

Gifts, Benefits and Hospitality Policy - 2019

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1. PURPOSE

The Gifts, Benefits and Hospitality Policy ('the Policy') addresses any gift, benefit or hospitality offered to, extended to or received by Councillors and Council Officers and other personnel acting on behalf of Council, from external parties to ensure that:

- a high standard of probity and accountability is maintained;
- legislative requirements and community expectations are met;
- Council activities are not influenced, or perceived to be influenced, by the receipt of gifts, benefits or hospitality; and
- gifts, benefits and hospitality that are offered, accepted or declined are properly disclosed and managed.

This Policy also provides guidance in relation to the giving of gifts and hospitality by Councillors and Officers.

2. SCOPE

This policy applies to all Councillors and Officers of Council.

This policy does not apply to gifts received by Councillors or candidates during the donation period of an election campaign.

3. POLICY STATEMENT

Councillors, Officers and other personnel acting on behalf of Council are required to consider their legal obligations, and the impacts of negative community perceptions associated with accepting or giving of gifts, benefits or hospitality on Council's or their own reputation. This Policy aims to ensure that Councillors, Officers and other personnel acting on behalf of Council are at all times ethical, fair and honest in the conduct of official duties and do not fraudulently receive a gift, benefit or hospitality.

Councillors, Officers and other personnel acting on behalf of Council must:

- be fully accountable and responsible for their actions, ensuring that their decisions are beyond reproach and can withstand audit processes and proper scrutiny;
- not seek, solicit, or use their position with Council to obtain gifts, benefits or hospitality from external organisations or individuals;
- ensure that a person, company or organisation is not placed in a position in which they feel obliged to offer gifts, benefits or hospitality to secure or retain Council business;
- report any incidences immediately to a member of the Executive Leadership Team where a bribe and/or cash is offered.

This Policy forms part of Council's good governance practices and links to the fraud and corruption control framework.

4. DEFINITIONS

<p>Applicable Gift</p> <p><i>Local Government Act 1989 ('the Act') Section 78C</i></p>	<p>At the date of adoption of this policy 'applicable gift' is defined in section 78C of the Act as 'one or more gifts with a total value of \$500 or more, received from a person or persons as specified¹ in the 5 years preceding the decision or the exercise of a power, duty or function but does not include;</p> <p><i>(a) reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, or a member of Council staff or a member of a special committee; or</i></p> <p><i>(b) 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.</i></p>
<p>Benefits</p>	<p>Something which is believed to be of value to the receiver, such as a service ie: access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, pleasure or vacation trips.</p>
<p>Bribe</p>	<p>A corrupt inducement to reward.</p>
<p>Ceremonial/Official Gifts</p>	<p>A gift received (or given) by Councillors or council officers as a representative of Wyndham City Council. These gifts may be received from (or given to) a sister City, organisations or corporations that are bestowing a corporate gift (ie: plaques, plates, vases, trophies, art work) or souvenir to the City, or as a token of appreciation for a contribution to a conference or industry event.</p> <p>Ceremonial gifts are the property of Wyndham City Council, irrespective of value, and should be accepted by individuals on behalf of Wyndham City Council. The receipt of ceremonial gifts should be recorded on the register.</p> <p>A Gift Disclosure Form must be completed.</p>
<p>Conflicts of Interest</p>	
<p><i>Actual conflict of interest:</i></p>	<p>There is a <u>real conflict</u> between an employee's public duties and private interests.</p>
<p><i>Potential conflict of interest:</i></p>	<p>An employee has private interests that <u>could conflict</u> 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.</p>
<p><i>Perceived conflict of interest:</i></p>	<p>The public or a third party could <u>form the view</u> that an employee's private interests could improperly influence their decisions or actions, now or in the future.</p>

¹ A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from (a) a person who has a direct interest in the matter; or (b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in the matter; or (c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.

