



Maribyrnong
CITY COUNCIL

Councillor Gifts and Hospitality Policy 2021

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REVISION RECORD

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Introduction

Maribyrnong City Council is committed to being open and transparent in its operations. In carrying out their civic duties, Councillors can be in receipt of gifts, benefits and offers of hospitality.

These gifts, benefits and acts of hospitality must be recorded in accordance with the Local Government Act 2020 (the Act). In the interest of public transparency, it is recommended that the offer of a gift, benefit or hospitality is recorded even if not accepted and returned by the Councillor.

Purpose

The purpose of this Policy is to:

- Establish procedures applying to any gifts, benefits and hospitality offered to Councillors in accordance with the Local Government Act 2020 (the Act);
- Ensure a standardised and consistent approach for the receipt of a gift, benefit or offers of hospitality by Councillors;
- Comply with the requirements of the Act
- Protect Councillors from unwittingly having a conflict of interest;
- Protect the integrity and reputation of Maribyrnong City Council;
- Ensure that any gifts accepted are properly managed and disclosed appropriately.

Scope

This Policy applies to gifts, benefits or hospitality offered to or received by any Councillor, including gifts that have been rejected by that Councillor.

This Policy also applies where gifts, benefits or hospitality are provided to Councillors immediate family if the applicable gift can be linked to their role as a Councillor.

This Policy does not apply if the gift is received in a private context that is unrelated to the Councillors duties and if it does not raise a conflict of interest, such as birthday or gifts received during festive seasons from family members.

Definitions

Term	Definition
Act	means the Local Government Act 2020

Benefit means benefits are the preferential treatment, privileged access, favours or other advantage offered to a Councillor by virtue of their position as Councillor. While their value may sometimes be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence their behaviour.

Council means Maribyrnong City Council, being a body constituted as a municipal Council under the Local Government Act 2020.

Councillors means the elected representatives of the Maribyrnong City Council and includes the Mayor and Deputy Mayor.

Family member means a spouse or domestic partner of the person, or a son, daughter, mother, father, brother or sister that regularly resides with the person.

Gift means, in accordance with s.3 of the Act, 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

Gift disclosure threshold means, in accordance with s.128(4) of the Act, 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 5 years preceding the decision on the matter—

- (a) if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee 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, member of Council staff or member of a delegated committee.
Hospitality	means a meal or service which is offered and has a greater value than \$50, where the principal purpose is hospitality.
Monetary Gift	means cash, cheques, money orders, traveller's cheques, direct deposits, vouchers, gift certificates or items which can easily be converted to cash.
Regulations	means the Local Government (Governance and Integrity) Regulations 2020.
Relative	means a direct relative of the person or a direct relative of a person who is the direct relative of the person.
Reasonable Hospitality	means a meal or service provided by a not-for-profit organisation where Councillors or Council officers attend a function or event in an official capacity.
Token gift	means a gift of insignificant economic value. Examples are certificates or other customised symbols of appreciation, recognition or courtesy, free promotional items such as advertisers' calendars, pens, notepads, etc
Value	means face value or estimated retail value.

Responsibilities

To ensure good governance and transparency relating to gifts, Councillors are required to:

- Abide by the Councillor Code of Conduct and the legislated Standards of Conduct.
- Be ethical, fair and honest in the conduct of their official duties.
- Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions relating to gifts are beyond reproach and can withstand audit and risk processes and proper scrutiny.
- Be aware that anonymous gifts are not to be accepted, as per section 137 of the Local Government Act 2020.

- Not seek, solicit, or use their position with Council to obtain gifts or benefits 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 or hospitality in order to secure or retain Council business.
- Avoid 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 an individual Councillor or from the Council.
- Take all reasonable steps to ensure that immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to gain favourable treatment.
- Report any incidences where a bribe and/or monetary gift is offered.
- Complete a gift declaration form for any gifts offered.

It is the responsibility of each Councillor to complete and submit a Councillor Gifts and Hospitality Declaration Form with the Executive Assistant to CEO, Mayor and Councillors within seven days of the gift, benefit or hospitality being offered.

The Executive Assistant to CEO, Mayor and Councillors will ensure the Councillor Gift and Hospitality Register (the Register) is updated to reflect any offers of gifts, benefits or hospitality being offered.

Policy

The City of Maribyrnong acknowledges that as part of business or cultural practices, at times Councillors may be presented a gift in appreciation. While the Council is appreciative of such acts of generosity it is Council policy that gifts should not be accepted and be politely refused. Should any gifts be received they will be recorded in Council's Register.

