

# COUNCILLOR GIFT POLICY

## Policy statement

Council considers that the proper management of Councillor Gifts is a practical demonstration of Councillors integrity, impartiality and accountability and contributes to community confidence in the Council's decision making.

Whittlesea City Council recognises that Councillors will on occasions be offered gifts, benefits and hospitality however, Councillors in performing their roles ensure good governance and not to derive undue personal benefit.

Receipt of a gift from a person or organisation can result in a conflict of interest, or a perceived conflict of interest, in a matter. Councillors need to familiarise themselves with the conflict of interest provisions of the *Local Government Act 2020* (the Act) and take personal responsibility for their own compliance.

The offer of a gift to a Councillor may also affect perceptions of bias. This Policy confirms that gifts that are declined should also be recorded in the Gifts Register.

## 1. Purpose

1.1 The Councillor Gift Policy will:

- 1.1.1 provide a transparent and consistent framework regarding offers of Gifts made to and by Councillors.
- 1.1.2 minimise Gift offers made to and accepted by Councillors, in order to protect and promote public confidence in the integrity of the Council.

## 2. Scope

2.1 This Policy applies to all Councillors.

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## Alignment to Whittlesea 2040

The Councillor Gift Policy primarily guides Council's work toward the following Goal as outlined in *Whittlesea 2040: A place for all: High Performing Organisation*

## Overarching Governance Principles

The development of this Policy considered the *Local Government Act 2020's* Overarching Governance Principles and the following were applied:

Lawful	<input checked="" type="checkbox"/>	Community engagement	<input type="checkbox"/>	Financially viable	<input type="checkbox"/>
Best community outcome	<input type="checkbox"/>	Innovation & improvement	<input type="checkbox"/>	Consistent with government plans	<input checked="" type="checkbox"/>
Sustainable	<input type="checkbox"/>	Collaboration with government bodies	<input type="checkbox"/>	Transparent	<input checked="" type="checkbox"/>

Councillors will uphold the following principles in applying this policy:

- **Accountability:** Councillors ensure they and their fellow Councillors are accountable in accordance with this policy.
- **Impartiality:** Councillors have a duty to place public interest above their private interests when carrying out their official duties as a Councillor.
- **Integrity:** Council strives to earn and sustain public trust through responding to offers of Gifts in a manner that is consistent with community expectations.
- **Risk-based approach:** Councillors must ensure they consider the reputational and legal risks inherent with Gifts when dealing with offers.

**Gender Equality, Climate Change, Human Rights and Child Safe Compliance** All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities, Gender Equality Act, Climate Change Act* and the *Child Safe Standards*.

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### 3. Definitions 3.1 In this policy:

**Act** means the *Local Government Act 2020* (Vic).

**Administration** means the Chief Executive Officer or Council Officers.

**Benefit** includes preferential treatment, privileged access, favours or other advantages offered to Councillors (ie. an invitation to sporting, cultural or social events, access to discounts or loyalty programs, personal services) either during or promised after their elected term.

**Bribe** means an offer of money or other inducement made with the intention to corruptly influence a Councillor in the performance of their duties.

**Councillor** means a person who holds the office of member of the Council, including Administrators.

**Mayor** means Mayor of Council.

**Councillor Gift Register** means the record of Non-Token Gifts whether accepted or declined.

**Gift** means:

- free or discounted items or services and any item or service that may be perceived by the public as a gift. Including without limitation to high and low value items, consumables and services;
- benefits including preferential treatment, privileged access, upgrades, favours or other advantages offered to a Councillor, including, without limitation, invitations to sporting, cultural or social events, access to discounted or loyalty programs or the promise of a new job; and
- any kind of hospitality.

