



# Gifts, Benefits and Hospitality Policy 2023

## 1. PURPOSE

The Gifts, Benefits and Hospitality Policy aims to ensure that:

- Councillors and Council officers do not accept gifts that are likely to create a conflict of interest with their public duty
- Council activities are not influenced, or perceived to be influenced by the receipt of gifts, benefits or hospitality
- Gifts that are accepted or declined are disclosed, recorded and reported

## 2. SCOPE

This policy applies to:

- All people elected to, employed by, and working within Wyndham City Council, including temporary and contracted staff and volunteers (registered and student)
- Gifts, benefits or hospitality offered or received, including gifts that have been declined

This policy does not apply to:

- Gifts received by a Council officer in a private capacity or a Councillor within their independent employment or their private capacity
- Gifts received by Councillors or candidates during the donation period of an election campaign

## 3. POLICY STATEMENT

The Gifts, Benefits and Hospitality Policy has been prepared to comply with the requirements of the *Local Government Act 2020* and seeks to protect and promote public confidence in the integrity of the Council and its operations.

Councillors and Council officers have a duty to act in the public interest when carrying out their official duties. When acting on behalf of Council, they 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. POLICY OBJECTIVES

The objectives of the Gifts, Benefits and Hospitality Policy are to ensure that:

- Public confidence in the integrity of the Council and its operations is protected
- Council activities are not influenced, or perceived to be influenced by the receipt of gifts, benefits or hospitality
- Councillors and Council officers do not accept gifts that are likely to create a conflict of interest with their public duty
- There is a process for gifts that are accepted or declined to be disclosed, recorded and reported

## 5. POLICY

Councillors and Council officers have a duty to act in the public interest above their private interests when carrying out their official functions. The guiding principles of this policy are:

### (a) Gifts, benefits and hospitality that must not be accepted

Councillors and/or officers should not accept any gifts, benefits or hospitality from anyone likely to be impacted by decisions the councillor or officer is making in relation to their council duty. This includes current and prospective suppliers.

Gifts that could influence, or be perceived to influence, a Councillor or Council officer in the performance of their public or professional duties should not be accepted.

To avoid compromising situations or a situation where a conflict of interest is unwittingly created, Councillors and Council officers should carefully consider accepting gifts or benefits that could reasonably be perceived as undermining the integrity and impartiality of the Council. This includes refusal of all offers of gifts, benefits or hospitality from people or organisations which the Council is, or is likely, to be involved in making decisions on the awarding of a contract, leasing or sale of property, planning and policy decisions.

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

### (b) 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.

### (c) Anonymous gifts not to be accepted

In accordance with section 137 of the *Local Government Act 2020*, anonymous gifts must not be accepted.

The name and address of the person making the offer of a gift must be known to the gift recipient. Councillors or Council officers who receive an anonymous gift must immediately declare the anonymous gift. The anonymous gift will be recorded in the Gift Register for the purpose of transparency.

It is an offence under section 137 of the Act for a Councillor to receive an anonymous gift that has a value of or more than the gift disclosure threshold. The Act prescribes that a breach of these provisions could result in a maximum penalty of 60 penalty units and a requirement to pay the Council an amount equal to the value of the gift.

If for any reason a Councillor finds themselves in possession of a gift when they don't know the name and

address of the person who gave the gift, the Councillor can give the gift to the Council within 30 days to avoid committing an offence.

#### **(d) Monetary gifts prohibited**

In addition to other limitations imposed by this policy, monetary gifts (of any value) must never be accepted. Monetary gifts include cash or a cash equivalent such as gift vouchers.

#### **(e) Declaration of offers of gifts, benefits or hospitality**

Offers of gifts, benefits and hospitality (except where specifically excluded by this policy) with a value of \$50 or more are to be declared by completing a Gifts and Hospitality Declaration Form within 14 days, regardless of whether the offer was accepted or declined. Where the gift recipient does not know the value of a gift, benefit or hospitality, they should make reasonable efforts to ascertain its value. Where it seems reasonable that the value is close to or over \$50, a declaration is to be made.

