

A Four-Chart Guide

### Chart 1: Which rules apply to you? What is your current position? Council member **CEO** Other employee You are bound by the rules on You are bound by the rules on You are bound by your Local gifts in both the Act and your gifts in both the Act and your Government Employee Code local government's Code of local government's Code of of Conduct. Conduct. Conduct. See Gifts Disclosure: A **Guide for Local Government** Council Members.

**Note:** All references in this guide to 'the Act' refer to the *Local Government Act 1995* (WA) and all references to 'the Regulations' refer to the *Local Government (Administration) Regulations 1996* (WA).

**Note:** s 5.104(1) of the Act requires local governments to prepare or adopt a Code of Conduct.

**Note:** Failure to disclose a gift or interests relating to gifts are a serious local government offence carrying a penalty of \$10,000 or imprisonment for two years (s 5.87B(1)).

#### DISCLAIMER

This series of four charts is only a guide. Please refer to the relevant sections of the Act and Regulations and seek legal advice for your particular circumstances. © Civic Legal 2021. All rights reserved.

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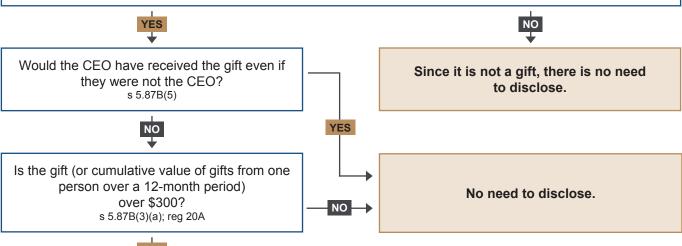
### Chart 2: Disclosing a gift for the gifts register

#### Is it a gift?

A gift is something one receives without a payment or something else of value in exchange.

A gift can include travel contributions.

For full definition, see s.5.57



YES

Disclose gift in writing to the mayor or president within 10 days of receipt.

Record this on the gifts register within 10 days of disclosure.

s 5.87B(2); s 5.87C(2); s 5.89A(2A)

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### **Chart 3A: Disclosing interests relating to gifts**

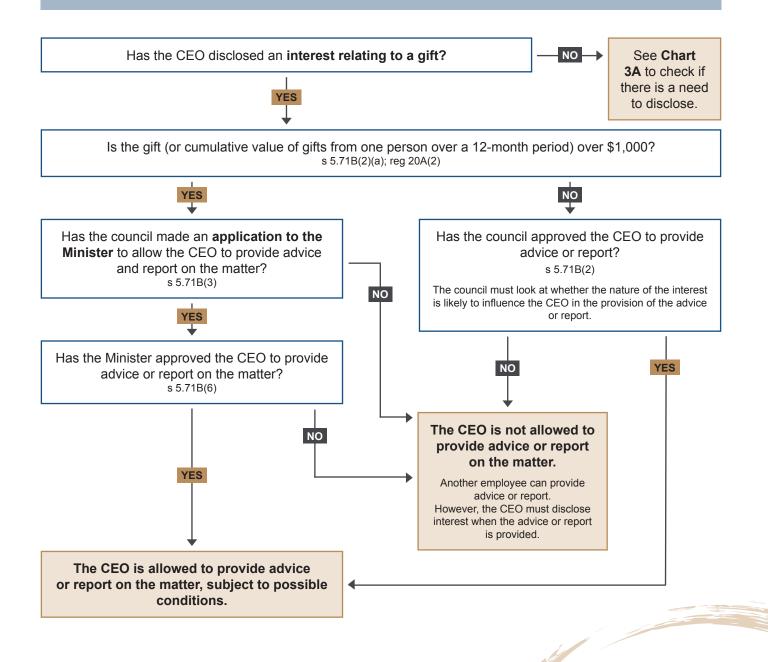
Does the CEO or another employee have to provide advice or report on a matter? s 5.71A(1) and s 5.71(A)(3) YES Has the CEO, since commencing employment As there is no matter to be advised or reported on, there is no interest as CEO, received a gift from a person who has a direct or indirect financial or proximity to be disclosed. However, see Chart 2 to check if there is a need to disclose interest in the matter? for the gifts register. s 5.60; s 5.62(1)(ec) NO YES Is the gift (or cumulative value of gifts from one person over a 12-month period) over \$300? NO No need to disclose. s 5.62(1A)(a); reg 20A(1) YES YES Is the gift from one of the following entities: WALGA, ALGA, LG Professionals Australia WA, a department of the Public Service, a department of State/Territory/Commonwealth, or a local government or regional local government? Disclose interest relating to gift in writing to s 5.62(1B)(b); reg 20B the council or committee before meeting. The CEO cannot provide advice or report unless approved. See Chart 3B for the approval process. Is the gift a ticket to, or related to an event? Another employee can provide advice NO s 5.62(1B) or report. However, the CEO must disclose interest when the advice or report is provided. s 5.71A Is the CEO's attendance at the event approved in accordance with the local No need to disclose. government's policy for attendance at events? YES -However, see Chart 2 to check if there is a need to s 5.90A; s 5.62(1B)(a)(ii) disclose for the gifts register.

**Note:** Charts 3A and 3B specifically refer to '*interests* relating to gifts' (s 5.59). Other interests may need to be disclosed under other provisions under the Act.

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### Chart 3B: Approval process for CEO to provide advice or report



**Note:** If participation is allowed by the Minister, the Minister's decision to approve must be recorded in the meeting minutes (s 5.71B(7)).

**Note:** If participation is allowed by the council, the council's decision to approve participation must be recorded in meeting minutes (s 5.71B(2)).

#### **CONTACT US**

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