**Gift Disclosure threshold** means the value which equals or exceeds \$500, including gifts in the form of goods or services and multiple gifts that together equal or exceed that amount, which was received at any time since the specified person lodged the preceding initial or biannual personal interests return. This requirement does not apply in respect of:

- gifts received by a specified person from a family member;
- gifts disclosed in an election campaign donation return;
- any reasonable hospitality received by the specified person at an event or function that the person attended in an official capacity as a Councillor.

**Reasonable hospitality test** means the hospitality must be of a standard and type that an independent observer would consider appropriate and not excessive. For example unreasonable hospitality could include a 'fine dining' work lunch or dinner, an offer of a free spot at an industry golf day or ticket to AFL grand final or similar event:

**Official capacity test** means it must clearly be your duty as a Councillor to attend the relevant event or function.

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**Non-Token Gift** means a gift offered to a Councillor that is, or may be perceived to be, of more than inconsequential value by the recipient or by the wider community. All offers estimated to be worth more than \$20 (either individually or aggregated over the preceding 12-month period) are Non-Token offers and must be refused and recorded on the Councillor Gift Register (whether accepted or declined).

**Token Gift** means a Gift offered to a Councillor that is of inconsequential or trivial value. The primary determinant of a Token Gift is that it would not be reasonably perceived to influence or raise a conflict of interest. A Gift with an estimated value of equal to or less than \$20 is a Token Gift (unless the same offeror has made several Token Gift offers in the preceding 12-month period, which when aggregated exceed \$20).

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#### 4. Gift Assessment

- 4.1 Councillors must not seek, solicit, demand or request Gifts for themselves or anyone else, in any form.
- 4.2 When deciding whether to accept an offer of 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 offer, the more likely that a conflict of interest or reputational risk exists.
- 4.3 Councillors must consider the GIFT test<sup>1</sup> outlined in Figure 1 below when offered a Gift.

Figure 1. GIFT test

<b>G</b>	<b>Giver</b>	<p><b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b></p> <p>Does my role require me to select contractors, award grants, regulate industries or determine government policies?</p> <p>Could the person or organisation benefit from a decision I make?</p>
<b>I</b>	<b>Influence</b>	<p><b>Are they seeking to influence my decisions or actions?</b></p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately?</p> <p>Is it a courtesy, a token of appreciation or highly valuable?</p> <p>Does its timing coincide with a decision I am about to make?</p>
<b>F</b>	<b>Favour</b>	<p><b>Are they seeking a favour in return for the gift, benefit or hospitality?</b></p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers of the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
<b>T</b>	<b>Trust</b>	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would I feel if the gift, benefit or hospitality became public knowledge?</p> <p>What would my colleagues, family friends or associates think?</p>

- 4.4 Councillors are encouraged to seek advice from the Office of Council & CEO if they have doubts about accepting a Gift, Benefit or Hospitality, regardless of the value.
- 4.5 Councillors must refuse all offers of Gifts which are, or perceived to:
- 4.5.1 influence them in the course of their duties.
  - 4.5.2 raise a material or general conflict of interest for the Councillor either immediately or in the future.

<sup>1</sup> The GIFT test as developed by the State of Victoria (Victorian Public Sector Commission) 2016.

4.5.3 of money, vouchers, credit or similar.

4.5.4 made in secret with an express or implied expectation that the Councillor will not publicly disclose the Gift.

## **5. Token Gift Offers**

5.1 Councillors may accept Token Gift offers without declaring the offer on the Councillor Gift Register, unless the offer must be refused as outlined above. A Token Gift cannot be worth more than \$20.

## **6. Non-Token Gift Offers**

6.1 Councillors must, in the first instance, politely decline any Non-Token Gift offers.

6.2 All Non-Token Gift offers must be recorded in the Councillor Gift Register.

6.3 It is a Councillor's responsibility to notify and provide adequate information to the Office of Council & CEO to enable registration of a Non-Token Gift offer on the Councillor Gift Register.

