

## Gifts, Benefits and Hospitality Policy

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Directorate:	Corporate Services	Responsible Officer:	Manager Governance and Commercial Property
Policy Type:	Discretionary	Version No:	1
1 <sup>st</sup> Adopted by Council	14 December 2015 Minute No. 1213	Last Adopted by Council:	14 December 2015 Minute No. 1213
Review Period:	Every 4 years	Next Review:	December 2019

### 1. Purpose

What has led to the need for this policy?

This policy ensures that Councillors and Council staff have clear guidance relating to when offers of gifts, benefits or hospitality may be accepted and when they must be declined.

City of Greater Dandenong (Council) is committed to being honest, open and transparent in its operations and decision making processes and strives to promote trust and goodwill within the community.

It is common for Councillors or Council staff to be offered gifts or hospitality as a thank you for good service, a job well done or fostering new or long standing working relationships. However it is important that the gesture of giving gifts or providing hospitality is not perceived to be or result in a form of unethical behaviour or one which may lead to an actual or perceived conflict of interest in a Council matter.

A register for Gifts, Benefits or Hospitality is maintained by the Governance and Commercial Property Unit and under the *Local Government (General) Regulations 2004* is available for public inspection. Any Councillor or member of staff offered a gift, benefit or hospitality is required to complete a 'Gifts and other Considerations Form' and submit it to the Governance and Commercial Property Unit in a timely manner as part of Council's commitment to open and accountable governance and to meet the necessary requirements of the *Local Government Act 1989*.

What will the policy do?

The purpose of this policy is to provide guidance to Councillors and Council staff on the ethical considerations and procedures involved with the acceptance and declaration of gifts, benefits or hospitality offered to them in the course of their duties with Council.

This policy ensures that Councillors and staff have the necessary information to enable them to take accountability for their actions and sets out the methods and procedures available so the recipient can make decisions which are beyond reproach and can withstand audit process and public scrutiny.

## 2. Scope

Who does it apply to and what is covered?

This policy applies to all gifts, benefits or hospitality offered to Councillors, and Council staff received from external sources regardless of whether the gift is accepted or declined. It also applies where the benefit has been issued in the context of a 'loan'.

This policy excludes gifts, benefits or hospitality awarded to staff through the employee rewards and recognition program.

For the purpose of this policy the reference to Council staff includes:

- Fulltime, part time and casual employees including permanent and temporary appointments;
- Contractors and agency personnel; and
- Volunteers.

Council's Codes of Conduct include detailed information relating to identifying and disclosing a conflict of interest and this policy should be read in conjunction with the Codes. Staff, contractors, councillors and volunteers should refer to their relevant version of the Code of Conduct

The Victorian Charter of Human Rights and Responsibilities has been considered in the preparation of this policy

## 3. References

Victorian Legislation, Principles and other reference sources (as amended or replaced from time to time)

- *The Charter of Human Rights and Responsibilities Act 2006*
- *Local Government Act 1989*
- *Local Government (General) Regulations 2004*
- *Protected Disclosures Act 2013*
- *Criminal Code Amendment (Theft, Fraud, Bribery and Related offences) Act 2000*

## 4. Definitions

### **Gift**

Something given voluntarily without payment or compensation, which is meant to convey a feeling of goodwill on behalf of the giver and where there is no expectation of favours or repayments in return.

### **Loan**

Something granted for temporary use on the condition of it being returned. For the purpose of this policy, a loan includes, significant resources, equipment, assets or similar, which the recipient has not received in the context of it being required to undertake their duties with Council. Local department procedures will provide further guidance around this. For example use of a vehicle which is not issued in accordance with Council's policies and processes or could be used or perceived to be used in a manner resulting in an inappropriate personal gain. Loans of money or funds are not allowed to be accepted under any

circumstances.

**Benefit**

Something which is believed to be of value to the receiver, such as preferential treatment or privileged access at an event, access to confidential information, personal services, or any type of favour / advantage offered.

