs involved, especially significant costs, it can lead to criticism from the community for spending ratepayer's money if the tangible benefits are not identified. Similarly, if the council is accepting tickets, including those as a result of sponsorship, there can be a perception of bias when matters affecting that organisation come before council.

The policy should also consider the role that the person attending will have at the event - for example, speaking, giving an award or being a member of the audience – especially if there are significant costs associated with attendance. The community perception will be different for a person attending to undertake a specific role or function versus being a member of the audience.

Note that examples are provided in the legislation of what constitutes an event: concerts, conferences, functions and sporting events. This is not an exhaustive list and councils should consider the full range of events that may be relevant to their local government, such as agricultural shows, field days, school awards nights and cultural events.

Ultimately, it is the decision of the council as to what is contained within the policy and this will vary between local governments.

Matters that could be included are:

- To whom invitations are to be directed,
- Who authorises attendance at an event, including how the decision is made for a council member or CEO to attend an event,
- How many people are authorised to attend an event,
- Who is responsible for the cost of attending (if any), including whether there is a requirement for the council member or CEO to contribute to the cost, particularly if the person's partner is also attending;
- Whether there are any events that are authorised in advance by council (preauthorised events),
- Whether the location of the event is within the district,
- Attendance at sponsored events, and
- Attendance at events that are outside the policy.

The council, with accountability to the local community, is in the best position to determine the design and content of the policy. Some local governments have requested guidance from the Department. To this end a sample policy is included on the following pages.

The policy may provide authorisation for the CEO to be the decision maker where decisions align with the policy intent. In that case, the policy must set out clear criteria by which the CEO may make such determinations.

## 5. Concluding remarks

In developing the Attendance at Events policy, councils need to actively consider the purpose of and benefits to the community from council members and CEOs attending events. The policy should not be used to intentionally circumvent conflict of interests which may arise from attending events hosted by a provider who will have a significant matter before council.

Local governments are encouraged to use this template as a guide and to adapt it to reflect the needs and expectations of their communities. The policy can also be adapted to include attendance at events by employees other than the CEO.

The community's trust in local government is crucial to its success.

# Attendance at Events – template policy

## Introduction

Section 5.90A of the *Local Government Act 1995* provides that a local government must prepare and adopt an Attendance at Events policy.

This policy is made in accordance with those provisions.

## Purpose

This policy addresses attendance at any events, including concerts, conferences, functions or sporting events, whether free of charge, part of a sponsorship agreement, or paid by the local government. The purpose of the policy is to provide transparency about the attendance at events of council members and the chief executive officer (CEO).

Attendance at an event in accordance with this policy will exclude the gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required under the gift register provisions.

## Legislation

### 5.90A. Policy for attendance at events

- (1) In this section —  
**event** includes the following —
  - (a) a concert;
  - (b) a conference;
  - (c) a function;
  - (d) a sporting event;
  - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt\* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
  - (a) the provision of tickets to events; and
  - (b) payments in respect of attendance; and
  - (c) approval of attendance by the local government and criteria for approval; and
  - (d) any prescribed matter.

\* Absolute majority required.

- (3) A local government may amend\* the policy.  
\* Absolute majority required.
- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

## Provision of tickets to events

### 1. Invitations

- 1.1 All invitations or offers of tickets for a council member or CEO to attend an event should be in writing and addressed to the [Click or tap here to enter text.]
- 1.2 Any invitation or offer of tickets not addressed to the [Click or tap here to enter text.] is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.
- 1.3 A list of events and attendees authorised by the local government in advance of the event is at Attachment A.

### 2 Approval of attendance

- 2.1 In making a decision on attendance at an event, the council will consider:
  - a) who is providing the invitation or ticket to the event,
  - b) the location of the event in relation to the local government (within the district or out of the district),
  - c) the role of the council member or CEO when attending the event (participant, observer, presenter) and the value of their contribution,
  - d) whether the event is sponsored by the local government,
  - e) the benefit of local government representation at the event,
  - f) the number of invitations / tickets received, and
  - g) the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.
- 2.2 Decisions to attend events in accordance with this policy will be made by simple majority or by the CEO in accordance with any authorisation provided in this policy.

Guidance Note: If the local government is proposing to provide authorisation to the CEO to determine matters in accordance with this policy, then it will be necessary for the policy statement to include specific principles / criteria by which the CEO may make such determinations.

### 3 Payments in respect of attendance



- 3.1 Where an invitation or ticket to an event is provided free of charge, the local government may contribute to appropriate expenses for attendance, such as travel and accommodation, for events outside the district if the council determine attendance to be of public value.
- 3.2 For any events where a member of the public is required to pay, unless previously approved and listed in Attachment A, the council will determine whether it is in the best interests of the local government for a council member or the CEO or another officer to attend on behalf of the council.
- 3.3 If the council determines that a council member or CEO should attend a paid event, the local government will pay the cost of attendance and reasonable expenses, such as travel and accommodation.
- 3.4 Where partners of an authorised local government representative attend an event, any tickets for that person, if paid for by the local government, must be reimbursed by the representative unless expressly authorised by the council.

### Attachment A – events authorised in advance

<b>Event</b>	<b>Date of event</b>	<b>Approved Attendee/s</b>	<b>Approved local government contribution to cost</b>	<b>Date of council resolution or CEO authorisation</b>
Example: Greater Westralia Regional Agricultural Ball	20 December 2019	<ul style="list-style-type: none"> <li>• President Cr Brown and partner</li> <li>• Deputy President Cr Green and partner</li> <li>• CEO and partner</li> </ul>	6 tickets @ \$190 each  Total cost \$1,140	Ordinary Council Meeting 4 November 2019