

Gifts, Favours and Hospitality

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<b>Internal external or both:</b>	Internal

**CONTENTS**

**1. TITLE.....3**

**2. OBJECTIVE.....3**

**3. DEFINITIONS AND ABBREVIATIONS.....3**

**4. POLICY.....4**

**5. HUMAN RIGHTS CHARTER COMPATIBILITY.....7**

**6. ASSOCIATED DOCUMENTS.....7**

**7. REFERENCES/RESOURCES.....7**

## 1. TITLE

Gifts, Favours and Hospitality

## 2. OBJECTIVE

To ensure that Gifts, Favours, and Hospitality received or provided by Council officers are managed to avoid Conflict of Interest, prevent fraud and corruption and to ensure transparency.

## 3. DEFINITIONS AND ABBREVIATIONS

Term	Meaning
Approver	means a person who is required under this policy to approve acceptance of Gifts, Favours or Hospitality.
Conflict of Interest	includes direct and indirect interests under the <i>Local Government Act 1989</i> (Vic) or an actual, potential or perceived conflict of interest, as set out below: <ul style="list-style-type: none"><li>• an actual conflict of interest means a real conflict between an employee's public duties and private interests.</li><li>• a potential conflict of interest means circumstances where it is foreseeable that a conflict between an employee's private interests and their public duties may arise in future and steps should be taken now to mitigate that future risk.</li><li>• a perceived conflict of interest means circumstances where the public or a third party could form the view that an employee's private interests could improperly influence their decisions or actions now or in the future.</li></ul>
Council officer	means any individual acting for or on behalf of Council, including employees, authorised officers, volunteers and contractors.
Favour	includes preferential treatment, privileged access, or other advantage offered to an individual, such as access to discounts, fast-tracked approval processes and loyalty programs.
Gift	means an unsolicited item given to a Council officer with the intention of conveying a feeling of goodwill on behalf of the giver, and where there is no expectation of favours or repayment, and includes: <ul style="list-style-type: none"><li>• a free or discounted item;</li><li>• provision of a service other than volunteer labour;</li><li>• the making of a payment or contribution at a fundraising function; and</li><li>• any other item which would generally be seen by the public as a gift.</li></ul>
Gifts Register	means a register of all Gifts, Favours, and Hospitality received by Council officers, maintained by Corporate Counsel.
Hospitality	means the provision or sponsorship of travel, accommodation, meals or entertainment or the hosting, reception or entertainment of guests, but does not include: <ul style="list-style-type: none"><li>• training, learning and development activities;</li><li>• externally hosted business meetings, site visits or community events which are not for networking purposes;</li><li>• travel accommodation, meals or entertainment which is paid for by Council or by the person receiving the hospitality; or</li><li>• modest refreshments which are incidental to business meetings, training, learning and development activities or community events.</li></ul>
Legitimate purpose	business means a purpose which furthers the conduct of Council's official business, or promotes and supports Council's policy objectives and priorities, and may include: <ul style="list-style-type: none"><li>• expressing goodwill for official or ceremonial purposes;</li></ul>

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- commemorating a significant occasion;
  - facilitating the development of business relationships;
  - furthering Council's business outcomes;
  - contributing to staff development and wellbeing and workplace satisfaction; or
  - celebrating Council's achievements.

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Token Gift	means a Gift (other than money) with a value up to and including \$25, and may include: <ul style="list-style-type: none"><li>• flowers</li><li>• chocolates</li><li>• thank-you cards</li><li>• beverages</li></ul>
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## 4. POLICY

### Scope

- 4.1 This policy applies to Gifts, Favours, and Hospitality provided to or by a Council officer in the course of or in connection with performing their Council duties.
- 4.2 This policy does not apply to:
- (a) gifts, favours or hospitality received or given by a Councillor;
  - (b) Council's fundraising activities under relevant legislation and government policies;
  - (c) gifts, favours or hospitality received or given in a personal capacity; or
  - (d) grants provided under Council's Community Grants Policy.