**Bribe**

Money or other inducement given or promised in order to influence the judgment or conduct of a person.

**Hospitality**

Is the friendly reception and treatment of guests with the provision of food or beverages, which may range from light refreshments, restaurant meals or sponsored travel and accommodation offered to convey goodwill on behalf of the giver for which there is no expectation of favours or repayment.

**Conflict of Interest**

(direct or indirect) is a situation in which a Councillor or member of staff has a competing or personal interest in a matter of Council, and as a result may be seen to conflict with their official duties or compromise their ability to act in the public's best interests and to fulfill their official duties impartially (refer to *Local Government Act, 1989* for comprehensive definition).

## 5. Council Policy

When can a gift, benefit or hospitality be accepted?

A gift, benefit or hospitality may be accepted for cultural, protocol or business relationship purposes (subject to the restrictions noted in this policy) or where it has been offered in an honorarium form unless the value warrants it being considered a conflict of interest (see Conflict of Interest page 6).

If offered, a gift, benefit or hospitality, Councillors and Council staff must always consider whether or not it is appropriate to accept the offer. Issues to consider when accepting a gift, benefit or hospitality include why the offer was made and the public perception of the acceptance.

Councillors or staff who are unsure about accepting a gift or hospitality should seek advice from the Manager, Governance and Commercial Property.

When should gifts, benefits and hospitality be declined?

Gifts, benefits or hospitality should not be accepted from any person or organisation where the gift causes a conflict of interest. This includes where the gift is above a certain value and as such warrants it being considered a conflict of interest in itself i.e. the value of the one gift is over the threshold of a total of \$500 (see Conflict of Interest below). Please also refer to the Gift Test below for further information to determine whether a gift could cause a conflict of interest.

Recipients of gifts can establish their approximate value without enquiring with individual givers allowing a total value to be determined for the purpose of the cumulative threshold of \$500 over a five year period.

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Careful consideration should always be given before acceptance of a gift from external organisations or individuals involved in:

- Tender processes
- Procurement
- Enforcement
- Licensing
- Regulation
- Recruitment and Selection.

Where there is any doubt as to whether a gift, benefit or hospitality should be accepted, such offers should be politely declined. To reduce the possibility of causing offence, Councillors and staff are encouraged to make reference to this policy and the importance of transparent and ethical behaviours.

Gifts that constitute or may be construed to be a bribe or any form of bribery should be refused and reported immediately to Council's Protected Disclosures Coordinator. Details of Council's Protected Disclosures Coordinator are available on Council's website.

Gifts involving an offer of money or anything that can readily be changed or converted to money must never be accepted and must be immediately reported to the Manager Governance and Commercial Property..

What is the Gift Test?

The following table 'The Gift Test' was developed by the Victorian State Services Commission and is a good example of what to think about when deciding to accept or decline a gift, benefit or hospitality.

G	Giver	<b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b> Does my role require me to select contractors, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?
I	Influence	<b>Are they seeking to influence my decision or actions?</b> Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?
F	Favour	<b>Are they seeking a favour in return for the gift, benefit or hospitality?</b> Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?
T	Trust	<b>Would accepting the gift, benefit or hospitality diminish public trust?</b> How would you feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends or associates think?