6.4 Councillors may be offered a Non-Token Gift where there is no opportunity to decline prior to accepting. For example, they may receive a parcel in the post which contains a Gift. At first instance, the Councillor should return the gift to the sender. If that is not possible due to it being an anonymous Gift, the Councillor must refer the Gift to the CEO determine the most appropriate distribution or disposal within 30 days of the Gift being received.

6.5 A Councillor must declare any Non-Token Gift or hospitality extended to or transferred to a member of their immediate family.

## **7. Anonymous Gifts**

7.1 Section 137 of the Act outlines when an anonymous gift must not to be accepted.

## **8. Attendance at Events and Functions**

8.1 This policy does not apply to invitations to, and reasonable hospitality provided at events and functions that a Councillor is required to attend in an official capacity, including where:

8.1.1 the Councillor is invited to open or speak at the event or function or is otherwise involved in the proceedings.

8.1.2 the Councillor is a Council appointed representative of a committee or group involved in or relevant to the event or function.

8.1.3 a majority of Councillors or the Mayor consider that it is appropriate and aligned with community expectations for the Councillor to attend the event or function.

8.2 Invitations to attend events and functions in an official capacity are not considered Gifts under this policy and are not required to be declared on the Councillors Gifts Register.

8.3 If a Councillor is invited to attend a function or event and is not required to do so in an official capacity i.e. to open or speak at the event or function, the invitation to attend must be treated as a Token Gift offer or Non-Token Gift offer in accordance with this policy, noting that the

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Councillor is not required to declare a Non-Token Gift offer of this kind on the Councillor Gift Register.

- 8.4 Councillors should seek advice from the Executive Manager Office of Council & CEO if they are unsure if their attendance at an event is or would be in an official capacity. However, it is ultimately for the Councillor to determine.

## **9. Councillor Gift Register**

- 9.1 Access to amend the Councillor Gift Register is restricted to relevant persons within the Council.
- 9.2 Council's Audit and Risk Committee will receive a report at least annually on the Councillor Gift Register.
- 9.3 The Councillor Gift Register is maintained by the Office of Council & CEO and will be updated quarterly.
- 9.4 The Councillor Gift Register will be made available to the public, including publication on Council's website.
- 9.5 The Councillor Gift Register will include any information the Office of Council & CEO consider from time to time is legal and relevant to disclose including the recipient's name, date the Gift was offered, a description of the Gift, the reason the Gift is being offered, accepted or declined, the estimate value of the Gift and the name of the organisation or individual offering the Gift.

## **10. Ceremonial Gifts**

- 10.1 Ceremonial Gifts are the property of Council, irrespective of value, and should be accepted by Councillors on behalf of Council.
- 10.2 Councillors accepting a Ceremonial Gift on behalf of Council:
- 10.2.1 must arrange registration of the Gift on the Councillor Gift Register.
  - 10.2.2 discuss with the Office of Council & CEO and other Councillors an appropriate means of displaying, disposing of or storing the Gift.

Note: In the event a consensus is not reached in discussions, the Executive Manager Office of Council & CEO in consultation with the CEO will determine whether and how to display, dispose of or store the Gift.

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## 11. Providing Gifts

11.1 Councillors must consider the HOST test<sup>2</sup> outline in Figure 2 below when providing Gifts.

Figure 2. HOST test

<b>H</b>	<b>Hospitality</b>	<p><b>To whom is the gift or hospitality being provided?</b></p> <p>Will recipients be external business associates, or individuals of the host organisation?</p>
<b>O</b>	<b>Objectives</b>	<p><b>For what purpose will hospitality be provided?</b></p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?</p>
<b>S</b>	<b>Spend</b>	<p><b>Will public funds be spent?</b></p> <p>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?</p>
<b>T</b>	<b>Trust</b>	<p><b>Will public trust be enhanced or diminished?</b></p> <p>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 the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?</p>

## 12. Considerations when providing Gifts

12.1 Councillors providing Gifts must ensure that:

- 12.1.1 any Gift, Benefit or Hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate Council goals or promotes and supports the Council's policy objectives and priorities'.
- 12.1.2 it does not raise an actual, potential, or perceived conflict of interest.
- 12.1.3 any costs are proportionate to the benefits obtained for Council and would be considered reasonable in terms of community expectations.
- 12.1.4 costs are contained wherever possible, and expenditure complies with principles of financial probity and efficient use of resources.