Where a gift, benefit or hospitality is offered to a Councillor or Council officer by the same person or organisation on two or more occasions within a twelve month period, whether or not the individual value of the gift, benefit or hospitality is below \$50 in value, this is to be recorded in a declaration.

There is no requirement for a Councillor or Council officer to declare the provision of refreshments, business lunches or refreshments at or during breaks in meetings, seminars or training or hospitality provided at Council functions while performing the normal duties applicable to their role as a Councillor or Council officer.

For the avoidance of doubt, there is no requirement to declare token gifts, benefits and hospitality below \$50 in value.

All gifts, benefits or hospitality accepted by Councillors and over the value of \$50 is to be approved by the Chief Executive Officer.

All gifts, benefits or hospitality accepted by Council officers and over the value of \$50 is to be approved by the relevant Manager and Executive Leadership Team (ELT) member, or the Chief Executive Officer in the case of an ELT member.

All gifts, benefits or hospitality accepted by personnel acting on behalf of Council and over the value of \$50 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.

#### **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 impolite or inappropriate 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. Where an item is not suitable for public display, the recipient can make application to the Chief Executive Officer to retain the gift. The Chief Executive Officer will consider applications on a case by case basis and will exercise discretion as to the appropriate utilisation of such civic gifts. The retention of the gift by the Councillor will be recorded in the Gift Register.

## Token Gifts

Gifts of a token nature may be accepted only when:

- Acceptance would not cause any potential perceived or actual compromise or conflict of interest
- The gift does not have a significant monetary value and is considered more a gesture of goodwill than a gift  
Examples may include flowers, small food items, mugs, ornaments, candles etc.
- The gift is offered on a one-off basis and is not a regular occurrence and the gift does not exceed \$50 in value
- For the avoidance of doubt, token gifts that do not exceed \$50 in value do not need to be declared or recorded in the Gift Register

Note: Councillors and/or officers should not accept any token gifts from anyone likely to be impacted by decisions the Councilor or officer is making in relation to their Council duty. This includes 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. Participation in refreshments, Council business lunches or refreshments at or during breaks in meetings, seminars or training or hospitality provided at Council functions are all permissible activities as they form part of the normal business activity of the Council. Such reasonable hospitality does not need to be declared.

In the case of invitations to functions where the principal activity is focused on hospitality and the Councilor or officer has no formal role at the event in their capacity as a Councilor or Council officer, then the offer of hospitality should be politely declined, and a declaration form completed.

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

## General

If Councillors, Council 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 Chief Executive Officer will then put in place the appropriate mechanism for investigation and further action if required.

## (f) Maintenance and Reporting

In accordance with sections 138 (2) (a) of the *Local Government Act 2020*, Council is required to have procedures in place for maintenance of a Gift Register.

A Gifts, Benefits and Hospitality Register will be maintained by Council and a modified version of the Register will be published on Council’s website and updated bi-annually<sup>1</sup>.

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<sup>1</sup> 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-us/annual-reports-and-policies/gifts-benefits-and-hospitality/#gifts-benefits-and-hospitality-register-2021-22>

Information on Council's website detailing the gift disclosure will include:

- Date offered
- Recipient Title
- Offer type
- Description of the gift, benefit or hospitality
- Provider details
- Estimated/actual value
- Outcome - Whether the gift was accepted or declined.

### **Reporting**

The Gifts Benefits and Hospitality Register will be regularly monitored and reviewed for trends and patterns relating to individuals or organisations. Analysis of such trends may be reported to the Executive Leadership Team and Audit and Risk Committee from time to time as required.

Any matters of non-compliance with this policy which are identified by the Governance Unit will be raised with the Chief Executive Officer (or delegate) as required.

### **Gift Disclosure Threshold**

The Act has legislated a \$500 cumulative Gift Disclosure Threshold. The cumulative value of gifts and hospitality over a five-year period from the same person or organisation could result in reaching the \$500 Gift Disclosure Threshold. Reaching the Gift Disclosure Threshold of \$500 could subject the Councillor or Council officer to an indirect interest because of an applicable gift.