1. Gifts or benefits

Councillors must not solicit, demand or request gifts or any personal benefit by virtue of their position which could prejudicially influence, or be perceived to influence, a person in the performance of his or her public or professional duties.

To avoid compromising situations or a situation where a conflict of interest is unwittingly created, Councillors 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 about 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.

The acceptance of gifts or hospitality by Councillors is permissible if it is a token gift up to the value of \$50 or it involves light refreshments, business meals or refreshments.

Councillors must complete a Councillor Gifts and Hospitality Declaration Form for any gifts, benefits or hospitality that are above \$50 in value, or not specifically excluded in this Policy.

1.1 Anonymous Gifts

It is an offence under s137 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.

1.2 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 good will than a gift;
- The gift is offered on a one-off basis and is not a regular occurrence.
- The gift does not exceed \$50 in value.

1.3 Multiple gifts

The cumulative value of gifts and hospitality over the prescribed five year period from the same person or organisation could result in the gift disclosure threshold of \$500 being exceeded subjecting the Councillor to an indirect interest because of an applicable gift.

The Act provides that any Councillor taking part in a decision or the exercise of 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.

1.4 Monetary gifts

The acceptance of any monetary gifts by a Councillor can impact on the impartiality of a Councillor and can create a real or implied conflict of interest of that Councillor. Under no circumstances is any Councillor to accept a gift that is monetary in nature. Such gifts must be immediately and emphatically declined

and reported to the Chief Executive Officer at the earliest opportunity. The Chief Executive Officer will determine the best course of action in relation to any gifts offered that are monetary in nature.

2. Hospitality

Where hospitality is only modest in nature and provides an opportunity to network or undertake Council business of a common purpose, it may be appropriate to accept such invitations which include morning and afternoon teas and lunches.

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 Councillor has no formal role at the event in their capacity as a Councillor, then the offer of hospitality should be politely declined where possible and the hospitality should be declared.

Where Councillors are invited to a luncheon event or evening event that involves formal serviced dining in addition to the Councillor providing a speech or some formal role at the event in their capacity as a Councillor, a declaration is not required. These formal roles at events are within the duties of performing in the role as a Councillor.

Where multiple Councillors are invited to attend events where the principal focus is hospitality only the Councillors who have a formal role are not required to make a declaration. Councillors who have no official role must complete and submit a Councillor Gifts and Hospitality Declaration Form.

3. Tickets to major events held in the City of Maribyrnong

As part of ongoing funding/sponsorship arrangements with Council for major events held within the City of Maribyrnong, tickets may be made available to Council. In such cases, each Councillor will be allocated one ticket which will be not considered a gift, benefit or hospitality should the Councillor attend the event as part of their role as a Councillor. Where Councillors seek additional tickets, those tickets must be declared and placed on the register. These events are events that are not wholly staged by Council.

Councillors will be allocated two tickets for events staged wholly by Council regardless of any role played during the event. The two tickets are not considered a gift, benefit or hospitality. Where Councillors seek additional tickets, those tickets must be declared and placed on the register.

4. Declining gifts, benefits or hospitality

Where an offer of a gift, benefit or hospitality is in breach of this policy, would or might cause an actual or perceived conflict of interest, is in the nature of a bribe or where the Councillor would feel uncomfortable or potentially compromised if they accepted the offer, the offer is to be immediately declined and reported to the Chief Executive Officer at the earliest opportunity. If a Councillor has any queries about whether the acceptance of a gift, benefit or offer of hospitality, would breach this policy, they are encouraged to clarify with the Chief Executive Officer prior to acceptance.

Where a Councillor believes that an offer is in the nature of a bribe (or other corrupt practice), the Councillor is to immediately advise the person making the offer that they believe that their conduct is unethical and may be unlawful and that they will be reporting the incident to the Chief Executive Officer to determine the best course of action.

5. 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 Councillor Gifts and Hospitality Declaration Form. Where a Councillor 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 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 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. For the avoidance of doubt, there is no requirement to declare token gifts, benefits and hospitality below \$50 in value.

6. Civic gifts

Councillors may be involved in social, cultural, community or civic 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 Councillors to accept civic gifts on behalf of the Council.

Any civic gifts received must be declared for inclusion in the Register and will be considered the property of Council, however 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 any one Councillor will be recorded in the Register.