<sup>2</sup> The HOST test as developed by the State of Victoria (Victorian Public Sector Commission) 2016.

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### **13. Personal Celebrations**

- 13.1 Gifts provided to Councillors for personal celebrations will not be funded by Council. This includes anniversaries or birthdays of a Councillors. Nothing in this policy will prohibit Councillors or Council staff from personally paying for a Gift for such occasions.

### **14. Mayoral and Councillor Gifts**

- 14.1 At the end of each Mayoral term Council provides gifts chosen by the administration, not to exceed to the following nominal amounts. The nominal amounts are in addition to a personalised memento album presented to the Mayor and Deputy Mayor at the conclusion of their term:

14.1.1 \$150 to the Mayor.

14.1.2 \$50 to the Deputy Mayor.

- 14.2 These gifts are a memento in recognition of the importance of these roles for Whittlesea City Council.

- 14.3 In addition to clause 14.1, at the end of the four-year Council term, Council, at its discretion, may provide a gift to all Councillors which will not exceed the following nominal amount:

14.3.1 \$100 per Councillor.

14.3.2 These gifts:

(a) must be registered by Council on the Gift Register.

(b) are otherwise exempt from this Policy (as in the individual may accept the gift).

- 14.4 The choice of gift remains the sole discretion of the administration.

- 14.5 Gifts that are donations on behalf of the gift recipient (or in the name of Council) must only be to a registered charity.

### **15. Guidelines**

- 15.1 Disclosure Requirement:

15.1.1 Councillors must declare all offers of gifts or benefits, and all hospitality where the value is \$20 or more including those offers that have been declined, using the Gift Declaration Form.

15.1.2 Councillors, upon receipt or refusal of a gift, benefit or hospitality must complete the Gift Declaration Form – Councillors (Appendix A), sign it, have it endorsed by the CEO and submit to Office of Council & CEO via email

[civic.administration@whittlesea.vic.gov.au](mailto:civic.administration@whittlesea.vic.gov.au) within 7 days for inclusion in the Register.

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15.1.3 Councillors must disclose in their biannual Personal Interest Returns the details of any gift valued at \$500 or more (or the threshold fixed by the Secretary) including the gifts in the form of goods or services and multiple gifts that together equal or exceed \$500, received at any time since the lodgement of preceding initial or biannual personal interest returns, unless:

- (a) it was reasonable hospitality received at an event or function attended in an official capacity,
- (b) gift is from a family member.
- (c) gifts disclosed in an election campaign donation return.
- (d) any reasonable hospitality at an event or function attended in an official capacity as a Councillor.

15.1.4 A Councillor who has a conflict of interest because of receiving a gift or gifts must disclose the conflict of interest in accordance with the procedures outlined in the Governance Rules.

15.1.5 Nothing in this policy shall be construed to override the provisions of the Act. In the event of any apparent inconsistency, the provisions of the Act will prevail.

## 16. Reporting Concerns

16.1 Councillors who consider that a gift, benefits or hospitality received has not been declared in accordance with the provisions of this Policy or it is not being appropriately managed, can report the matter to:

16.1.1 Executive Manager Office of Council & CEO; or

16.1.2 Public Interest Disclosure Coordinator; or

16.1.3 CEO.

## 17. External Reporting Options:

- Local Government Inspectorate, for detailed process and information <https://www.lgi.vic.gov.au/make-complaint-local-government-inspectorate>
- Independent broad-based anti-corruption Commission (IBAC), for detailed process and information <https://www.ibac.gov.au/reporting-corruption/report>

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