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How should gifts, benefits and hospitality be reported and recorded?	Any gift, benefit and hospitality, regardless of value, which is offered by an external person or organisation, whether accepted or declined, must be promptly reported to the Governance and Commercial Property Unit using the Register of Gifts and Other Considerations Form (Appendix 2) which is also available on Webstar (Council's Intranet facility).
Who is responsible?	<p>In line with this policy, individuals must complete forms whenever they are offered or are the recipient of gifts, benefits or hospitality from external persons or organisations. Governance will alert individuals when their five year running totals near the \$500 threshold in order to assist them to remain within the boundaries of Section 78c of the <i>Local Government Act 1989</i> (see Conflict of Interest section below). Managers can be copied into these alerts for information in order to assist them to ensure that gifts, benefits and hospitality offered to the department as a whole are being monitored appropriately. Managers are also responsible to report gifts, benefits and hospitality offered to the department when a recipient is not nominated.</p> <p>The value of the gift is not the only aspect that must be considered under the policy and regulations. The motives of the giver in offering a gift are not being questioned unless the motive is clearly inappropriate (in which case the matter should be appropriately reported).</p>
Exemptions?	<p>Promotional products such as pens, diaries, show bags etc. that are given as part of a conference, seminar, workshop or official function/event.</p> <p>Meals or refreshments provided as part of a conference, seminar or workshop or official function/event.</p> <p>Local departmental guidelines provide support and guidance for unique circumstances. For example local guidelines for Care Workers were developed to support them in understanding the nature of gifts that do not need to be declared, i.e. Plant cuttings, homemade baked goods. Governance can provide guidance to managers to assist them in developing and updating these. Governance and department managers will work together to determine appropriate exemptions and parity between departments in these guidelines. Governance will review and approve proposed guidelines (including updates) to ensure compliance with this policy and the <i>Local Government Act 1989</i>.</p>
Conflicts of Interest?	<p>The following will give rise to an individual having a conflict of interest to declare in accordance with Section 78c of the <i>Local Government Act 1989</i>:</p> <ul style="list-style-type: none"><li>○ any gift, benefit or hospitality valued at \$500 or more; or</li><li>○ any gifts, benefits or hospitality accumulated to \$500 or more from one source, over a five year period.</li></ul>

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**Improper conduct /fraudulent receipt of gifts?** If a Councillor or staff member believes they have been offered a bribe, it is important that they immediately act to minimise any potential for negative consequences by contacting Council's Protected Disclosure Coordinator, who will investigate the matter under the *Protected Disclosures Act 2013*.

Councillors and staff must be aware that fraudulently receiving a 'Gift' including hospitality is an offence under both common law and the *Local Government Act 1989*.

**Cultural/Official Gifts**

On occasions Councillors and staff members may be involved in social, cultural or community events where significant gifts of appreciation or goodwill are offered to Council. In circumstances, where it would appear to be impolite or inappropriated to decline the offer, it is reasonable for Councillors or staff members acting in an official capacity to accept such gifts on behalf of Council.

All cultural/official gifts accepted on behalf of Council are to be tabled at a Council Meeting and recorded in Council's Gift Register. The gift will be considered the property of the City of Greater Dandenong and Council will endeavour to ensure the gift is used with the intent in which it was given.

Small or token cultural gifts (ie. Key ring, neck tie, scarf) offered to individuals may be accepted by the individual, and in accordance with this policy promptly reported to the Governance and Commercial Property Unit using the Register of Gifts and Other Considerations Form (Appendix 2) which is also available on Webstar (Council's Intranet facility).

**Raffle Prizes and Door Prizes?**

In all instances the recipient of a prize from an external person or organisation must complete a Gifts and other Considerations Form. This includes when the person has attended an event during paid hours, as they are acting as a representative of Council.

If a Councillor or staff member is uncertain they can discuss with the Manager, Governance and Commercial Property who will determine if it is acceptable for them to keep the gift.

Circumstances in which a person is entitled to keep the prize is where personal payment has been made for the attendance/registration fee at the function/seminar/event or raffle ticket that wins a prize unless a conflict of interest may still occur – refer to the GIFT test above.