6.1 Providing gifts to external organisations/groups

Councillors are encouraged to demonstrate appreciation for services undertaken by organisations/volunteer groups/school groups within the municipality which does not involve the presentation of a gift or benefit. Acknowledgement such as a letter or certificate of appreciation signed by the Mayor of the day, or a thank you card signed by all Councillors are appropriate as they are considered less likely to result in a situation that compromises either party.

7. Providing gifts to staff

It is considered inappropriate for Councillors to give gifts to Council staff. Unless exceptional circumstances exist as approved by the Chief Executive Officer, Councillors must not provide gifts to staff in their capacity as a Councillor.

Councillor Gift and Hospitality Register

The Executive Assistant to CEO, Mayor and Councillors will be responsible for recording the details in the Councillor Gifts and Hospitality Declaration Register (the Register). The Register is considered a public document and may be viewed at any time by appointment. The Register will be located within the Governance unit.

The Register will include the following information where available:

- The name of the person who offered the gift, benefit or hospitality
- Date offered
- Description of the gift, benefit or hospitality
- Known or estimated value
- Recipient
- Whether the gift or hospitality was accepted or refused
- Reason for Offer
- Treatment (retained by Councillor, returned to sender).

Key Stakeholders

All Councillors

Related Legislation

- Local Government Act 2020.
- Local Government (Governance and Integrity) Regulations 2020
- Relationships Act 2008.

Related Documents

- Councillor Code of Conduct 2021.
- Maribyrnong City Council Governance Rules
- Local Government Victoria Guidelines – Conflict of Interest – Councillors and Council Staff.

Review of Policy

This Policy will be reviewed within 6 months of a Council election in accordance with the Local Government Act 2020 (Vic).

Appendix 1 – The GIFT Test

The GIFT Test

To assist in determining whether a gift, benefit or offer for hospitality should be accepted or declined, a simple test called the GIFT Test can be applied as below.

If there is any uncertainty at all about how to respond to an offer of a gift, benefit or hospitality seek advice from the Chief Executive Officer or Director Corporate Services.

The 'gift test' is a useful summary of relevant factors to refer to in deciding to accept or decline any offer of a gift, benefit or hospitality. If gifts, benefits or hospitality are accepted the GIFT test will also assist in determining if a conflict of interest exists.

G Giver Who is providing the gift and what is their relationship to me?

I Influencer Are they seeking to influence my decisions or actions?

F Favour Are they seeking a favour in return for the gift?

T Trust Would accepting the gift diminish public trust?

In determining if it is appropriate to accept a gift, benefit or hospitality the GIFT Test should be considered together with the following factors:

1. Is the value of the gift, benefit or hospitality seem excessive for what is offered?
2. Would explaining the accepting of a gift, benefit or hospitality be difficult to do publicly?
3. Does the donor have an existing business or contractual relationship with Council?
4. Is there any benefit to the City of Maribyrnong community in accepting the gift, benefit or hospitality?
5. Could it be perceived that the acceptance of a gift, benefit or hospitality is seeking to influence or bias the recipient?
6. Has a gift, benefit or hospitality been offered by the same donor in the past 12 months? If so, what is the cumulative value of all gift, benefit or hospitality?

If the answer is yes to any of the above, the gift, benefit or hospitality should be declined.

Appendix 2 – Gifts and Hospitality Declaration Form
– Councillors

Gifts and Hospitality Declaration Form

Councillors

This declaration form is to be completed by Councillors who are in receipt of any gift, benefit or hospitality, including whether the gift has been accepted or not. Completed declaration forms must be submitted with the Executive Assistant to CEO, Mayor and Councillors within seven days of the gift, benefit or hospitality being offered. Details from this declaration form will be published in the Councillor Gift and Hospitality Declaration Register.

Councillor details

Councillor name:	
Signature:	Date: / /

Details of gift, benefit or hospitality

Donor details	Name:	
	Organisation:	
	Relationship to Councillor:	
Category	<input type="checkbox"/> Hospitality <input type="checkbox"/> Token Gift <input type="checkbox"/> Civic Gift <input type="checkbox"/> Monetary Gift <input type="checkbox"/> Council Event	
Description of gift, benefit or hospitality		
Estimated value	\$	Date of offer: : / /
How was the gift received?		

Treatment of gift, benefit or hospitality

	The acceptance of the abovementioned gift / hospitality is noted.
	The abovementioned gift / hospitality is rejected and has been declined / returned to the provider.
Signature:	Date: / /

Gifts and Hospitality Declaration Form

Councillors

To be completed by Chief Executive Officer

Additional comments (if applicable)

Signature:

Name:

Date / /