### Background

- 4.3. Council officers must, in the course of performing their Council functions, act honestly and impartially, and avoid any Conflict of Interest. Council officers should be aware that if, in the five years preceding, they have received a gift, or a number of gifts, with a total value exceeding \$500 from the same person or entity, and that person or entity has an interest in the decision being made or the power being exercised then it will give rise to a conflict of interest that must be declared in accordance with the *Local Government Act 1989*.
- 4.4. Council officers may not, under any circumstances:
- (a) offer Gifts, Favours, or Hospitality as a bribe or inducement;
  - (b) use their position in Council to seek or solicit Gifts, Favours, or Hospitality (including Token Gifts);
  - (c) place any individual or organisation in a position in which they feel obliged to offer Gifts, Favours, and Hospitality to secure or retain Council business; or
  - (d) give or accept a gift of money, or any item which is similar to money or can be easily converted to money.
- 4.5. Council acknowledges that Council officers may, from time to time, receive unsolicited offers of Gifts, Favours, or Hospitality, and may also provide Gifts, Favours, or Hospitality to others for a legitimate business purpose. In these circumstances, Council officers will:
- (a) maintain a high standard of probity and accountability;
  - (b) exercise reasonable judgment, including by seeking further advice if necessary;
  - (c) meet all relevant legislative and policy requirements, as well as community expectations;
  - (d) avoid any conflict of interest with their professional or public duties; and
  - (e) ensure that Gifts, Favours, and Hospitality are properly disclosed and managed in accordance with this policy.
- 4.6. In addition to any approval requirements in this policy, Council officers are expected to exercise judgement in relation to any offers of Gifts, Favours and Hospitality, having regard to the same considerations as are applicable to approval. If, in the view of a Council officer, acceptance of a Gift, Favour or Hospitality would result in a Conflict of Interest, Council officers may take the following action as appropriate:

- (a) politely decline the offer; or
- (b) in the case of a Gift, return the Gift or in consultation with their Manager dispose of the Gift and inform the person who made the offer.

**All Gifts, Favours and Hospitality must be reported**

4.7. All Gifts, Favours, and Hospitality (including Token Gifts), which are offered to a Council officer, whether accepted or not, must be reported and recorded in the Gifts Register.

**No approval required for Token Gifts**

4.8. A Council officer may accept a Token Gift which is offered to them without first seeking approval if, having made reasonable enquiries, they are of the view that:

- (a) acceptance of the Token Gift will not cause a Conflict of Interest with their professional or public duties; and
- (b) the Token Gift offered to them is not part of a systemic pattern of gift-giving.

**Approval required for other Gifts**

4.9. If a Council officer is offered a Gift other than a Token Gift, the Council officer must seek approval to accept the Gift as set out in the following table:

Estimated or actual value of the Gift	Approver
Up to and including \$50	Manager
Up to and including \$200	Director
Above \$200	Chief Executive Officer (CEO)

4.10. Notwithstanding section 4.9, a Council officer may not approve their own acceptance of a Gift other than a Token Gift.

- (a) If a Manager is offered a Gift, the Manager must seek approval from their Director, or from the CEO if the value of the Gift is above \$200.
- (b) If a Director is offered a Gift, the Director must seek approval from the CEO.
- (c) If the CEO is offered a Gift, the CEO must seek approval from the Mayor.

4.11. The following considerations must be taken into account by the Approver in determining whether an offer of Gifts may be accepted under this Policy:

- (a) the value and timing of the Gift, including whether the Gift is offered preceding or during procurement activities involving the person making the offer;
- (b) any existing relationship with the person or organisation making the offer;
- (c) whether any benefit is sought or might reasonably be expected in return for the Gift;
- (d) whether accepting the Gifts would bring any benefit to Council or further a legitimate business purpose;
- (e) whether accepting the Gift would influence, or reasonably be perceived to influence, the public and professional duties of the person to whom it is offered; and
- (f) whether accepting the Gifts would diminish public trust in Council or its activities.

4.12. A Council officer may dispose of a Gift by:

- (a) transferring it to another public agency or authority;

- (b) surrendering it to the CEO, who will ensure that it is transferred as a gift to a recognised charitable or not-for-profit organisation;
- (c) providing it to the Victorian Museum or State Library for archiving; or
- (d) recycling or destroying it after consultation with the approver and subject to legal requirements including the *Public Records Act 1973 (Vic)*.

