



Councillor Gift Policy

October 2024



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1. Definitions

<i>Benefit</i>	Something of value to the receiver, such as invitations to sporting, cultural or social events, access to discounts and loyalty programs, honorary memberships, accommodation or leisure holidays, access to confidential information, or other advantage offered to an individual, their friend, associate or relative.
<i>CEO</i>	The Chief Executive Officer of Whitehorse City Council including any person acting in this role.
<i>Conflict of interest</i>	A 'general conflict of interest' and/or a 'material conflict of interest' as those terms are defined in the Act.
<i>Council</i>	Whitehorse City Council
<i>Family Member</i>	A spouse or domestic partner of the relevant person, a parent, grandparent, sibling, child, grandchild, stepparent, stepsibling, or stepchild of the relevant person or of their spouse or domestic partner; or any other relative that regularly resides with the relevant person.
<i>Gift</i>	Defined in section 3 of the Act as "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."
- <i>Appreciation gift</i>	A gift presented to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment.
- <i>Monetary gift</i>	Means cash, gifts cards, cheque, direct deposit or other financial facility that will financially benefit the receiver.
- <i>Official gift</i>	A gift presented to a Councillor as representative of the Council from a Sister City, organisation or corporation bestowing a corporate gift (e.g., plaques, plates, trophies, artwork) to the City, or as a token of appreciation for a contribution to a conference or industry event.
- <i>Token gift</i>	A gift, benefit or hospitality with a face or estimated value of less than \$50.
<i>Gift Register</i>	Council register that captures all offers of gifts, benefits and hospitality received, accepted and declined and is accessible on Council's website.
<i>Gift Disclosure Threshold</i>	\$500 or a higher amount or value prescribed by the <i>Local Government (Governance and Integrity) Regulations 2020</i> .
<i>Hospitality</i>	The friendly reception and entertainment of guests that may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
<i>Impartiality</i>	Councillors 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.
<i>Official capacity</i>	A Councillor is acting in an official capacity if they are exercising their powers or performing their responsibilities under the Act and their attendance at the event or function is related to providing good local governance for the municipality.
<i>Policy</i>	Councillor Gift Policy.
<i>Value</i>	Means the face value or estimated retail value.

2. Overview

Purpose

The *Local Government Act 2020* (the Act) requires a Council to adopt a Councillor Gift Policy. The policy must include procedures for the maintenance of a gift register and any matters prescribed in the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations).

This policy establishes guidelines for the acceptance of gifts, benefits or hospitality by Councillors. The giving and receiving of gifts, benefits and hospitality from a person or organisation may result in a potential conflict of interest or breach of the Act.

Under Council's Public Transparency Policy and the Act's public transparency principles, Councillors must publicly declare the offers and /or the acceptance of certain gifts, benefits or hospitality. This policy serves to guide Councillors to apply sound judgement when dealing with offers of gifts, benefits and hospitality, so as to not compromise their decision-making by always acting impartially.

Objectives

The objective of this policy is to:

- a) Limit the number of gifts made to, or accepted by, Councillors to promote public confidence in the integrity of Council
- b) Provide clear direction and guidance to Councillors on gifts, benefits and hospitality that may be accepted and those that may not
- c) Ensure that members of the Whitehorse community and other key stakeholders have full confidence in the conduct of Councillors as it relates to gifts, benefits and hospitality
- d) Further strengthen Council's ongoing commitment to developing a highly transparent, ethical and legislatively compliant entity

Scope

The policy applies to elected Councillors of the City of Whitehorse and operates in conjunction with Council's adopted Councillor Code of Conduct and relevant provisions provided in the Act.

3. Guiding principles

- a) Councillors must not solicit, demand or request gifts, benefits or hospitality for themselves or another person by virtue of their position.
- b) Where practicable, any offer of a gift, benefit or hospitality, irrespective of value, should be declined politely in the first instance.
- c) Monetary gifts of any value are not to be accepted (election donations excluded). Any incidences where a bribe is offered must be reported in accordance with Council's Public Interest Disclosure Procedures.
- d) A Gift Registration Form must be lodged within seven days of any offer of a gift, benefit or hospitality, whether accepted, returned or declined, regardless of value (other than official gifts).
- e) Completed Gift Registration Forms will be entered into Council's Gift Register, which is published on Council's website.
- f) Ensure that any gift, benefit or hospitality that is accepted is done so for a legitimate business purpose, furthering the business goals, policy objectives and priorities of Council and within reasonable community expectations.