Gift	A 'gift' will be defined in the Act from time to time. At the date of adoption of this policy, 'gift' is defined in section 3 of the Act as ' <i>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 –</i> <i>(a) the provision of a service (other than volunteer labour); and</i> <i>(b) the payment of an amount in respect of a guarantee; and</i> <i>(c) the making of a payment or contribution at a fundraising function.</i>
Gift of Appreciation	Refers to a gift that is presented to an individual to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment. These gifts are generally a one-off occurrence.
Hospitality	Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a meeting to expensive restaurant meals and sponsored travel and accommodation.
Monetary Gift	Defined as cash, or a cash equivalent including cheques, gift vouchers, money orders, travellers' cheques, direct deposits, lottery tickets and 'scratchies.'
Register	A summary of gifts, benefits and hospitality received which will contain the following information: <ul style="list-style-type: none"> • Recipient details • Provider's details • Date received • Description • Estimated value of gift, benefit or hospitality • Whether the gift was retained or returned
Token Gift	Is of such a nature or minimal value that is could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter. The token gift does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of their official duties. In the event that a gift might reasonably be perceived to influence, or appear to influence the recipient, it cannot be defined as a token gift. The value of a token gift cannot exceed \$50.00.

5. POLICY

Gifts, benefits and hospitality that must not be accepted.

No gifts, benefits or hospitality are to be accepted from those in relation to whom the Councillor, Officer or personnel acting on behalf of Council is likely to make decisions including current and prospective suppliers.

Acceptance of such gifts, benefits or hospitality will be investigated and may be addressed through the Councillor Code or the Corporate Code of Conduct.

All offers to be declared.

All gifts, benefits or hospitality offered must be recorded on the Register and a Disclosure Form completed within fourteen (14) days, regardless of whether the offer was accepted or declined.

All gifts, benefits or hospitality accepted by Officers and over the value of \$50 is to be approved by the relevant Executive Leadership Team (ELT) member or the Chief Executive Officer in the case of an ELT member. The CEO or ELT member will note a declined offer of a gift, benefit or hospitality.

All gifts, benefits or hospitality accepted by Officers under the value of \$50 are to be declared and approved by the respective Manager. An offer of a gift, benefit or hospitality that is declined will be noted by the Manager.

All gifts, benefits or hospitality accepted by personnel acting on behalf of Council are to be declared and approved by the Chief Executive Officer. The CEO will note an offer of a gift, benefit or hospitality that has been declined by personnel acting on behalf of Council.

Gifts, benefits and hospitality must never be sought.

Councillors, Officers and other personnel acting on behalf of Council must not solicit, demand or request gifts or any personal benefits for themselves or another person by virtue of their position.

No sense of obligation.

No gift, benefit or hospitality may be accepted that could influence, or reasonably be perceived to influence, a Councillor, Officer and other personnel acting on behalf of Council in the performance of their public or professional duties.

Monetary gifts prohibited.

In addition to other limitations imposed by this Policy, monetary gifts (of any value) must never be accepted.

Official gifts.

Individuals may be involved in social, cultural or community events where official gifts are presented or exchanged. In such circumstances, where it would appear not to be polite or appropriate to decline the offer, it is reasonable for official representatives of the Council to accept official gifts on behalf of the Council.

Any official gifts received are to be reported to the Chief Executive Officer for inclusion in the Gifts Register and will normally be considered the property of the Council.

Where suitable, the official gift will be displayed in an appropriate and secure location for public viewing.

Gifts of Appreciation

Individuals are encouraged to seek an approach to demonstrating their appreciation for services rendered that does not involve the presentation of a gift or benefit. Acceptable alternatives might include a letter of thanks as this is considered less likely to result in a situation that compromises either party.

No individual is to accept a gift of appreciation of greater than \$50 or where receipt of the gift may create the perception of a perceived or actual conflict of interest. In circumstances where such gifts are offered, the individual should politely refuse the offer explaining that it is against Council policy to accept such an offer.

Gifts of appreciation that would generally be valued at \$50 might be such items as a bouquet of flowers or a box of chocolates.

