

ACCEPTANCE AND DECLARATION OF GIFTS, BENEFITS AND HOSPITALITY POLICY

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Approved by:	Council
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Applicable to Unit(s):	Organisation and Councillors
Responsible Officer:	Manager Organisational Performance and Governance
Related Policies:	Conflict of Interest Policy Council Expense and Administration Policy Public Transparency Policy
Related Documents:	Gifts, Benefits and Hospitality Declaration Form Gifts, Benefits and Hospitality Declaration Register Councillor Code of Conduct Employee Code of Conduct
Statutory Reference:	<i>Charter of Human Rights and Responsibilities Act 2006</i> <i>Local Government Act 2020</i>

OVERVIEW

To provide Councillors and Council employees with requirements and guidance relating to the acceptance of gifts, benefits and hospitality.

THE POLICY

Wellington Shire Council is committed to following sound and transparent business practices in accordance with the *Local Government Act 2020*, Councillor and Employee Codes of Conduct. It recognises the importance of operating in a manner that models transparency, integrity and the highest ethical standards.

This policy is intended to support Councillors and employees in avoiding conflicts of interest, maintaining high levels of integrity and public trust and ensure that any gifts accepted are properly managed and disclosed.

COUNCILLORS AND COUNCIL EMPLOYEES

All gifts, benefits or hospitality offered to Councillors or Council employees must be declared and appropriately managed.

A gift, benefit or hospitality must not be accepted by Councillors or employees if:

- It is given as a bribe for favourable service or outcomes, or
- It could be perceived as intended to, or likely to, influence the individual in the fair, impartial and efficient discharge of their duties as a Councillor or Council employee.

The performance of Council functions and decision making including — but not limited to — tenders, planning decisions, recruitment processes and regulatory activity will not be influenced by the offer or inducement of a gift, benefit or hospitality.

Receipt of a gift from a person or organisation can result in a general or material conflict of interest in a matter.

Councillors and employees must not solicit, demand or request gifts or any personal benefit for themselves or another person by virtue of their position.

All gifts, benefits and hospitality of **any** value, whether declined or accepted, must be declared using the appropriate Gifts, Benefits and Hospitality Declaration form and details will be included on Council's Gifts, Benefits and Hospitality Declaration Register.

Under **NO** circumstances is cash to be accepted as an applicable gift.

Exempt Hospitality is the only item with an exemption. Refer to 'Hospitality' section.

Token Offers

A token offer is an offer of a gift or hospitality, valued at no more than \$50, and is of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and modest hospitality which would be considered a basic courtesy, such as morning tea or a coffee offered during a meeting.

Individuals may generally accept token offers as long as the offer does not create a conflict of interest or bring the individual or the organisation into disrepute.

Token offers other than Exempt Hospitality require a declaration.

Non-token Offers

Individuals may accept non-token offers if they have a legitimate business reason. All accepted non-token offers must be declared and approved in writing by the General Manager / CEO / Mayor, recorded in the Gifts, Benefits and Hospitality Declaration Register and be consistent with the following requirements:

- it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual or Council into disrepute; and
- there is a legitimate business reason for acceptance i.e. it is offered in the course of the individual's official duties, relates to the individual's responsibilities, recognises work undertaken or benefits achieved for the Council.

Individuals may be offered a gift, benefit or hospitality where there is no opportunity to seek written approval prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must seek approval within five business days.

Where the gift would likely bring the individual or the organisation into disrepute, the gift should be returned. If it represents a conflict of interest for the individual or Council, the gift should be returned.

Repeat Offers

Receiving multiple offers (token or non-token) from the same individual or organisation can generate a

stronger perception that the individual or organisation could influence the performance of Council functions and decision making. Councillors and employees should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage. Any offer whether rejected or accepted must be declared.

The Gift Test

When deciding whether to accept an offer, the Councillor or employee should first consider if the offer could be perceived as influencing them in the performance of their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk could arise.

The GIFT test (developed by the Victorian Public Sector Commission) provides guidance in what to consider when deciding whether to accept or decline a gift, benefit or hospitality.

G	Giver	Who is providing the gift, benefit or hospitality and what is their relationship to me? 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	Are they seeking to gain an advantage or influence my decisions or actions? 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	Are they seeking a favour in return for the gift, benefit or hospitality? 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	Would accepting the gift, benefit or hospitality diminish public trust? How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family friends or associates think?

GIFTS

In general, **gifts** are acceptable when:

- the gift is a token offer and estimated to be less than \$50;
- it is customary of the culture of the person providing the gift to bestow or exchange gifts as thanks for hospitality; or
- gifts are presented by a visiting official and duly authorised by their governing body.

Gifts are sometimes given as a sign of gratitude to recognise outcomes collectively achieved by the Council and/or group of employees. Therefore, as far as reasonable and practical, such gifts are “pooled” then shared among the Council and/or the working group.

All gifts of **any** value must be declared using the appropriate Gifts, Benefits and Hospitality Declaration form, even if the gift has been declined.

Under **NO** circumstances is cash to be accepted as an applicable gift.

Disclosable Gift

A **disclosable gift** is a gift that puts the recipient into a material conflict of interest because the donor of the gift has an interest in a matter.

Section 128(4) of the *Local Government Act 2020* defines a disclosable gift as:

- (1) 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, was a member of Council staff or was a member of a delegated committee 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, member of Council staff or member of a delegated committee.

