

Title:	Gifts, Benefits and Hospitality
Type:	Organisational
Adopted:	16 June 2020
File No:	20/1848
Attachments:	Gift Register Form (15/54789)

1. Purpose

The purpose of this Policy is to state Murrindindi Shire Council's (Council) position on:

- responding to offers of gifts, benefits and hospitality; and
- providing gifts, benefits and hospitality.

This policy is intended to support Council staff and the organisation as a whole to avoid conflicts of interest and maintain high levels of integrity and public trust.

Council has issued this Policy to support expected behaviour of Council staff, consistent with the Employee Code of Conduct.

2. Rationale

Implementing a clear policy for managing the receipt and provision of gifts, benefits and hospitality is a fundamental step in developing high levels of public trust. It ensures Council staff and business associates understand the process and limitations of giving and accepting gifts, benefits and hospitality in their capacity as public officials in order to prevent the risk of actual, potential or perceived conflict of interest.

This policy has been developed in line with recent recommendations from Audits of Local Government by Victorian Integrity Agencies and meets the requirements outlined in the minimum accountabilities for the management of gifts, benefits and hospitality issued by the Victorian Public Sector Commission.

3. Scope

The Policy applies to all Council staff, who must comply with the requirements outlined in this Policy.

4. Definitions

Reference Term	Definition
Business associate	Means an individual or body that Council has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
Conflict of interest	<p>“Conflict of Interest” has the same legal definition as it has in Division 2 – Sections 126 to 131 of the <i>Local Government Act 2020</i>.</p> <p>“a relevant person has a conflict of interest if the relevant person has— (a) a general conflict of interest within the meaning of section 127; or (b) a material conflict of interest within the meaning of section 128.”</p>

	<p>“relevant person has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.” (section 127 of the <i>Act</i>)</p> <p>“a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.” (section 128 of the <i>Act</i>)</p>
Corporate Gift Register	Means an internal register that captures all offers of gifts, benefits and hospitality, irrespective of value, or whether received, accepted or declined by Council staff.
Council	"Council" is a public body and has the same meaning as it has in section 3(1) of the <i>Local Government Act 2020</i> .
Council staff	Means employees, students on work experience, volunteers, contractors ¹ and members of special committees regardless of their employment status, role or position.
Gifts	<p>Means free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of:</p> <ul style="list-style-type: none"> • High value (e.g. artwork, jewellery, or expensive pens), • Low value (e.g. small bunch of flowers), • Consumables (e.g. chocolates), and • Services (e.g. painting and repairs). <p>Council fundraising initiatives that are consistent with relevant legislation and Council policies are permitted under this policy.</p>
Hospitality	Means the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Legitimate business benefit	Means if it furthers the conduct of official business or other legitimate Council goals.
Non-token offer	Means an offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. The monetary value of non-token offers is \$50 or more.
Official Gifts to the Council	Means gifts given to Murrindindi Shire Council for ceremonial or cultural purposes, typically from a visiting government delegation or cultural community.

¹ Contractors and consultants are only bound by the code if explicitly required by their contract for services.

Token offer	Means an offer of a gift, benefit or hospitality that is of inconsequential or of trivial value to both the person making the offer and the Council representative. The monetary value of token offers is less than \$50.
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5. Policy

Murrindindi Shire Council is committed to building a culture of integrity and transparency whereby Council staff will uphold the principles that apply to this Policy.

Further to that, Council staff have an obligation with the community to ensure ratepayers funds are managed with probity and consideration of Council's resources.

5.1 Policy Principles

- a) Murrindindi Shire Council, through its policies, processes, Executive management and Audit & Risk Committee, will ensure the risks associated with the provision and receipt of gifts, benefits and hospitality are appropriately assessed and managed.
- b) Council staff will act with integrity at all times by placing the public interest above their private interests when carrying out their official functions. This includes:
 - i. Not seeking or soliciting gifts, benefits and hospitality for themselves or others;
 - ii. Not accepting any offers of gifts, benefits and hospitality that:
 - are money, used in a similar way to money, or easily converted to money;
 - give rise to an actual, potential or perceived conflict of interest;
 - may bring Council or the public sector into disrepute;
 - are non-token offers without approval.
 - iii. Not accepting alcohol as a gift, including (but not limited to) beer, wine or spirits.
 - iv. Not accepting any offers of gifts, benefits and hospitality valued at \$50 or above (non-token), unless sanctioned by a Director in accordance with section 5.2.3;
 - v. Declaring all gifts, benefits and hospitality accepted, regardless of value;
 - vi. Refusing bribes or inducements and reporting such acts to the Director Corporate and Shared Services as soon as possible.
- c) In the event of providing gifts, benefits and hospitality, Council staff will:
 - i. Ensure that any gift, benefit and hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports Council policy objectives and priorities.
 - ii. Ensure that any costs incurred by Council are proportionate to the benefits obtained, and would be considered reasonable in terms of community expectations.
 - iii. Demonstrate professionalism in their conduct and uphold their obligation to extend a duty of care in the provision of hospitality to other participants.