While one gift of \$50 or less may be considered insufficient to cause concern that the recipient is deviating from Council policy, the sum of multiple gifts may be considered sufficient to do so.

All gifts of appreciation are to be recorded in the Gifts Register.

Token Gifts

Gifts of a token nature may be accepted only when:

- a gift is offered in an open or public forum;
- acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- the gift does not have a significant monetary value (less than \$50). Examples may include a book or plaque offered by a visiting dignitary, or small cultural icons such as a small ornament; and
- the gift is not offered on a regular basis.

Note: No token gifts are to be accepted from those in relation to whom the Councillor, Officer or personnel acting on behalf of Council is likely to make decisions including current and prospective suppliers.

Hospitality

Where hospitality is only modest in nature and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations. Reasonable hospitality received by the person at an event or function attended in an official capacity as the Mayor, a Councillor or a member of Council staff is not considered as a conflict of interest under the Local Government Act 1989.

In the case of invitations to functions that are entirely non-work related or where the majority of activity is focused on hospitality, then the offer of hospitality should be politely declined, and a declaration form completed.

Where an opportunity is presented for a Councillor or Officer to attend an event, prior approval must be sought for Council to either fully reimburse the organisers for the full cost or for the Councillor or Officer to personally pay for their own attendance.

All hospitality, other than that which is defined as reasonable, must be recorded in the same manner as a Gift. Reasonable hospitality is considered a light lunch and/or refreshment received at an event or function the person attended in an official capacity as the Mayor, Councillor or Officer.

General

If Councillors, Officers or personnel acting on behalf of Council refuse a gift on the basis that they believe the gift was a deliberate attempt to receive “preferential treatment,” the Chief Executive Officer must be advised immediately.

The CEO will then put in place the appropriate mechanism for investigation and further action if required.

6. COMPLIANCE AND REPORTING

All gifts, benefits and hospitality offered, including of a token value, must be reported to the Governance Unit and a Gift Disclosure Form must be completed and submitted within fourteen (14) days, regardless of whether the gift was accepted or declined. The Governance Unit will maintain a Register that will be made available for public inspection and auditing purposes. A modified version of the Register will be published on Council’s website and updated bi-annually².

Information on council’s website will include:

- Date of offer;
- Title of role;
- Offer type;
- Description of the Gift, Benefit or Hospitality;
- Estimated/actual value;
- Donor/Provider details; and
- Outcome - Whether the gift was accepted or declined.

Audit and Reporting.

The Register will be audited on a six-monthly basis. A report about the outcomes, including potential trends and patterns showing possible vulnerabilities regarding individuals or organisations, will be made to the ELT and Audit and Risk Committee.

Any matters of noncompliance which are identified by the Governance Unit between audits will be raised with the Chief Executive Officer (or delegate).

As required by the Act, one or more gifts received by a Councillor, Officer or personnel acting on behalf of Council from a person or persons with a total value of \$500 in the preceding 5 years, means that the Councillor or Officer has a conflict of interest in relation to the person or organization who offered the gift(s). If this threshold is reached, the Governance Unit will remind the Councillor, Officer or personnel acting on behalf of Council in writing of their obligations under the Act about the conflict of interest provisions and that the gift must be declared in their next Ordinary Interest Return. The Governance Unit will audit Ordinary Interest Return declarations that are submitted and report to the Chief Executive Officer if omissions are made. It is noted however that it is the responsibility of the person completing the Ordinary Return that this is done accurately.

² The information supplied on Council’s website closely resembles the Victorian Ombudsman’s Gifts, Benefits and Hospitality Register: <https://www.ombudsman.vic.gov.au/About/Our-accountability/Gifts,-benefits-and-hospitality-policy>

Where a Councillor fails to comply with this Policy, the issue may be dealt with in the same manner as disputes arising under the Councillor Code of Conduct.

Where an Officer or personnel acting on behalf of Council fails to comply with this Policy, the issue shall be dealt with in the same manner as reported breaches arising under the Corporate Code of Conduct.