### **Favours should not be accepted**

4.13. A Council officer may not, under any circumstances, accept a Favour given to them by an external party.

### **Approval required for Hospitality**

- 4.14 If a Council officer is offered Hospitality, they must seek written approval from their Director before accepting.
- 4.15 A Director or the CEO may accept an offer of hospitality given to them without further approval provided that the value of the offer does not exceed \$200 and the requirements of section 4.16 are met. If the value of the offer exceeds \$200, a Director must seek approval from the CEO before accepting the offer, and the CEO must seek approval from the Mayor before accepting the offer.
- 4.16 An Approver may only approve Hospitality if, having considered the matters set out in section 4.11, they are of the view that the Hospitality:
- (a) will bring benefit to Council or further a legitimate business purpose;
  - (b) will not advantage the host in such a way as to create a Conflict of Interest with Council duties or diminish public trust in Council or its activities; and
  - (c) will not personally advantage the person to whom the Hospitality is offered.

### **Reporting Gifts, Favours and Hospitality**

- 4.17. The Gifts Register shall be maintained by Corporate Counsel and shall, at a minimum, include the following information:
- (a) date;
  - (b) description;
  - (c) estimated value;
  - (d) name of person offering the Gift, Favour or Hospitality;
  - (e) name and position of intended recipient;
  - (f) whether the Gift, Favour or Hospitality was accepted, and if so, the name and position of the Approver.
- 4.18. The Gifts Register shall be reviewed once every two months, by the Chief Financial Officer and Corporate Counsel.
- 4.19. Corporate Counsel or the Chief Financial Officer may, at any time, make further enquiries in relation to a Gift, Favour, and Hospitality recorded in the Gifts Register.
- 4.20. In accordance with principles of public transparency, the Gifts Register is available for inspection on written request:
- (a) without restriction, if the request is made by internal and external auditors, the Audit Committee and the Office of the Victorian Ombudsman without restriction; or
  - (b) with personal information removed, if the request is made by any member of the public.

### **Providing Gifts, Favours or Hospitality**

- 4.21. A Council officer may not, under any circumstances, provide a Favour to an external party in connection to Council services or functions.
- 4.22. Council officers may only provide Gifts or Hospitality :
- (a) to further a legitimate business purpose; and
  - (b) if it has been procured in accordance with Council's Procurement Policy and relevant procedures.

- 4.23. The following considerations must be taken into account in determining whether to provide Gifts, and Hospitality or the type of Gifts and Hospitality to provide:
- (a) the purpose for providing the Gifts and Hospitality and the extent to which it will further Council's objectives and priorities;
  - (b) whether public funds will be spent, and if so, whether the costs incurred are proportionate to the potential benefits; and
  - (c) whether public trust in Council and its activities will be enhanced or diminished.
- 4.19 A Council officer who provides Gifts or Hospitality must keep records of expenditure in accordance with relevant financial management, accountability and reporting requirements.

### **Breach of policy and other improper behaviour**

- 4.24. If a Council officer believes that a Gift, Favour, and Hospitality or conflicts of interest within Council has not been appropriately managed and reported in accordance with this policy he or she may report the matter in accordance with the *Protected Disclosures Act 2012*.
- 4.25. If a Council officer believes that they have been offered a bribe, they must report and manage the matter in accordance with the Fraud and Corruption Policy and Procedure.

## **5. HUMAN RIGHTS CHARTER COMPATIBILITY**

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

## **6. ASSOCIATED INTERNAL DOCUMENTS**

Staff Code of Conduct  
Fraud and Corruption Policy and Procedure  
Community Grants Policy.  
Council's Procurement Policy

## **7. EXTERNAL REFERENCES/RESOURCES**

*Local Government Act 1989* (Vic)  
Victorian Public Sector Commission Gifts, Benefits and Hospitality Policy Framework  
*Minimum accountabilities for managing gifts, benefits and hospitality*, Victorian Public Sector Commission  
*Public Records Act 1973* (Vic)