

### 6.3.3 Councillor Gifts Policy

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#### Recommendation(s)

That Council adopt the Councillor Gifts Policy.

#### Attachments

1. Councillor Gift Policy for adoption [6.3.3.1 - 5 pages]

#### Executive Summary

To adopt a Councillor Gifts Policy as required by Section 138 of the Local Government Act 2020.

#### Background

Council is required to adopt a Councillor Gifts Policy within 6 months of Section 138 of the Local Government Act 2020 coming into operation. This Section came into operation at the date of the Election in October last year.

Cardinia Shire Council is committed to ensuring that Councillors, Council staff and contractors act with integrity and honesty when performing their duties or while attending functions as Council representatives. The acceptance of gifts, benefits and hospitality can create perceptions that a Councillor, staff member or contractor's integrity has been compromised.

This policy states Council's position on responding to offers of gifts, benefits and hospitality and is intended to support Councillors to avoid conflicts of interest and maintain high levels of integrity and public trust.

The Act stipulates that the Policy must include procedures for the maintenance of a gift register and any other matters prescribed by the regulations. No matters have been prescribed in the regulations at this stage.

Council has not previously had a free-standing Policy regarding Councillor Gifts, this detail was included in the Code Of Conduct. Council has maintained a gifts register for many years even though there was no legislative requirement to do so but this was considered to be best practice.

The aim of the Policy is to provide clear guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts or benefits which may result in a sense of obligation or could be interpreted as an attempt to influence. This helps to protect and promote public confidence in the integrity of the Council.

Councillors are asked to complete a 'Gift Declaration Form' whenever they receive or decline a gift and provide the form to the Manager Governance or delegate for inclusion in the gift register.

The Policy also includes a clause regarding attempts to bribe and if a councillor believes that the gift offered offer is an attempt to bribe they are required to:

- Immediately notify the CEO and lodge a gift declaration form, so their refusal can be properly recorded,
- Report the matter to the CEO or Public Interest Disclosure Co-ordinator, Manager Governance who will report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission, and
- A Councillor who believes another person within the Council may have solicited or been offered a bribe which they have not reported, must notify the CEO or report the matter as a public interest disclosure in accordance with Councils Public Interest Disclosure Procedures.

The Policy complements the provisions already included in the Councillor Code of Conduct

### **Policy Implications**

This will be a new Council Policy.

### **Relevance to Council Plan**

Adopting a transparent Gifts Policy is in keeping with the Our Governance goals of consulting with the community in an open and accountable way and to enhance the community's confidence in the Council

### **Climate Emergency Consideration**

Nil.

### **Consultation/Communication**

No community consultation or engagement has occurred in relation to the Policy

### **Financial and Resource Implications**

There are no financial or resource implications associated with this Policy

### **Conclusion**

To satisfy the requirement of the Local Government Act 2020 Council must adopt a Councillor Gifts Policy and it is recommended that the Policy is adopted with the aim to provide clear guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts or benefits which may result in a sense of obligation or could be interpreted as an attempt to influence. This helps to protect and promote public confidence in the integrity of the Council.



## Councillor Gift Policy

Record ID	WOFC-1968905895-15		
Policy owner	Governance		
Adopted by	Council		
Adoption date	15/03/2021	Scheduled review date:	15/03/2024
Publication	External - RMC and website		
Revision/version number	Version 1.0		

### 1 Policy alignment

Section 138 of the Local Government Act 2020 requires that the Council must adopt a Councillor Gift Policy, the Policy must include procedures for the maintenance of a gift register and any other matters prescribed by the regulations.

The Councillors Code of Conduct also refers to Gifts and Hospitality and this Policy complements the Councillors Code of Conduct

### 2 Purpose

Cardinia Shire Council is committed to ensuring that Councillors, Council staff and contractors act with integrity and honesty when performing their duties or while attending functions as Council representatives.

The acceptance of gifts, benefits and hospitality can create perceptions that a Councillor, staff member or contractor's integrity has been compromised.

This policy states Council's position on responding to offers of gifts, benefits and hospitality and is intended to support Councillors to avoid conflicts of interest and maintain high levels of integrity and public trust.

### 3 Scope

This policy sets out the Council's standards and procedures for responding to gift offers. It applies to all Councillors of Cardinia Shire Council.

### 4 Policy description

The aim of this policy is to provide clear guidelines to ensure Councillors are not compromised in the performance of their duties by accepting gifts or benefits which may result in a sense of obligation or could be interpreted as an attempt to influence. This helps to protect and promote public confidence in the integrity of the Council.

### 5 Gifts that should not be accepted

Any Gifts that is inconsistent with community values and could bring a Councillor's integrity, or that of the Council into disrepute (eg. if accepting a gift could be perceived as an endorsement of a product or service) should be declined.