5.2 Management of the receipt of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval by the relevant Director.

Table 1 - GIFT test

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <ul style="list-style-type: none"> • Does my role require me to select suppliers, award grants, regulate industries or make decisions on Council policies? • Could the person or organisation benefit from a decision I make?
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <ul style="list-style-type: none"> • 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	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <ul style="list-style-type: none"> • 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?
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <ul style="list-style-type: none"> • How would the public view acceptance of this gift, benefit or hospitality? • What would my colleagues, family, friends or associates think?

5.2.1 Requirement for refusing offers

Council staff are required to consider the [GIFT test](#) and the requirements below to help decide whether to refuse an offer. Individuals **must not accept** offers that:

- a) are likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest;
- b) could bring them, Council or the public sector into disrepute;
- c) are made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:
 - i. made by a current or prospective supplier;
 - ii. made during a procurement or tender process by a person or organisation involved in the process;
 - iii. likely to be a bribe or inducement to make a decision or act in a particular way;
- d) extend to their relatives or friends;
- e) are money, or used in a similar way to money, or something easily converted to money;
- f) could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- g) are made by a person or organisation with a primary purpose to lobby elected members of Council;
- h) are alcohol for consumption including but not limited to beer, wine or spirits;
- i) are made in secret.

Policy Direction	Yes	No
Gifts, Benefits or Hospitality - Actual, Potential or Perceived Conflict of Interest <ul style="list-style-type: none"> • Can the offer be accepted? • Do I need to declare it if the offer was declined? 	✓	x
Hospitality – Entertainment or Sporting events <ul style="list-style-type: none"> • Can the offer be accepted where there is no risk of Conflict of Interest? • Do I need to declare if the offer was declined? 	✓	x

Any bribes or inducements offered must be reported to the Director Corporate & Shared Services (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

5.2.2 Token offers (<\$50)

Council's preferred approach is that any offers received are politely declined in first instance. However, this is not always practicable. In this instance, a token offer may be accepted without approval, as long as the offer does not create a conflict of interest or lead to reputational damage of either the individual or Council.

- **Acceptable token:** a Customer Service Officer receives flowers from a resident as a token of gratitude for providing help.
- **Unacceptable token:** A Planning Officer receives a box of chocolates from an applicant in appreciation of the way the officer handled a meeting of objectors.

Policy Direction	Yes	No
Token gifts, benefits and hospitality (<\$50) <ul style="list-style-type: none"> • Can the offer be accepted? • Do I need to declare it if the offer was accepted? • Do I need to declare it if the gift was declined or returned? (unless there is an Actual, Potential or Perceived Conflict of Interest) 	✓ ✓	x

5.2.3 Non-token offers (\$50+)

Gifts valued at \$50 and over should not be accepted unless there is a legitimate business benefit and the offer has been approved in writing by the relevant Director.

In the event where there is no opportunity to seek written approval from the Director prior to accepting a gift, for example, a wrapped gift that was later identified as being a non-token offer, the individual must seek approval within five business days from the date it was received or return the gift if there is no legitimate business benefit to accept it.

Any gift, benefit or hospitality valued at \$50 or over, accepted or declined by Council staff will be included in a Public Register on Council's website.

Policy Direction	Yes	No
Non-token gifts, benefits and hospitality (\$50+) <ul style="list-style-type: none"> • Can the offer be accepted (without approval)? • Can the offer be accepted with Director approval? • Do I need to declare it if the gift was declined or returned? 	 ✓ ✓	 x

5.2.4 Recording gifts, benefits and hospitality offered

All offers accepted regardless of their value must be declared via a gift declaration form signed by the relevant Director and be consistent with the requirements outlined in section 5.2 of this policy.