4. Gifts and benefits

Token vs non-token gifts

A gift is either token or non-token in nature.

Token gifts

Whilst not encouraged, Councillors may accept token gift offers.

A token gift, benefit or hospitality is offered as a courtesy or is of inconsequential or trivial value (up to \$50) to both the person making the offer and the individual receiving the offer. Such a gift would not be reasonably perceived within or outside the Council as influencing a Councillor or Council or raising an actual, potential or perceived conflict of interest. Examples of token gifts include a box of chocolates, homemade goods, a small souvenir, a cup of coffee.

If the combined total value of token gift offers in the past 12 months from the same individual or organisation exceeds \$50 then it becomes a non-token gift.

Non-token gifts

A non-token gift is a gift, benefit or hospitality offered with a value of more than \$50.

It is preferable that non-token gift offers be politely declined in the first instance. If a non-token gift is to be accepted, it must be managed in accordance with this policy.

A gift can be any item of value — money, voucher, entertainment, travel, commodity, services, property — that a person or organisation provides. All non-token gifts, benefits and hospitality offered must be recorded in the Gift Register.

When deciding whether to accept a gift, benefit or hospitality, Councillors should give consideration to the GIFT and HOST tests outlined at Section 5 of this policy.

Types of gifts and benefits

Councillors may be exposed to a range of circumstances where different types of gifts may be transacted.

Appreciation

Councillors are required to decline any appreciation gift exceeding \$50 in value.

If a Councillor is offered a gift in an open or public setting, where refusing it might seem impolite and accepting it doesn't pose any potential perceived or actual compromise or conflict of interest the gift may be accepted. However, it should be reported to the CEO for guidance on how to administer it appropriately.

Hospitality

From time to time, Councillors may receive invitations of hospitality to attend various functions and events. Invitations may include and be classified as follows:

Modest and networking opportunity

Where hospitality is only modest in nature (incidental refreshments at meetings, working lunches, community events or similar) and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Notwithstanding the nature of this type of hospitality, it is the responsibility of the Councillor to be attentive to the cumulative value of any such offers and to avoid the likely creation of unwanted perceptions, whether real or contrived, by members of the community and others, regarding the activities, actions and conduct of a Councillor.

Social, Cultural and Sporting Events (External sponsored events/tickets)

Any offer of hospitality that is likely to compromise the impartiality of a Councillor or be perceived as a conflict of interest should be politely declined.

Councillors are also encouraged to avoid potential perceptions being created either presently or at a future time, involving Councillor patronage and/or regular attendance at events or close association with certain organisation/s.

Loyalty program points and rewards

Councillors must not collect points or rewards for personal use via loyalty programs from any Council-related transactions (e.g. Flybuys or frequent flyer programs).

Official

From time to time, individuals or organisations may offer gifts of goodwill to the Council and the CEO will ensure that such gifts are recorded (not in Gift Register).

Official gifts are deemed to be Council property; however, where the item is not suitable for public display or the gift is of a personal nature to the recipient, the CEO will use their discretion as to the appropriate use of the official gift.

Situations not classed as a gift or benefit

This Policy does not apply in the following instances:

Items not classed as gifts or benefits

- a) Those gestures deemed to have no monetary value, such as flowers cut from a person's garden or homemade baking are not deemed to be a gift or benefit.
- b) Door or raffle prizes at a function or conference, where the individual has paid for their attendance or the raffle ticket.
- c) Recognition/promotional items (e.g., pen, tie or mug) handed to a Councillor, as a result of attending a conference held, conducted or sponsored by an organisation.

Council-related events

The attendance and participation of Councillors at Council sponsored events is often an expectation of respective roles, and this is addressed in Council's *Councillor Expense and Support Policy*.

Where payment or reimbursement made

In some circumstances, at the discretion and as approved by the Chief Executive Officer, a Councillor may attend an event, if the Council either fully reimburses the organisation for the full cost of the hospitality or if the Councillor personally pays for their own attendance.

5. Other relevant guidance

The GIFT and HOST tests

When deciding whether to accept 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 gift, the more likely that a conflict of interest or reputational risk exists.

The GIFT test outlines what to consider when deciding whether to accept or decline a gift, benefit or hospitality:

G	Giver	Who is providing the gift, benefit or hospitality and what is their relationship to me? Could the person or organisation benefit from a decision I make?
I	Influence	Are they seeking to influence my decisions or actions? 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?
F	Favour	Are they seeking a favour in return for the gift, benefit or hospitality? Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made repeat offers of gifts or hospitality? Would accepting it create an obligation to return a favour?
T	Trust	Would accepting the gift, benefit or hospitality diminish public trust? How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family or associates think?

