

Gifts, Benefits & Hospitality Policy	Document No:	SCS-018
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Responsible Officer:	General Manager Governance and Infrastructure	
Authorising Officer:	Chief Executive Officer	

1. Purpose

This policy states Council's position in relation to:

- responding to offers of gifts, benefits and hospitality from external sources; and
- providing gifts, benefits and hospitality.

The policy is intended to support staff and Councillors to avoid conflicts of interest and maintain high levels of integrity and public trust.

Council has issued this policy to support behaviours that are consistent with staff and Councillor Codes of Conduct.

2. Scope

This policy applies to all gifts, benefits or hospitality offered to, or received by, Councillors and Council staff from external sources and to any gifts, benefits or hospitality offered by Council, Councillors and Council staff to external entities or individuals.

Exclusions

- Discounts received by staff and / or Councillors that are commonly available to any individual that meets the general requirements that do not specifically relate to Council business related activities are excluded from this policy. Examples may include corporate discounts for leisure centres, discounts available to local ratepayers / residents, bulk purchase discounts etc.
- Gifts, benefits and hospitality offered to staff or Councillors as a result of a Council or management adopted policy are also excluded from this policy e.g. recognition of service awards.

3. Application

This policy applies to all workplace participants. For the purposes of the policy this includes staff, Councillors, contractors, consultants and any individual or group undertaking activity for or on behalf of the Council.

4. Policy Principles

Council is committed to and will uphold the following principles in applying this policy:

Policy Principle This means...

Impartiality

Individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.

Accountability

Individuals are accountable for:

- declaring all non-token offers of gifts, benefits and hospitality including those offers that were subsequently declined
- declining non-token offers of gifts, benefits and hospitality that do not relate to a legitimate business benefit, or where an exception applies under this policy, seeking approval to accept the offer; and
- the responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and

Policy Principle	This means... processes.
Integrity:	Individuals strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Individuals will refuse any offer that may lead to an actual, perceived or potential conflict of interest.
Risk-based approach	Council through its policies, processes and Audit & Risk Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

5. Definitions

Term	Definition
Act	Local Government Act 1989
Benefit	Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts as a result of a person's employment or position, loyalty programs and promises of a new job. 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.
Bribe	To give money or some other form of consideration to a public official so as to persuade the official not to exercise his or her common law or statutory powers or to bestow some privilege or favour.
Business associate	An individual or body that Council has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
Ceremonial gifts	Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government. Ceremonial gifts are the property of Council, irrespective of value, and should be accepted by individuals on behalf of Council. The receipt of ceremonial gifts should be recorded on the register.
Conflict of Interest	A Councillor or staff member has a conflict of interest when they have a personal or private interest that might compromise their ability to act in the public interest as set out in the Local Government Act 1989. A conflict of interest can exist even if no improper action results from it. Conflicts may be: Actual: There is a real conflict between an employee's public duties and private interests. Potential: An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk. Perceived: The public or a third party could reasonably form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.

Term	Definition
<i>Gift</i>	Gifts are free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery or expensive pens), low value (e.g. a small bunch of flowers), consumables (e.g. chocolates) and services (e.g. painting and repairs).
<i>Hospitality</i>	Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
<i>Legitimate business benefit</i>	A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of Council.
<i>Money</i>	Includes cash, cheques, money orders, travellers' cheques, direct deposits, shares, vouchers or items which can be easily converted to cash. This includes gift vouchers and credit notes.
<i>Official gifts</i>	Are gifts presented to the Shire or the Council and include gifts received from a Sister City, organisation or corporation that is bestowing a corporate gift (e.g. plaques, plates, vases trophies, and artwork) or souvenir.
<i>Gifts Register</i>	A register of all declarable gifts, benefits and hospitality, including those declined.
<i>Reasonable hospitality</i>	A meal or service provided by a not-for-profit organisation to a Mayor, Councillor or a member of Council staff who attends a function or event in an official capacity.
<i>Token offer:</i>	A token offer is a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). Token offers are those that are worth \$50 or less.
<i>Non-token offer</i>	A non-token offer is a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be declared through the Gifts, Benefits and Hospitality form and recorded in the Gift, Benefits and Hospitality Register.
<i>Value</i>	Is the face value or current estimated retail value.

6. Management of offers of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the relevant General Manager or Chief Executive Officer, or in the case of a Councillor or CEO, by the Mayor.

As a general principle Council, Councillors and staff will not request the provision of gifts, benefits or hospitality, nor will they be made a condition of financial or other support being provided.

6.1. Conflict of interest and reputational risks

When deciding whether to accept an offer, individuals 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 offer, the more likely that a conflict of interest or reputational risk will be created. Similarly, regular offers of smaller gifts can also be perceived as creating conflicts or reputational risk. The 'GIFT' test below is intended to help guide the decision whether to accept or decline the gift.

Figure 1. GIFT test

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select suppliers, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or a valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think? Does it pass the 'front page of the newspaper' test?</p>

6.2. Requirements for refusing offers

Individuals should consider the GIFT test at Figure 1 and the requirements below to help decide whether to refuse an offer.