The following are some examples of acceptable and unacceptable levels of detail to be included in the gift declaration form when recording the business reason:

a) Acceptable level of detail

- “Individual is responsible for evaluating and reporting on the outcomes of the Council’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to Council on the event.”
- “Individual presented to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The gift was accepted on behalf of Murrindindi Shire Council and ownership transferred to Council”.

b) Unacceptable level of detail

- “Networking” (with no further explanation)
- “Maintaining stakeholder relationships” (without further details such as why, who, when)

5.2.5 Ownership of gifts offered to Council staff

Non-token gifts with a legitimate business benefit that have been accepted by a Council representative for their work or contribution (for example, bottle of expensive wine given in appreciation of an officer speaking at a major conference) may be retained by the individual where the gift is not likely to bring the individual or Council into disrepute, and where the relevant Director has provided written approval.

Council staff must transfer ownership of official gifts, gifts of cultural significance or gifts of significant value to Murrindindi Shire Council.

5.2.6 Repeat / cumulative offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence a Council representative.

Accepting repeat offers is not allowed under this policy. Individuals under these circumstances must decline and declare on the gift register repeat offers from the same source.

5.2.7 Official gifts to the Council

Official/Ceremonial gifts are gifts provided as part of the culture and practices of communities and governments, within Australia or internationally. Official/Ceremonial gifts are the property of Murrindindi Shire Council, irrespective of value, and should be accepted by individuals on behalf of Council.

Policy Direction - Official/Ceremonial Gifts	Yes	No
<ul style="list-style-type: none"> • Can the offer be accepted? • Do I need to declare it if the offer was accepted? • Can I keep a ceremonial gift offered to me? 	✓ ✓	x

5.2.8 Hospitality received from Victorian public sector organisations

Accepted hospitality offered by a Victorian public sector organisation as part of official business does not need to be declared or reported, where the reason for the individual's attendance is consistent with Council's functions and objectives and with the individual's role.

Policy Direction	Yes	No
Hospitality received from Victorian public sector organisations <ul style="list-style-type: none"> • Can the offer be accepted? • Do I need to declare it if the offer was accepted? • Do I need to declare it if the offer was declined? 	✓	x x

5.3 Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

Table 2 - HOST Test

H	Hospitality	To whom is the gift or hospitality being provided? <ul style="list-style-type: none"> • Will recipients be external business associates, or individuals of the host organisation? - Acceptable: Providing lunch for participants at a forum hosted by Council. - Not acceptable: Taking a consultant out for lunch as a matter of appreciation for their work.
O	Objectives	For what purpose will hospitality be provided? <ul style="list-style-type: none"> • Is the hospitality being provided to further the conduct of official business? • Will it promote and support Council policy objectives and priorities? • Will it contribute to staff wellbeing and workplace satisfaction?

S	Spend	<p>Will public funds be spent?</p> <ul style="list-style-type: none"> • 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	<p>Will public trust be enhanced or diminished?</p> <ul style="list-style-type: none"> • 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?

5.3.1 Requirements for providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided when welcoming guests, to facilitate the development of business relationships, further Council business outcomes and to celebrate achievements.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, Council staff must ensure:

- a) any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports Council policy objectives and priorities;
- b) that any costs are proportionate to the benefits Council obtained, and would be considered reasonable in terms of community expectations (use [HOST test](#) for this assessment); and it does not raise an actual, potential or perceived conflict of interest

5.3.2 Containing costs

Council staff should contain costs involved with providing gifts, benefits and hospitality wherever possible, and comply with the financial probity and efficient use of resources. The following questions may be useful to assist individuals to decide on the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Is the gift symbolic, rather than financial, in value?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

5.4 Roles and responsibilities

5.4.1 The Chief Executive Officer

- a) Is responsible for setting an example of integrity, transparent and ethical conduct, ensuring the efficient and effective implementation of this Policy.

- b) As Council's Principal Officer under section 57 of the Independent Broad-based Anti-corruption Commission Act 2011, the CEO must immediately notify IBAC of any matter suspected on reasonable grounds to involve fraud or corruption occurring or having occurred.

5.4.2 The Executive Management Team

- a) Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address the policy principles.
- b) Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
- c) Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to Council staff, including possible consequences for a business associate acting contrary to the organisation's policy position.
- d) Report twice a year to the Audit and Risk Committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and registers. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

5.4.3 The Audit and Risk Committee

Provide advice to support the organisation in effectively implementing this Policy and to review regular reports by the Executive on the policy's implementation and outcomes.