Training, development and awareness training.

This Policy will be included in induction and ongoing governance training programs. The Governance Unit will develop and manage an annual education and training program. This program will include a range of communication tools and mechanisms including face to face training, articles in staff and Councillor newsletters, information provided at regular intervals such as when Ordinary Interest Returns are due and at the end of year holiday period.

7. PROCEDURAL GUIDELINES

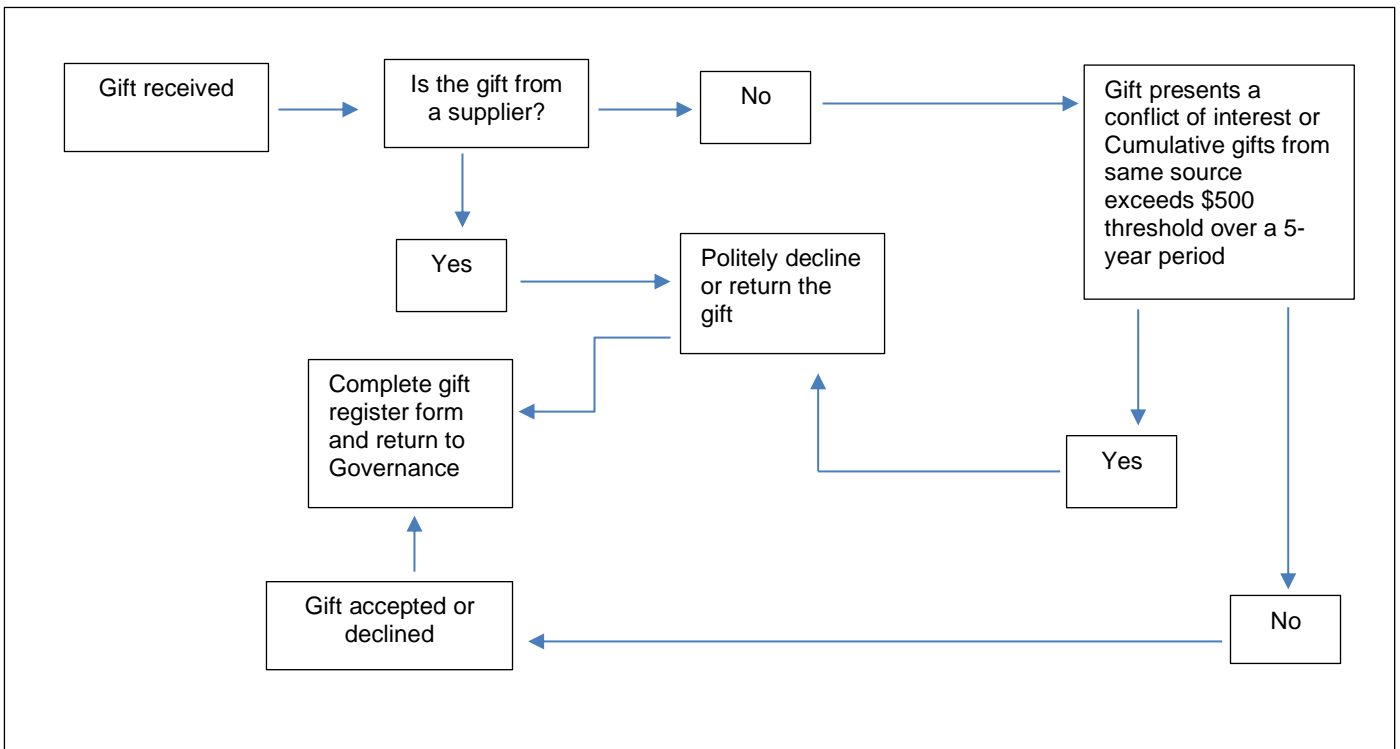
The GIFT test (published by the Victorian State Public Sector Commission) is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

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 contractors, 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 influence my decisions or actions?</p> <p>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?</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? 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 I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family friends or associates think?</p>