The Act provides that any Councillor or Council officer taking part in a decision, or the exercise of a power, duty or function has a material conflict of interest should the disclosure threshold be exceeded in the preceding five years of the decision being made or the power, duty and function being exercised.

Particulars of any gift at or above the cumulative value of \$500 received by a Councillor or nominated Council officer (over a five-year period) must also be declared in their Personal Interests Return, which must be made available for public inspection.

### **Training**

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

## PROCEDURAL GUIDELINES

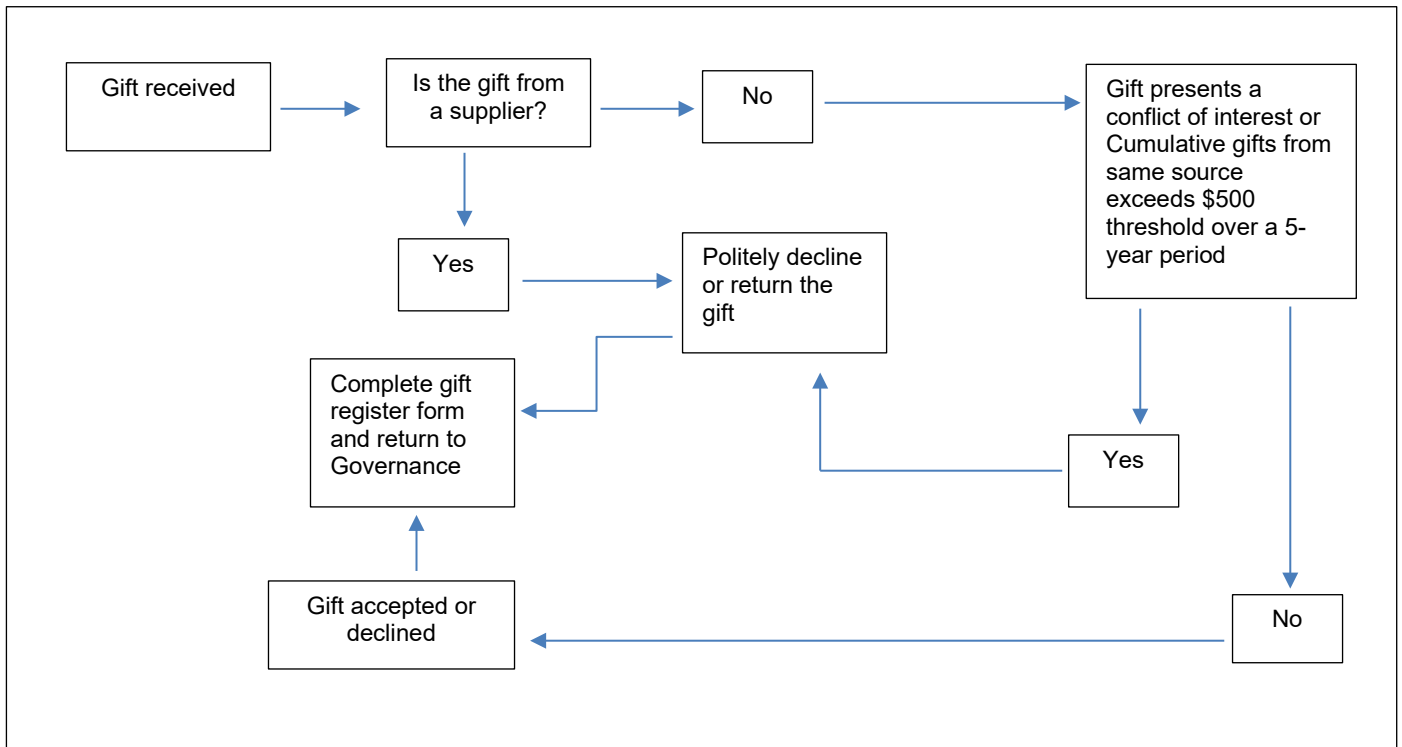
The GIFT test (published by the Victorian State Public Sector Commission) is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