Individuals are to refuse offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest;
- could bring them, or Council into disrepute;
- made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), for example offers:
 - made by a current or prospective supplier;
 - made during a procurement or tender process by a person or organisation involved in the process;
 - made by someone with a planning or other application with Council; or
 - where Council is in dispute with another party
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- of money, or used in a similar way to money, or something easily converted to money;
- where, in relation to hospitality and events, the General Manager considers that the organisation will already be sufficiently represented to meet its business needs;
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- made by a person or organisation with a primary purpose to lobby Council, Councillors or staff; or
- made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the General Manager Governance & Infrastructure or the Manager Governance & Risk who will report any suspected criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

6.2.1. Refusing an offer

Where a staff member or Councillor has decided not to accept the offer of a gift, benefit or hospitality, it is important that the offer is declined in a way that does not cause offence to the donor or damage relationships. This can be achieved by explaining Council's policy and ensuring the donor understands that the offer is appreciated.

Where the gift would likely bring the person or the organisation into disrepute, the organisation should return the gift. If it represents a conflict of interest, the organisation should either return the gift or transfer ownership to the organisation to mitigate this risk.

In some cases it would be inappropriate to refuse an offer e.g. official gift from government officials or international delegates. In this case the gift should be accepted on behalf of Council and passed over to the CEO.

Where staff or Councillors are offered gifts for speaking at conferences or meetings it is reasonable to accept a modest gift in recognition of this, as to refuse such an offer could cause offence or embarrassment. All such gifts should be recorded in the normal way on a Gifts, Benefits and Hospitality form.

In all circumstances offers of money, bribes or other offers prohibited through this policy or by legislation should be refused and reported where applicable.

6.3. Token offers (\$50 or less)

Token offers are those worth \$50 or less and include gifts, benefits or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual. They include promotional items such as a pen, note pad, or key ring, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

Individuals may generally accept token offers without approval or declaring the offer on Council's register, as long as the offer does not create a conflict of interest or lead to reputational damage e.g. where there have been repeated, regular offers.

6.4. Non-token offers (Over \$50)

Individuals can only accept non-token offers if they have a legitimate business benefit. All accepted non-token offers must be approved in accordance with the Gifts, Benefits and Hospitality form, recorded in the Gifts, Benefits and Hospitality Register and be consistent with the following requirements:

- they do 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. It is offered in the course of the individual's official duties, relates to the individual's responsibilities and has a benefit to Council.

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager/general manager 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 as per the table at point 6.5.1 within five business days.

6.4.1. Recording of non-token offers of gifts, benefits and hospitality

All non-token offers of gifts, benefits and hospitality received or declined must be recorded on a Gifts, Benefits and Hospitality form, completed in accordance with the relevant table below.

The business reason for accepting the non-token offer will be recorded in the register with sufficient detail to link the acceptance to the individual's work functions and benefit to Council.

Individuals should therefore consider the following examples of acceptable and unacceptable levels of detail to be included in Gifts, Benefits and Hospitality form when recording the business reason for accepting or declining the offer:

Unacceptable

- Networking
- Maintaining stakeholder relationships

Acceptable

- Scenario 1 – The individual is responsible for evaluating and reporting on the outcomes of the Council's sponsorship of Event A. Individual attended Event A in an official capacity and reported back to Council on the event.
- Scenario 2 – The Mayor and CEO are invited to an event within the Surf Coast Shire to represent the organisation.
- Scenario 3 – An individual presented a gift to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The gift was therefore accepted on behalf of Council.

6.4.2. Reporting of non-token offers

A public version of the Gifts, Benefits and Hospitality register will be published on Council's website and updated on a quarterly basis.

Access to the full register is restricted to relevant persons within Council.

6.5. Process

Staff

Value	Roles and Responsibilities
Token offers i.e. \$50 or less	Individuals may generally accept token offers without approval or declaring the offer on Council's register, as long as the offer does not create a conflict of interest or lead to reputational damage.
Non-token offers More than \$50 and up to \$100	Staff member <ul style="list-style-type: none">• Complete Gift, Benefits & Hospitality form (form) and submit to the Manager• Formally acknowledge the donor Manager <ul style="list-style-type: none">• Complete form and forward to General Manager for completion of form General Manager <ul style="list-style-type: none">• Determine compliance in accordance with the policy• Finalise form and submit to the Senior Governance Officer for updating of Gifts Register <p>For gifts received by the CEO, the Mayor will sign the Gifts, Benefits and Hospitality form.</p>
More than \$100	Staff member <ul style="list-style-type: none">• Complete a Gift, Benefits & Hospitality form and submit to the Manager• Formally acknowledge the donor Manager <ul style="list-style-type: none">• Sign the form and forward to General Manager for completion of form General Manager <ul style="list-style-type: none">• Sign the form and forward to the CEO for completion of form CEO <ul style="list-style-type: none">• Determine compliance in accordance with policy• Finalise form and submit to the Senior Governance Officer• Notify gift recipient of outcome. <p>For gifts received by the CEO, the Mayor will sign the Gifts, Benefits and Hospitality form.</p>

