



# Draft Councillor Gift Policy

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## 1. PURPOSE

The purpose of this policy is to provide direction for Councillors on how to respond and take appropriate action in regards to offers of gifts, benefits and hospitality.

## 2. OBJECTIVES

The City of Whitehorse's policy objectives are to:

- Provide clear direction and guidance to Councillors on gifts, benefits and hospitality that may be accepted and those that may not.
- Ensure that members of the Whitehorse community and other key stakeholders have full confidence in the performance standards and conduct of Councillors as it relates to gifts, benefits and hospitality.
- Further strengthen the organisation's ongoing commitment to developing a highly transparent, ethical and legislative compliant entity.

## 3. SCOPE

The policy applies to elected Councillors of the City of Whitehorse and operates in conjunction with Council's adopted Councillor Code of Conduct and relevant provisions provided in the *Local Government Act 2020* ("the Act").

The City of Whitehorse is committed to being open and transparent in its operations to minimise the risk of being placed in a compromising position that may have an adverse effect on its public endeavours and the promotion of trust within the community.

The policy, serves to guide Councillors to be responsible and honest in their dealings and apply sound judgement when dealing with offers of gifts, benefits and hospitality, so as to not compromise their decision-making by always acting impartially.

## 4. DEFINITIONS

<b>Act</b>	Means the <i>Local Government Act 2020</i> .
<b>Appreciation gift</b>	A gift presented to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment.
<b>Benefit</b>	Something that is of value to the receiver, such as invitations to sporting, cultural or social events, access to discounts and loyalty programs, access to confidential information, accommodation or leisure holidays.
<b>Gift Register</b>	A Council register that captures all offers of gifts, benefits and hospitality received, accepted and declined and is accessible on Council's website.
<b>Gift</b>	Defined in section 3 of the Act as "any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including – a) the provision of a service (other than volunteer labour); and b) the payment of an amount in respect of a guarantee; and c) the making of a payment or contribution at a fundraising function."
<b>Gift Disclosure Threshold</b>	Defined in section 3 of the Act as "in the case of a Council, other than Melbourne City Council, \$500 or higher amount or value prescribed by the regulations" (Local Government (Governance and Integrity) Regulations 2020).
<b>Hospitality</b>	The friendly reception and entertainment of guests, that may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
<b>Monetary gift</b>	Means cash, gifts cards, cheque, direct deposit or other financial facility that will financially benefit the receiver.
<b>Official gift</b>	A gift presented to a Councillor as representatives of the Council, from a Sister City, Organisation or Corporation bestowing a corporate gift (ie. plaques, plates, trophies, art work) to the City, or as a token of appreciation for a contribution to a conference or industry event.
<b>Token gift</b>	A gift with a face or estimated value of less than \$50.
<b>Value</b>	Means the face value or estimated retail value.

## 5. GUIDING PRINCIPLES

- 5.1 Councillors must not solicit, demand or request gifts, benefits or hospitality for themselves or another person by virtue of their position.
- 5.2 Monetary gifts of any value are not to be accepted (election donations excluded).
- 5.3 Every offer of a gift, benefit or hospitality accepted, returned or declined, regardless of value (not official gifts) requires the lodgement of a Gift Registration Form within 7 days.
- 5.4 Completed Gift Registration Forms will be entered into Council's Gift Register, which is accessible on Council's website.

## 6. DIFFERENT TYPES OF GIFTS OR BENEFITS

Councillors may be exposed to a range of circumstances where different types of gifts may be transacted. This may include:

### **Appreciation**

Councillors must not accept a gift of appreciation with a value of more than \$50, but politely decline the offer.

If such a gift is offered to a Councillor in an open or public forum and refusal would be obviously discourteous or acceptance would not cause any potential perceived or actual compromise or conflict of interest, the gift may be accepted, but is to be referred to the CEO for a decision as to the appropriate treatment.

### **Hospitality**

From time to time, Councillors may receive invitations of hospitality to attend various functions and events. Invitations may include and be classified as follows:

#### ***Modest and networking opportunity***

Where hospitality is only modest in nature (incidental refreshments at meetings, working lunches, community events or similar) and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Notwithstanding the nature of this type of hospitality, it is the responsibility of the Councillor to be attentive to the cumulative value of any such offers and to avoid the likely creation of unwanted perceptions, whether real or contrived, by members of the community and others, regarding the activities, actions and conduct of a Councillor.

#### ***Social, Cultural and Sporting Events (External sponsored events/tickets)***

Any offer of hospitality that is likely to compromise the impartiality of a Councillor, or be perceived as a conflict of interest should be politely declined.

Councillors are also encouraged to avoid potential perceptions being created either presently or at a future time, involving Councillor's patronage and/or regular attendance at events or close association with certain organisation/s.