Examples of acceptable and inappropriate gifts, benefits and hospitality:

Gifts less than \$50	
Acceptable	Inappropriate
Box of chocolates	Money
Flowers	Gift vouchers
Stationery	Gifts of high value
Diary or calendar	Travel/accommodation
	Frequent gifts from the same source
Hospitality	
Refreshments	Travel/accommodation not related to Council activities
Working lunches/dinners of necessity	Frequent invitations from the same source
Meals at conferences	

Below is a summary of the declaration process:



A Disclosure Form must always be completed whether the offer of a gift, benefit or hospitality is accepted or declined.

A Disclosure Form is available for Councillors on Council Dashboard and for Officers on Council’s intranet or by contacting the Governance Unit.

8. PROVIDING GIFTS, BENEFITS AND HOSPITALITY

Consideration on whether to provide gifts, benefits or hospitality should be commensurate with community expectations, and ensure that;

- the gifts, benefits or hospitality provided furthers the business of Council or be of benefit to the community;
- gifts, benefits and hospitality are provided by Council, to celebrate achievements.
- the costs expended are proportionate to the benefits obtained;
- the conduct of officers reflects the applicable Council Policy when hospitality is provided; and
- would not give rise to an actual or perceived conflict of interest.

“Reasonable hospitality” relates to entertaining stakeholders, conference delegates and other official visitors and is provided at meetings, events or functions the person attends or hosts in an official capacity (eg: the CEO, Mayor and Councillors.)

Council may provide gifts, benefits or hospitality for several purposes, including:

- receiving guests (eg: visiting MP’s or Mayors or hosting stakeholders to market the City or extend the Council brand);
- receiving Sister City delegations where the Mayor, Councillors and/or other civic representatives of the Sister City are in attendance;
- facilitating relationships that are in the interests of the City (eg: an event where community sector and business organisations can meet to establish partnerships); and
- civic events.

In providing gifts Council prioritises giving locally sourced products and services. The appropriateness of giving of gifts and the value of the gift in each situation is considered carefully to ensure that the gift is proportionate to the benefit received by Council and is appropriate to the person receiving the gift. Public perception is also used to guide whether a gift would be seen as appropriate in each circumstance.

Examples of where gifts may be provided:

Visiting Ministers/MPs/Mayors/Councillors/CEOs/Peak body representatives - gift to the value of \$50
Speakers at Council events (only in the instance where the speaker is not paid for the speech) - gift to the value of \$50
(Voluntary) Judges for the Wyndham Business Awards - gift to the value of \$50
‘Key influences’ attraction and partnership development opportunities (targeted approaches for municipal publicity and promotion purposes eg: tourism opportunities and investment attraction) - gift to the value of \$100 or ticket to local events such as the Jeep Christmas Polo Event
Door prizes at Council hosted events (eg Women in Business event) – gift to the value of \$50
Wyndham Business Award recipients – flowers and trophy to the value of \$150
Sister City delegations – gift with a value between \$50 - \$300
Attendees at sector events (eg: Western Region Bi-annual Forum, when hosted by Council) - gift to the value of \$40

Council does not provide gifts to an organisation or person when that organisation or person is being paid for their services.

The HOST test is a good reminder of what to think about when making an assessment about an appropriate gift or hospitality to provide.

H	Hospitality	<p>To whom is the gifts or hospitality being provided?</p> <p>Will recipients be external business associates, or individuals of the host organisation?</p>
O	Objectives	<p>For what purpose will hospitality be provided?</p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support Council policy objectives and priorities?</p>
S	Spend	<p>Will public funds be spent?</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>
T	Trust	<p>Would public trust be enhanced or diminished?</p> <p>Can 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>

9. RELATED DOCUMENTS

- Local Government Act 1989
- Councillor Code of Conduct 2017
- Corporate Code of Conduct 2016
- Governing Wyndham Framework 2014
- Fraud and Corruption Control Policy 2019