Councillor

Value	Roles and Responsibilities
Token offers i.e. \$50 or less	Councillors may generally accept token offers without approval or declaring the offer on Council's register, as long as the offer does not create a conflict of interest or lead to reputational damage.
Non-Token offers ie more than \$50	Councillor <ul style="list-style-type: none">• Complete Gift, Benefits & Hospitality' form and submit to CEO• Formally acknowledge the donor CEO <ul style="list-style-type: none">• Determine compliance in accordance with policy and complete relevant sections of form• The Mayor will also sign the form for offers received by Councillors• Finalise form and submit to the Senior Governance Officer Senior Governance Officer <ul style="list-style-type: none">• Update register

6.6. Audit and Risk Committee

Council's Audit and Risk Committee will receive a report annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of Council's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

6.7. Ownership of gifts offered to individuals

Non-token gifts with a legitimate business benefit 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 them or Council into disrepute, and where the correct approval have been obtained (as per table 6.4.3). Employees must transfer to Council official gifts or any gift of cultural significance or significant value.

6.8. Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Individuals should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

6.9. Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the Council, irrespective of value, and should be accepted by individuals on behalf of Council. The receipt of ceremonial gifts should be recorded on Council's register.

7. Provision of gifts, benefits and hospitality

This section sets out the requirements where Council, Councillors or staff provide gifts, benefits and hospitality to others.

7.1. Requirements when providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided when welcoming guests, to facilitate the development of business relationships, to further Council's business outcomes and to celebrate achievements.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:

- any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports Council policy objectives and priorities;

- that any costs are proportionate to the benefits obtained for Council, and would be considered reasonable in terms of community expectations (the ‘HOST’ test at Figure 2 is a good reminder of what to think about in making this assessment); and
- it does not raise an actual, potential or perceived conflict of interest.

Figure 2. HOST test

H	Hospitality	To whom is the gift or hospitality being provided? Will recipients be external business associates, or individuals of the host organisation?
O	Objectives	For what purpose will hospitality be provided? Is the hospitality being provided to further the conduct of official business? Will it promote and support Council’s policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?
S	Spend	Will Council funds be spent? What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained?
T	Trust	Will public trust be enhanced or diminished? Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of Council? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

7.2. Containing costs

Individuals should contain costs involved with providing gifts, benefits and hospitality wherever possible. The following questions may be useful to assist individuals to decide on the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Is the gift symbolic, rather than financial, in value?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

8. Breaches

Disciplinary action consistent with Council’s Discipline Policy and relevant legislation, including dismissal, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the Local Government Act 1989.

Staff and Councillors are responsible for maintaining their own records in relation to receipt of ‘applicable gifts’ as defined in the Local Government Act 1989, and where applicable reporting these on their Register of Interest return. Failure to do so could constitute an offence under that Act.

Council will communicate its policy on the offering and provision of gifts, benefits and hospitality through its website and as part of any procurement process.

9. Reporting of breaches

Individuals who consider that gifts, benefits and hospitality or conflict of interest within Council may not have been declared or are not being appropriately managed should speak up and notify their manager or the Manager Governance and Risk. Individuals who believe they have observed corrupt conduct by their

colleagues may also make a protected disclosure to the General Manager Governance and Infrastructure or the Manager Governance and Risk.

Council will take appropriate action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

10. Records

10.1. Related policy, legislation and other documents

- Victorian Auditor-General's Report "Implementing the Gifts, Benefits and Hospitality Framework", December 2015
- Victorian Public Sector Commission "Gifts, benefits and hospitality – Policy Framework", October 2016
- Victorian Public Sector Commission's Gifts, Benefits And Hospitality Policy Guide
- Council Policy – Councillor Code of Conduct SCS-002
- Council Policy – Fraud Control SCS-010
- Council Fraud and Corruption Control Plan
- Management Policy – Staff Code of Conduct HR-024
- Management Policy – Promotion of Goods and Services to Council Staff HR-032
- Local Government Victoria (LGV) Guidelines - Conflicts of Interest – Councillors & Council Staff
- Local Government Act 1989 – Sections 778C

This provides that a Councillor or Council staff member shares in the interests of a person from whom the Councillor or Council staff member has received an applicable gift within the preceding 5 years. An applicable gift is defined as one or more gifts with a total value of \$500 or more, other than:

- reasonable hospitality received at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
- a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.

An applicable gift received before the person became a Councillor or Council staff member is outside the scope of this policy but, after the person's election or appointment, may have to be declared in accordance with disclosure of interest requirements.

An applicable gift received during a person's term as Councillor or Council staff member is within this policy and, as a non-token gift, would have to be recorded and may have to be refused (see paragraph 6).

- Independent Broad-based Anti-corruption Commission (IBAC) Act 2011

10.2. References / Forms

- Gifts, Benefits and Hospitality form (located under Shire Wire forms)