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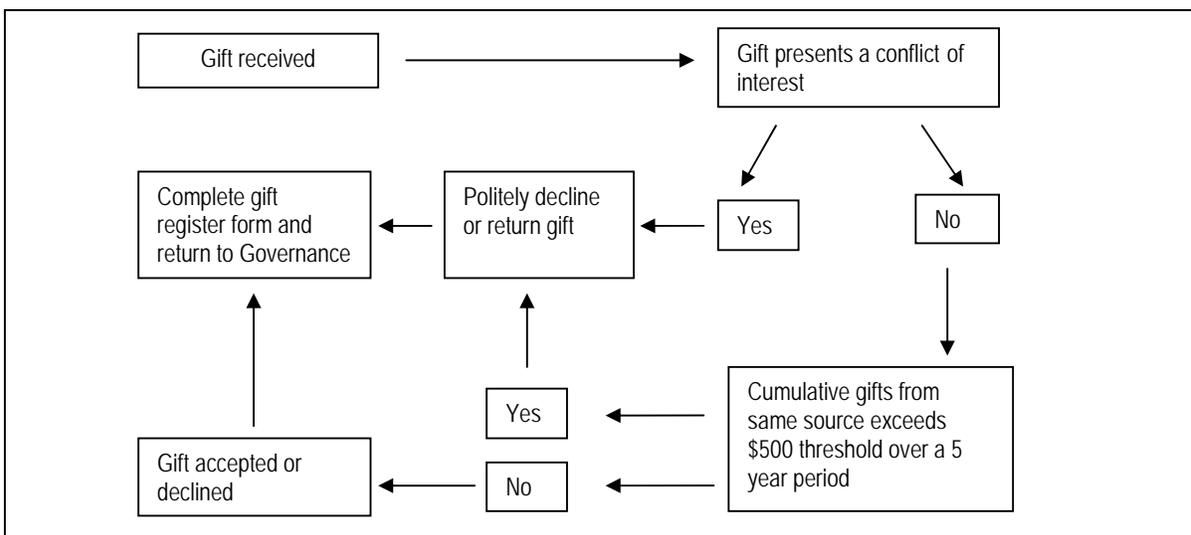
## 6. Related Documents

Related Council documents (as varied from time to time)

- Procurement Policy
- Code of Conduct – Staff
- Code of Conduct - Volunteers
- Code of Conduct – Councillors
- Council's Gifts and other Considerations Register
- Working from Home Policy and Guidelines
- Local department guidelines

## Appendix 1

### What should I do when I receive a Gift?



### Examples of acceptable/inappropriate gifts and hospitality

#### Gift

##### Acceptable

Small thankyou gifts or token items:

- Box of chocolates
- Flowers
- Bottle of wine
- Stationary
- Diary or calendar
- Book
- Mug

##### Inappropriate

- Money or cash
- Gift vouchers
- Gifts of high value
- Random travel/accommodation offers
- Frequent gifts from same source
- Gifts from a company during the procurement process

*Note - that a Gift Register Form should always be completed whether gift is received or declined.*

#### Hospitality

##### Acceptable

- Refreshments (tea/coffee)
- Working lunches/dinners
- Meals at conference or seminar

##### Inappropriate

- Attendance at lavish events
- Travel and accommodation not related directly to Council activities
- Frequent invitations from the same source
- Entertainment from a company during the procurement process

*Note - that a Gift Register Form should always be completed whether gift is received or declined.*



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## Appendix 2 - Register of Gifts and Other Considerations Form



Local Government Act 1989

### Register of Gifts and Other Considerations

Governance Use Only Register No.
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The information on this form will be placed on a public register, available for view by anyone upon request.

#### RECEIPT DETAILS

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Date Gift Received: \_\_\_\_\_

Name of Individual/Company/Group Providing Gift or Consideration: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Nature of Gift or Consideration: (please provide a brief description)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### DISPOSAL

Disposal/Utilisation of Gift or Consideration:  Accepted  Declined  Other

Action taken: (i.e. Returned, Donated to, Retained by Department, Recipient or Given to Business Department)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Approximate Value of Gift or Consideration: \_\_\_\_\_

Completed by: \_\_\_\_\_

Signature: \_\_\_\_\_

REFER TO PAGE 13 OF STAFF CODE OF CONDUCT FOR CLARIFICATION  
PLEASE RETURN COMPLETED FORM TO GOVERNANCE

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