### **Official**

From time to time individuals or organisations may offer gifts of goodwill to the Council and the CEO will ensure that such gifts are recorded (not in Gift Register).

Official gifts are deemed to be Council property; however, where the item is not suitable for public display or the gift is of a personal nature to the recipient, the CEO will use their discretion as to the appropriate use of the official gift.

## 7. SITUATIONS NOT CLASSED AS A GIFT OR BENEFIT

This Policy does not apply in the following instances:

### ***Items not classed as Gifts or Benefits***

- a) Those gestures deemed to have no monetary value, such as flowers cut from a person's garden or homemade baking are not deemed to be a gift or benefit.
- b) Door or raffle prizes at a function or conference, where the individual has paid for their attendance or the raffle ticket.
- c) Recognition/promotional items (eg pen, tie or mug) handed to a Councillor, as a result of attending a conference held, conducted or sponsored by an organisation.

### ***Council related events***

The attendance and participation of Councillors at Council sponsored events is often an expectation of respective roles.

### ***Council funded events/tickets***

Councillors are offered the opportunity to attend functions at Council performance centres/facilities, or attend sporting events and the full cost is paid by Council.

### ***Where payment or reimbursement made***

In some circumstances, at the discretion and as approved by the CEO, a Councillor may attend an event, if the Council either fully reimburses the organisation for the full cost of the hospitality or if the Councillor personally pays for their own attendance.

## 8. OTHER RELEVANT GUIDANCE

### ***The Gift Test***

Deciding whether to accept a gift, Councillors should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the gift, the more likely that a conflict of interest or reputational risk exists. The GIFT test is a useful tool, in terms of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

<b>G</b>	<b>Giver</b>	Who is providing the gift, benefit or hospitality and what is their relationship to me? Could the person or organisation benefit from a decision I make?
<b>I</b>	<b>Influence</b>	Are they seeking to influence my decisions or actions? Has the gift, benefit or hospitality been offered to me publically or privately? Does its timing coincide with a decision I am about to make?
<b>F</b>	<b>Favour</b>	Are they seeking a favour in return for the gift, benefit or hospitality? Has the gift, benefit or hospitality been offered honestly? Would accepting it create an obligation to return a favour?
<b>T</b>	<b>Trust</b>	Would accepting the gift, benefit or hospitality diminish public trust? How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family or associates think?

## **Local Government Act 2020**

### ***Material Conflict of Interest***

Section 128(4) of the Act, states in part that – a disclosable gift means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the 5 years preceding the decision on the matter –

- a) If the relevant person held the office of Councillor, at the time the gift was received;  
or
- b) If the gift was, or gifts were or will be, required to be disclosed as an election campaign donation –

but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor.

### ***Anonymous gift not to be accepted***

Section 137 of the Act, states –

- 1) Subject to subsection 2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is equal to or exceeds the gift disclosure threshold unless –
  - a) the name and address of the person making the gift are known to the Councillor; or
  - b) at the time when the gift is made –
    - i) the Councillor is given the name and address of the person making the gift; and
    - ii) the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.
- 2) If the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection 1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.
- 3) In addition to the penalty specified in subsection 1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.

## **Local Government (Governance and Integrity) Regulations 2020**

### ***Biannual Personal Interests Return - Gifts received***

Councillors are to provide details of any gift received in the period since their last interests return, where the value equals or exceeds \$500 or the gifts in form of goods or services and multiple gifts equal or exceed that amount.

This does not include gifts from family members or any gifts you may have declared in an election campaign donation return under s306 of the Act.

## **9. POLICY REVIEW**

This policy will be reviewed every two years.

Responsible Manager: Manager Governance & Integrity

Date Adopted: April 2021

This Policy is consistent with the Charter of Human Rights and Responsibilities Act 2006.



# GIFT REGISTRATION FORM

Name of Person: \_\_\_\_\_

Position Title: \_\_\_\_\_

Date that gift or benefit offered: \_\_\_\_ / \_\_\_\_ / 2021

Name of individual, organisation offering the gift or benefit:  
\_\_\_\_\_

Nature of gift or benefit (Provide brief description and estimated retail value):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Action taken on gift or benefit (Provide brief description for action taken):

Accepted or declined? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signatures:

\_\_\_\_\_

Person lodging form

Date: \_\_\_\_ / \_\_\_\_ / 2021

\_\_\_\_\_

Mayor / CEO

Date: \_\_\_\_ / \_\_\_\_ / 2021

\_\_\_\_\_  
Manager Governance & Integrity

Date: \_\_\_\_ / \_\_\_\_ / 2021

Notes:

1. A gift registration form must be submitted within 7 days from date offer of a gift or benefit was made.
2. Councillors must submit completed form to the Mayor, and in the case of the Mayor, to the CEO.
3. Once the second signature has been received, the completed form must be forwarded to the Manager Governance & Integrity, who will update Council's Gift Register on its website.