5.4.4 The Internal Auditors

Assist management in identifying strategic prevention and detection measures to mitigate the risks associated with improper conduct and where required, assess Council's controls and provide recommendations for improvement.

5.4.5 The Director Corporate and Shared Services

- a) Ensure the establishment and maintenance of a Corporate Gift Register available to Council staff that records sufficient information to effectively monitor, assess and report on the management of gifts, benefits and hospitality received or declined.
- b) Ensure Council's Gifts, Benefits and Hospitality Policy and a Public Register for non-token offers are published on the Murrindindi Shire Council public website.
- c) Ensure Council meets its reporting obligations, including regular updates to the Audit and Risk Committee, Council's Annual Report and support the CEO with any statutory obligations to report to IBAC in the event improper conduct such as bribery or corruption is suspected.

5.4.6 The Manager Governance and Risk

- a) Ensure that adequate resourcing is available to support the implementation of this Policy through ongoing training and awareness programs;
- b) Act as the main contact for receiving a declaration of a gift, benefit or hospitality offered or received by a Council representative; and
- c) Manage Council's Corporate Gift Register.

Responsible Officer: Director Corporate & Shared Services

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5.4.7 The Integrity and Governance Coordinator

Is responsible for the development, promotion, monitoring and facilitation of systems and processes that support the implementation of this Policy.

5.4.8 Managers and supervisors

- a) Encourage their staff to report gifts, benefits and hospitality required under this policy and foster a culture of open communication to report suspected acts of improper conduct such as bribery.
- b) Ensure staff awareness of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

5.4.9 All Council staff

- a) Abide by the policy principles and responsibilities, promptly reporting gifts, benefits or hospitality offered or received that meet the reporting criteria to the Manager Governance & Risk.
- b) Confidentially report any suspicions of improper conduct (such as bribery) to the Director Corporate and Shared Services as soon as it is practicable.

5.5 Breach of Policy

Breach of this Policy will be treated in line with the relevant legislation, industrial instrument and/or relevant code of conduct. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with Council's Conflict of Interest Policy, Fraud and Corruption Control Policy and relevant Code of Conduct.

Council will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

6. Related Policies, Strategies and Legislation

- *Independent Broad-based Anti-corruption Commission Act 2011*
- *Local Government Act 2020*
- Victorian Public Sector Commission's Gifts, Benefits And Hospitality Policy Guide
- Conflict of Interest Policy (17/32278)
- Employee Conduct (Code of Conduct) (20/35167)
- Fraud and Corruption Control Policy (19/65485)
- Public Interest Disclosure Policy (19/80421)

7. Council Plan

This policy relates to the Council Plan 2017-2021 Our Promise strategic objective to ensure we deliver the best possible outcomes in all that we do.

8. Management and Review

Review of this Policy is to be conducted every 4 years from the date of endorsement.

The Director Corporate and Shared Services and the Manager Governance & Risk are responsible for ensuring this Policy is reviewed and presented to Council for endorsement.

Council staff will receive regular training to ensure the Policy is fully understood and implemented.

9. Consultation

Community consultation was not required in the development of this Policy.

10. Human Rights Charter

This policy has been developed with consideration of the requirements under the [Charter of Human Rights and Responsibilities](#).

Appendix 1 – Gift Register Form (15/54789)

The Gifts, Benefits and Hospitality Register template can be found via this [LINK](#)

Gift Register Form

Please complete all sections of this form.

Date gift or benefit offered: "[date format DD Month Year]"

Staff member who was offered gift or benefit:

Name: "[insert here]"

Authority Initials: "[insert here]"

Individual or company offering the gift or benefit:

Name: "[insert here]"

Address: "[insert here]"

Town/City: "[insert here]"

Phone Number: "[insert here]"

Type / description of gift or benefit offered:

"[insert here]"

Gift or benefit accepted or declined (delete what is not applicable):

Accepted / Declined

Estimated value of gift or benefit:

"[insert here]"

Comments:

"[insert here]"

Please TRIM your completed form – document name 'Gift Register Form – [Your Name]' to SF/784.

TRIM action the document to 'Governance Admin'

Councillors – please email the form to governance@murrindindi.vic.gov.au

Responsible Officer: Director Corporate & Shared Services

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