Councillors should avoid accepting any of the following gift offers:

### **5.1 Anonymous gifts**

Councillors acknowledge that from 1 July 2021 section 137 of the Local Government Act 2020 makes it an offence to accept an anonymous gift above the gift disclosure threshold (currently \$500)

Councillors should not accept any gifts that equal or exceed the gift disclosure threshold unless they know the name and address of the person making the gift.

### **5.2 Conflict of Interest**

Councillors should not accept a gift that creates a conflict of interest (real, potential or perceived).

### **5.3 Regulatory processes**

Where a Council regulatory process is underway (eg a planning permit application, infringement appeal) a Councillor should not accept any gifts from any individual or group that may be involved with the permit application or regulatory activity.

### **5.4 Procurement & Tender Process**

Councillors must not accept any gifts, benefits and hospitality from a current or prospective supplier or any offer that is made during a procurement or tender process by a person or organisation involved in the process.

Where gifts are received or there are irregular approaches from suppliers, the Councillors must notify the Mayor and CEO and lodge a gift declaration form, so their refusal/action can be properly recorded.

### **5.5 Recording prohibited gift offers**

To assist the Council in monitoring the frequency and nature of prohibited gifts, it is essential that all such offers are disclosed. Councillors must lodge a gift declaration form and details will be included in the register.

### **5.6 Recourse for non-compliance**

Accepting a prohibited gift may constitute misuse of a Councillor's position, a breach of this policy may result in serious misconduct allegations for Councillors. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

## **6 Attempts to bribe**

A Councillor who receives a gift offer that they believe is an attempted bribe must refuse the offer. They must:

- Immediately notify the CEO and lodge a gift declaration form, so their refusal can be properly recorded,

- Report the matter to the CEO or Public Interest Disclosure Co-ordinator (Manager Governance) (who will report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).
- A Councillor who believes another person within the Council may have solicited or been offered a bribe which they have not reported, must notify the CEO or report the matter as a public interest disclosure in accordance with Councils Public Interest Disclosure Procedures.

## 7 The G.I.F.T. Test – Conflict of Interest & reputational risks

Deciding whether to accept an offer, 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.

Developed by the Victorian State Services Commission, the GIFT test 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> 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>
<b>I</b>	<b>Influence</b>	<p><b>Are they seeking to gain an advantage or influence my decisions or actions?</b> Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? 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> 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>
<b>T</b>	<b>Trust</b>	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b> How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

## 8 Gifts register

The Governance Unit will maintain a gift register to record all gifts accepted by Councillors as well as any gifts declined.


Councillors are required to complete a 'Gift Declaration Form' whenever they receive or decline a gift and provide the form to the Manager Governance or delegate for inclusion in the gift register.

## 9 Related documents

Type of document	Title and/or RMC link
Commonwealth/Victorian legislation	Local Government Act 2020
Policies	Councillor Code of Conduct Fraud Control and Corruption Policy and Plan

## 10 Glossary of terms

<b>Gift</b>	<p>The Local Government Act defines a gift 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—</p> <p>(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</p> <p>For the purposes of this Policy and as stipulated in the Councillor Code of Conduct a gift does not include any gift that is offered but not accepted and any gift that has a retail value of \$25.00 or less.</p>
<b>Gift disclosure threshold</b>	<p>A disclosable gift means any gift valued at or above \$500 or a higher prescribed amount that a relevant person received in the preceding five years if:</p> <ul style="list-style-type: none"> <li>▪ the relevant person was a Councillor, member of council staff or member of a delegated committee at the time the gift was received, or</li> <li>▪ the gift was an election campaign donation.</li> </ul> <p>If multiple gifts are received from a person, they must be treated as a single gift with an aggregate value.</p>

	GIFT DECLARATION FORM
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**Name of Councillor:** \_\_\_\_\_ **Date gift offered:** \_\_\_\_\_

**Name of individual, company or organisation offering the gift or benefit:**

**Nature of gift or benefit:** (Please provide a brief description)

**Action taken:**

(e.g. accepted as reasonable hospitality, accepted and provided to the Office of the Mayor, etc)

**Approximate Value of Gift or Benefit:** \$ \_\_\_\_\_

Councillor	Mayor	CEO
Signed: _____  Date: _____	I have noted the declaration.  Signed: _____  Date: _____	I have noted the declaration.  Signed: _____  Date: _____

**Privacy Notification Statement**

The personal information on this form is collected for the purpose of ensuring transparency and accountability in Council's decision making processes. Provision of this information is required under Council Policy and the Code of Conduct. A record of your disclosure(s) will be entered in a Register held by the Governance Unit, and will be made available on Council's website and will be disposed of in accordance with the requirements of the Public Records Act 1973.

Note that Council reserves the right to publish some or all of the information contained in the Register in the Council's Annual Report or similar document in a de-identified form. You may seek access to your personal information contained in the Gift Register by contacting the Governance Unit.