The HOST test is a reminder of what to consider when deciding whether to provide an offer of a gift, benefit or hospitality:

H	Hospitality	To whom is the gift, benefit or hospitality being provided? Will recipients be external business partners, 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 government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?
S	Spend	Will public 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 the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

Local Government Act 2020

Material conflict of interest

Section 128(4) of the Act states in part that – a disclosable gift means one or more gifts with a total value of, or more than, \$500 or if an amount is prescribed for the purposes of this subsection, the prescribed amount, received from a person in the five years preceding the decision on the matter –

- a) If the relevant person held the office of Councillor, at the time the gift was received; or
- b) If the gift was, or gifts were or will be, required to be disclosed as an election campaign donation –

but does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor.

Anonymous gifts not to be accepted

Section 137 of the Act states –

- 1) Subject to subsection 2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is equal to or exceeds the gift disclosure threshold unless –
 - a) the name and address of the person making the gift are known to the Councillor; or
 - b) at the time when the gift is made –
 - i) the Councillor is given the name and address of the person making the gift; and
 - ii) the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.
- 2) If the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection 1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.
- 3) In addition to the penalty specified in subsection 1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.

Local Government (Governance and Integrity) Regulations 2020

Biannual Personal Interests Return - Gifts received

Councillors are to provide details of any gift received in the period since their last interests return, where the value equals or exceeds \$500 or the gifts in form of goods or services and multiple gifts equal or exceed that amount.

This does not include gifts from family members or any gifts you may have declared in an election campaign donation return under section 306 of the Act.

6. Policy details

Date Adopted	25 October 2024 (V3)
Responsible Department	Governance and Integrity
Documents and Form/s	Gifts & Hospitality Declaration Form – Councillors (Doc ID 22/127374) Gift Register (Doc ID 22/281540)
Review History	October 2020 (V1) April 2021 (V2)
Review Date	August 2026
Human Rights	This policy has been reviewed for compliance with the <i>Charter of Human Rights and Responsibilities Act 2006</i> (assessment on next page). A gender impact assessment was not required.
Related legislation	<i>Local Government Act 2020</i> <i>Local Government (Governance and Integrity) Regulations 2020</i>
Related Council policies	<i>Councillor Code of Conduct</i> <i>Councillor Expenses and Support Policy</i> <i>Interaction with Developers Policy</i> <i>Fraud and Corruption Control Policy</i> <i>Public Transparency Policy</i>

Appendix: Charter of Human Rights and Responsibilities Act 2006 compliance assessment

Policy Title	Councillor Gift Policy	
Department	Governance and Integrity	
Purpose of Policy	To provide guidelines regarding the acceptance of gifts, benefits and hospitality by Councillors.	
Applicable human right impacted	<p>Are human rights supported? OR Are human rights limited by the policy? If so, how?</p>	Is the limitation on the right reasonable and justifiable? If so, how?
<p>Right to privacy and reputation</p> <p>Section 13 - Your right to privacy and reputation Victorian Equal Opportunity and Human Rights Commission</p>	<p>Councillors may feel as though their privacy is infringed as Council officers and members of the public may access details regarding gifts and hospitality received.</p>	<p>Limitation reasonable.</p> <p>The giving and receiving of gifts, benefits and hospitality by Councillors may result in a potential conflict of interest or breach of the Act.</p> <p>Under Council's Public Transparency Policy and the Act's public transparency principles, Councillors must publicly declare offers and /or acceptance of certain gifts, benefits or hospitality.</p> <p>Public confidence in fair and impartial decision-making by Council must be maintained.</p> <p>The limitation can be mitigated by avoiding situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to gain favourable treatment from Councillors or Council.</p>
<p>Right to take part in public life</p> <p>Section 18 - Your right to take part in public life Victorian Equal Opportunity and Human Rights Commission</p>	<p>Councillors may feel limited by the policy in their ability to accept invitations to certain events.</p>	<p>Limitation reasonable.</p> <p>Council must provide transparency to maintain community trust that Councillors will not misuse their position to receive hospitality where it is inappropriate or develop close associations with particular organisations.</p> <p>This policy provides guidance regarding situations where it is appropriate to accept hospitality. Councillors wishing to attend events where the acceptance of hospitality is not appropriate may still do so provided that they cover the cost of their attendance.</p>