



ACCEPTANCE OF GIFTS AND DONATIONS POLICY

Policy Number	CO1	Directorate	Corporate & Community Services
Council Item No.	5.	Department	Council Business
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POLICY OBJECTIVE

The 'Acceptance of Gifts and Donations Policy' (the Policy) provides guidelines and requirements for Councillors and staff about declaring the acceptance of gifts to avoid putting themselves in a position which is likely to create a conflict of interest.

Further, the policy provides a way of meeting the high level of community expectations in respect of transparency and accountability, by the proper recording of significant gifts and donations made to Councillors and officers.

The Policy has been developed in accordance with Section 78C of the Local Government Act 1989 (the Act) that requires a person to declare an indirect interest because of receipt of an applicable gift.

The Policy does not replace any of the requirements set out in legislation relating to conflicts of interest, gifts and electoral donations. The Policy should be read in conjunction with these and as an aid to achieving best practice.

LEGISLATIVE PROVISIONS

- Local Government Act 1989 - Division 1A, Section 76C, Section 78C and Section 62
- Crimes Act 1958
- Conflict of Interest A Guide for Council Staff October 2011, Department of Planning and Community Development
- Conflict of Interest – Guide for Staff Involved in Recruitment and in Tendering of Contracts May 2014, Local Government Victoria
- Councillor Code of Conduct, 2016
- Election Period Policy, 2016
- Staff Code of Conduct, 2015
- Fraud Policy, 2014
- Guidelines for Making and Handling Protected Disclosures Welfare Management Policy, 2015

DEFINITIONS AND EXPLANATIONS

Gift for the purpose of the Policy means transfer/disposition of property, anything given, a present, donation, non-monetary, or monetary gift, service, hospitality or favour of a value of \$60 or greater.

The Policy is additional to the requirements of Section 78C of the Local Government Act 1989 relating to 'applicable gifts' and Section 62 relating to 'election campaign donations'.



POLICY STATEMENT AND GUIDELINES

The Policy is based on transparency and integrity principles that apply to every person in public office, that they should avoid putting themselves in positions which are likely to create a conflict of interest. This means that Councillors and staff do not seek or accept gifts from people where the receipt of the gift is likely to create a conflict with their public duty.

Councillors and staff are to avoid compromising their ability to act independently by accepting gifts individually, or accumulatively within a financial year, that have a monetary value of \$60 or more.

Where a gift is shared amongst multiple staff members or Councillors the gift must be declared if the total value of the gift exceeds \$60. All people sharing in the receipt of the gift need to be listed on the declaration form with the most senior member and/or the initial receiver of the gift responsible for registering receipt of the gift.

Undervaluing gifts received to avoid declaring them, may constitute a breach of the Councillor Code of Conduct or Staff Code of Conduct. Such matters will be managed in accordance with the procedures set out in the respective codes.

Any gift or service valued at \$250 or more may only be accepted if the Chief Executive Officer (CEO) gives approval for gifts offered to staff and the Mayor and the Mayor gives approval for gifts offered to Councillors and the CEO. The Mayor/CEO's approval is to be sought in writing as soon as practicable (at least within two days) of the offer being made. The registration form is still required to be completed within two weeks.

It is preferable that no gifts be accepted at all by Councillors or staff, although Councillors and staff are not prohibited from accepting gifts. However the Policy requires that Councillors and staff should avoid accepting gifts from people they know, or reasonably expect, will have dealings with the Council, and when it is possible that as a Councillor or Officer they may be called upon to deal with these people in their official capacity.

Not accepting gifts from people and organisations that Councillors and staff have dealings with in an official capacity, can avoid the following consequences:

- The impression that the recipient is using their position for personal gain, rather than to serve the community; which reflects badly on the recipient and on the Council.
- It is likely to prevent the recipient from undertaking duties that the recipient has been elected, appointed or paid to perform, which may lead to a failing of responsibilities.
- Accepting a gift may constitute, or appear to constitute, a misuse of position or acceptance of a secret commission, which are serious offences under the Local Government Act 1989 and the Crimes Act respectively.



On occasions a Councillor or member of staff may be given a gift that cannot be politely refused. This typically occurs after a presentation at a function when a gift is given as an appreciation. If there is any risk that the gift may give rise to an indirect interest or otherwise compromise the recipient, it should be accepted on behalf of the Council and passed on to the CEO for use by the Council to avoid any personal conflict of interest.

A Councillor or staff member who receives a gift must, within two weeks, after receipt of the gift, provide a record of the details of the gift in Council's Gift Register that is held by the Chief Executive Office. This registration is required even if the gift is passed on to the CEO for use by Council.

Councillors and staff are encouraged to make a disclosure if they are aware of a Councillor or staff member receiving a gift, donation, hospitality, favour or service that may not have been declared. The Council Policy 'CE21 Guidelines for Making and Handling Protected Disclosures and Protected Disclosures Welfare Management, 2014', is to be referred to as the guiding document for making a disclosure.

RISK ASSESSMENT

The Policy enables:

- a) Councillors and staff to understand their requirements and obligations under the Councillor Code of Conduct, Staff Code of Conduct, Election Period Policy and under the Act.
- b) Council to demonstrate its commitment to probity in the management of potential breaches of the Local Government Act 1989, Crimes Act 1958, Codes of Conduct and Council policies.
- c) Community confidence and public trust in Council to be maintained or improved through appropriate and transparent declaration and use of gifts thereby minimising risks to Council, Councillors or staff reputations;
- d) Councillors and staff to mitigate the risk of fraud and appropriately manage situations which may be regarded as unethical conduct or behaviour.

IMPLEMENTATION STATEMENT

The Chief Executive's Office maintains the Council Gift Register that provides for the recording of gifts; including date of receipt of gift, gift giver, recipient of gift, value of gift and the use to which the gift is put.

Councillors and staff are to provide details pertaining to the receipt, or offer, of any gift to the Chief Executive Office within a two week period from the date of receipt/offer. The registration form information will include if the gift has been refused, retained by the individual or given to the CEO for use by Council.



Communications regarding the existence of the Policy are to be sent to staff and Councillors in August/September each year (AFL finals, Racing Season, Christmas).

The Policy is to be included in Councillor and staff inductions.

A copy of the Gift Register is to be provided to the Audit Committee and Council (via the Audit Committee) every 12 months for their consideration.

Contractors are required to abide by Council policies published on Council's website. The 'Acceptance of Gift and Donations Policy' is published on Council's website. The relevant contractual clause, referring to Council policies, will be updated to highlight awareness of the Policy.