Significant Occasion Gift

A **significant occasion gift** is a gift which is presented to the Mayor or a Councillor from Wellington Shire as a gesture of goodwill for official or ceremonial purposes.

- A significant occasion gift to the Mayor must not exceed \$200;
- A significant occasion gift to a Councillor must not exceed \$150.

All significant occasion gifts **must be declared** using the Gifts, Benefits and Hospitality Declaration form and details included on Council's Gifts, Benefits and Hospitality Declaration Register. Individuals must transfer to Council any official gifts or gifts of cultural significance or significant value.

Ownership of Gifts Offered to Individuals

Non-token gifts with a legitimate business reason that have been accepted by an individual for their work or contribution may be retained by the individual where the gift is not likely to bring the individual or Council into disrepute, and where the General Manager or CEO has provided written approval.

BENEFITS

In general, **benefits** are only acceptable when a Councillor or employee can demonstrate that there is a legitimate business reason. Benefits may arise in the carrying out of Council duties such as attendance as a Council representative at promotional or other events.

Examples of benefits may present in the form of preferential treatment, privileged access, favours or other advantage. This can also include invitations to sporting, cultural or social events, or access to discounts or loyalty programs. It is the responsibility of the individual to decline the benefit, in the absence of a legitimate business reason.

The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they

may be used to influence the individual's behaviour and decision making. As this is the case, **any** benefit of **any** value, whether declined or accepted, must be declared using the appropriate Acceptance and Declaration of Gifts, Benefits and Hospitality Declaration form.

HOSPITALITY

In general, **hospitality** is acceptable when it is not considered excessive and does not create a conflict of interest or bring the individual or the organisation into disrepute.

A Councillor or employee may accept hospitality such as attendance as a Council representative at promotional or other events.

All hospitality of **any** value, other than exempt hospitality, must be declared using the appropriate Gifts, Benefits and Hospitality Declaration form.

Exempt Hospitality is hospitality that is reasonably received in the carrying out of Council duties and can be considered a basic courtesy, including the acceptance of light refreshments during a meeting or lunch during the course of a daylong event. Exempt hospitality does not require the completion of a declaration form.

If the estimated value of the hospitality is over \$50 (non-token offer), a declaration form must be completed, regardless of whether the hospitality is accepted or declined. An example of this is an offer of a three course lunch at the conclusion of a meeting. If the hospitality represents a conflict of interest for the individual or Council, the hospitality should not be accepted to mitigate the risk.

COUNCILLOR SPECIFIC REQUIREMENTS

Disclosable Gift to Councillors

Where a Councillor has declared a material conflict of interest from the acceptance of a **disclosable gift**, details of the interest will be declared at the meeting and documented in the relevant meeting minutes that are publicly available.

Anonymous Gifts Not To Be Accepted

A Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor for 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.

Election Campaign Donation Return Gift

A **donation period** gift is a gift given to an electoral candidate to be used in connection with an election campaign. In accordance with section 306 of the *Local Government Act 2020*, each candidate, whether successfully elected to Council or not, must give an Election Campaign Donation Return to the Chief Executive Officer within 40 days of election day.

In accordance with section 308 (2) and (3) of the *Local Government Act 2020*, copies of all election campaign donation returns received are available for inspection at the Desailly Street Service Centre and a summary of all Election Campaign Donation Returns is available on Council's website and will remain available to view until the close of roll for the next general election.

DECLARATIONS AND RECORDS MANAGEMENT

Declarations

Declarations are required to be completed for all gifts, benefits or hospitality received, whether accepted or declined.

Declarations from employees: The Business Unit Manager must review and sign all declarations before providing a copy to Governance for registration.

Where multiple gifts, benefits and hospitality are offered by one person on the same day, only one declaration form should be completed for all the items from that one person. The items must not be split across multiple declarations.

Records Management

Council maintains a register of all gifts, benefits and hospitality received by Council Officers and Councillors. This register details:

- Date of receipt
- Recipient
- Donor
- Estimated Value
- Allocation (declined, donated, pooled, retained, returned, shared)
- Description Of/Reason for Gift.

The register is available for public inspection on request, in line with Council's Public Transparency Policy.

All declarations, whether accepted or declined, will be recorded in Council's Gifts, Benefits and Hospitality Declaration Register.

A summary of the Gifts, Benefits and Hospitality Declaration Register will also be provided to the Audit & Risk Committee twice yearly for review.

BREACHES OF THIS POLICY

Failure to comply with this policy will constitute a breach of the relevant Codes of Conduct and may result in disciplinary action or other serious sanctions as per the *Local Government Act 2020*.

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights

Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

REVISION HISTORY

VERSION	DATE	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	December 2022	Minor update	Update of Responsible Officer title No changes applicable at this review
1.1	August 2023	Minor update	Various minor grammatical updates throughout Revision of content under 'Repeat Offers', 'Benefits' and 'Hospitality' to provide further clarity and ease of reference
1.2	December 2023	Minor update	Various minor grammatical updates throughout Minor revisions to COUNCILLORS AND COUNCIL EMPLOYEES', 'Token Offers' and 'Non-token Offers' Deletion of Municipal Association of Victoria - New Councillor Resource Guide 2016 as related document.