<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 Council policies? 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? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?</p>
<b>F</b>	<b>Favor</b>	<p><b>Are they seeking a favor 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 over the last 12 months? Would accepting it create an obligation to return a favor?</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? What would my colleagues, family friends or associates think?</p>

Examples of acceptable and inappropriate gifts, benefits and hospitality:

<b>Gifts</b>	
<b>Acceptable</b>	<b>Inappropriate</b>
Box of chocolates	Money
Flowers	Gift vouchers
Stationery	Gifts of high value
Diary or calendar	Travel/accommodation
	Frequent gifts from the same source
<b>Hospitality</b>	
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 equal to or above the value of \$50 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.

## 6. PROVIDING GIFTS, BENEFITS AND HOSPITALITY (BY COUNCIL)

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
- The gift 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 (e.g.: the CEO, Mayor and Councillors.)

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

- Receiving guests (i.e. visiting MPs 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 (i.e. an event where community sector and business organisations can meet to establish partnerships)
- 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 e.g.: tourism opportunities and investment attraction) - gift to the value of \$100 or ticket to local events
Door prizes at Council hosted events (e.g. 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 (e.g.: 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.

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

## 7. DEFINITIONS

<b>Act</b>	Means the <i>Local Government Act 2020</i>
<b>Anonymous Gifts</b>	Section 137 of the <i>Local Government Act 2020</i> mandates that that anonymous gifts must not be accepted.  The name and address of the person making the offer of a gift must be known to the recipient and the recipient must reasonably believe the name and address of the person is correct for an offer to be accepted
<b>Applicable Gift</b>	Means 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—  (a) the provision of a service (other than volunteer labour); and  (b) the payment of an amount in respect of a guarantee; and  (c) the making of a payment or contribution at a fundraising function
<b>Gifts explanation to support definition</b>	A gift is anything of monetary or other value that is offered by an

<p><b>above</b></p>	<p>external organisation or individual to a Councillor, Council officer or contractor as a result of their role with the agency. It includes free or discounted items or services, benefits or hospitality that exceeds common courtesy. Examples include:</p> <ul style="list-style-type: none"> <li>• A bottle of wine or spirits</li> <li>• Tickets to sporting events</li> <li>• Gift Voucher</li> <li>• Corporate hospitality at a corporate facility</li> <li>• Discounted products for personal use</li> <li>• Use of a holiday home</li> <li>• Free or discounted travel</li> <li>• Free training excursions</li> <li>• Door prize or voucher if an individual has not personally paid to attend.</li> </ul>
<p><b>Benefit</b></p>	<p>Something which is believed to be of value to the receiver, such as a service i.e. access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, pleasure or vacation trips.</p>
<p><b>Bribe</b></p>	<p>A corrupt inducement to reward.</p>
<p><b>Conflicts of Interest</b></p>	
<p>Actual conflict of interest:</p>	<p>There is a real conflict between an employee’s public duties and private interests.</p> <p>A private interest means anything that can influence an employee or director.</p> <p>Private interests may be direct or indirect, and financial or non-financial:</p> <p><b>Direct interests:</b></p> <p>Includes an employee or director’s own personal, family, professional or business interests.</p> <p><b>Indirect interests:</b></p> <p>Includes the personal, family, professional or business interests of individuals or groups with whom the employee or director is, or was recently, closely associated.</p> <p>An example of where an employee may have a private interest could be if they were responsible for managing the tendering for landscaping within Council and their brother’s business tendered and was assessed as successful as the preferred supplier even though they didn’t provide the cheapest quote.</p>
<p>Potential conflict of interest:</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>An Example of a “Potential Conflict of Interest” arising from the acceptance of a gift may be:</p> <p>Soccer grand final tickets valued at \$200 accepted from contracted beverage company to the Manager of Commercial</p>

	Venue Services for stakeholder networking opportunity.
Perceived conflict of interest:	<p>Members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to the Council, now or in the future.</p> <p>Using the example from earlier, if an Officer was responsible for the landscape tendering within Council and didn't remove himself from the selection panel it could be perceived that a conflict of interest will or may occur even before it has.</p>
Gift Disclosure Threshold	The legislated gift disclosure threshold is \$500.
<b>Gift of Appreciation</b>	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.
<b>Hospitality</b>	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.
<b>Internal Gifts</b>	An internal gift is one which is given from Council to others in Council. These would cover gifts such as flowers given upon the death of a close family member (for which a staff member would be eligible for bereavement leave), retirement or an appreciation of a job well done. This policy does not apply to internal gifts.
<b>Monetary Gift</b>	Defined as cash, or a cash equivalent including cheques, gift vouchers, money orders, travelers' cheques, direct deposits, lottery tickets and 'scratchies.'
<b>Official Gifts</b>	<p>Official or ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community. Examples may include plaques, plates, vases, trophies, artwork or souvenir.</p> <p>Official or 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 in the register.</p> <p>A Gift Disclosure Form must be completed.</p>
<b>Prohibited gifts</b>	<p>The following gifts cannot be accepted and must be refused:</p> <ul style="list-style-type: none"> <li>• Anonymous gifts</li> <li>• Monetary gifts of any value including gift vouchers</li> <li>• Gifts that create a conflict of interest (real, potential or perceived)</li> <li>• Bequests to a Councillor (as a direct result of their role at Council)</li> </ul>
<b>Register</b>	A summary of gifts, benefits and hospitality received which will

	<p>contain the following information:</p> <ul style="list-style-type: none"> <li>• Recipient details</li> <li>• Provider’s details</li> <li>• Date received</li> <li>• Description</li> <li>• Estimated value of gift, benefit or hospitality</li> <li>• Whether the gift was retained, declined or returned</li> </ul>
<b>Specified person</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>• A Councillor</li> <li>• A member of a delegated committee who is not a Councillor</li> <li>• A nominated officer (as defined by section 132 of the Act)</li> </ul>
<b>Token Gift</b>	<p>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.</p> <p>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.</p> <p>The value of a token gift cannot exceed \$50.00.</p>
<b>Value</b>	Face value or estimated retail value

## 8. BREACH OF POLICY

Our people are bound to act in line with our Code of Conduct and in compliance with the law. As public sector employees, we are required to perform our duties in accordance with our values and meet the obligations of our roles, as communicated in our organisations policies. Contravention of policy may constitute misconduct and result in disciplinary outcomes, including termination of employment.

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 person 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.

Sections 133 (3) and 134 (2) of the *Local Government Act 2020* prescribes a penalty of 60 penalty units if:

- A specified person intentionally or recklessly lodges an initial personal interests return that contains any false or incomplete information
- A specified person intentionally or recklessly lodges a biannual personal interests return that contains any false or incomplete information

## REFERENCES

External reference material:

- *Local Government Act 2020*
- Victorian State Public Sector Commission

Wyndham City Council reference material:

- Councillor Code of Conduct 2020
- Corporate Code of Conduct 2020
- Fraud and Corruption Control Policy 2022

## VERSION HISTORY

ID	DATE	AUTHOR	REVISION REASON / KEY CHANGES	REVIEW DATE
1.0	9/02/2009	Manager City Governance	New Policy	09/12/2010
2.0	22/09/2014 2014	Manager City Governance	Revision	
3.0	27/04/2021	Coordinator Governance	Revision	April 2023
4.0	TBC	Coordinator Governance	Revision	April 2025

## DOCUMENT CONTROL

DOCUMENT NAME	WCC – Gifts, Benefits and Hospitality Policy – 2023
OBJECTIVE ID	A4061333
OWNER	Executive Manager Corporate Affairs
APPROVER	Council
DATE OF ADOPTION	27 June 2023
NEXT REVIEW DATE	April 2025