

Gifts, Benefits and Hospitality Policy for Councillors

Approval Body:	Council
Endorsement Date:	19 June 2018
Council Plan Reference:	3.2
Current Version:	6.0 <i>Council policy documents change from time to time and it is recommended that you consult the electronic reference copy on Casey Council's Website to ensure that you have the current version. Alternatively, you may contact Customer Service on 9705 5200.</i>
Compulsory Review Cycle:	4 Years
Review Date:	31 July 2023 <i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.</i> <i>Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.</i>
Responsible Department:	Governance
Relevant Legislation:	<i>Local Government Act 1989</i>
Relevant Council Documents:	Code of Conduct for Councillors
Breaches:	Breaches will be dealt with under the provision of Sections 76B, 76A, 76D and 81C of the <i>Local Government Act 1989</i> .
ECM ID:	12739334

1. Purpose and Intent

The City of Casey is committed to best practice, good decision making, transparency and good governance. There are occasions when Councillors may be offered gifts or other hospitality which could be perceived as influencing and/or improper in the circumstances.

The Policy provides a consistent set of guidelines and a reporting procedure for Councillors to deal with gifts and hospitality that may be offered to them as part of their role as a Councillor.

This policy is intended to support Councillors and the City of Casey Council to avoid conflicts of interest, maintain high levels of integrity and build public trust.

2. Scope

The Policy is applicable to all Councillors at the City of Casey.

3. Definitions

Key term	Definition
Bribe	Means money, reward or service offered to procure an action, decision, or preferential treatment.
Benefit	<p>Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual.</p> <p>The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.</p> <p>Examples of benefits may include but are not limited to:</p> <ul style="list-style-type: none"> • Access to sporting events • Access to discount or loyalty programs • Cultural or social events • Preferential treatment • Promises of a job • Access to confidential information • Accommodation and/ or pleasure or vacation trips • Personal services
Currency	Means money, vouchers, or anything which is readily convertible.
Conflict of Interest	<p>Means any private or personal interest, which could influence, or be perceived to influence, a person in the performance of his or her public or professional duties (refer to the Local Government Act for a comprehensive definition). Conflicts may be:</p> <p>Actual: There is a <u>real conflict</u> between an employee's public duties and private interests.</p> <p>Potential: 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>Perceived: The public or a third party could reasonably <u>form the view</u> that an employee's private interests could improperly influence their decisions or actions, now or in the future.</p>
Council Officer	Means an employee at Casey Council and staff who are on Casey's Payroll.

Councillor	means the individuals holding the office of a member of Casey City Council
Gifts	defined in the Act as from time to time. At the date of adoption of this policy 'gift' is 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.
Hospitality	Hospitality is 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	A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of the public sector organisation, the public sector or the State.
Gifts, Benefits and Hospitality register	means a record of the information provided on the Gifts, Benefits and Hospitality Declaration Form. This register is published on the website by the Governance Department on a quarterly basis.
Token Gift	Gifts or benefits that are not gifted for a return of favour or service for amount or no more than the value of \$50 including: <ul style="list-style-type: none"> • box of chocolates • handmade cards • handmade gifts • corporate gifts received conferences e.g. pens, note pads, mug, diaries or chocolates
Non-Token Gift	A non-token offer is 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. All offers worth more than \$50 are non-token offers and must be declared and recorded on the gift, benefit and hospitality register.
The Act	Means the <i>Local Government Act 1989</i>
Unacceptable Gifts	Gifts, hospitality or bribes that are more than token value, including all forms of currency and must not be accepted. These include but are not limited to cash, vouchers, free or discounted tickets to events, discounts specifically for Casey Council, wine, discounted or free flights (regardless of benefit to Council).

4. Policy

The City of Casey is committed to and will uphold the following principles in applying this policy:

- **Accountability**
Councillors are accountable for appropriately responding to the offer and provision of gifts, benefits and hospitality.
- **Impartiality**
Councillors have a duty to place public interest above their private interests when carrying out their official functions and will not accept any offer of a gift, benefit or hospitality that may jeopardise this trust.
Councillors will not accept gifts, benefits or hospitality that could be perceived to influence decision making or service delivery.
Councillors must not accept offers from those whom are currently awarded or likely to apply for quotes, tenders and contracts.
- **Integrity**
Council strives to earn and sustain public trust through responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Councillors will refuse any offer that may lead to an actual, perceived or potential conflict of interest.
The acceptance of gifts, benefits and hospitality may be considered to influence, reflect bias or preferential treatment to the giver.
- **Risk-based approach**
Council, through its policies, processes and Audit and Risk Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed.

4.1. Gifts

Gifts, benefits or other hospitality should be declined if offered. Multiple gifts from the same person/organisation are considered inappropriate and should not be accepted. A description of the different types of gifts is below.

4.1.1. Seeking gifts, benefits or hospitality

Under no circumstances is it acceptable for Councillors to solicit or use their position with Council to obtain gifts or benefits from external organisations or individuals. Fraudulently receiving a gift, benefit or hospitality is an offence under both common law and the *Local Government Act 1989*.

4.1.2. Non-Token Gifts

All offers valued at \$50 or more, are non-token offers and must be declared and recorded on the gift, benefit and hospitality register.

4.1.3. Token Gifts, Benefits and Hospitality

The only time an offer can be accepted is when the following has been considered:

- is it an unacceptable/ inappropriate gift, benefit or hospitality?
- was it offered in an open space or public forum?
- will acceptance cause potential, perceived or actual compromise or conflict of interest?
- has the gift been offered previously?
- will it affect the way I make decisions?
- will it affect the way I will be able to conduct my work?

In addition to the above, Councillors must consider the value of the gift, benefit or hospitality.

The maximum dollar amount, that a Councillor may consider accepting is under \$50 and must only be classed as token gifts. This does not mean that all gifts, benefits and hospitality under \$50, can automatically be accepted.

Councillors may generally accept token gifts without declaring the offer on the City of Casey's register, as long as the offer does not create a conflict of interest or lead to reputational damage or as otherwise prohibited under this policy.

4.1.4. Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a strong perception that the person or organisation could influence you. Councillors should refuse repeat offers from the same source, especially if they create a conflict of interest or may lead to reputational damage.

4.1.5. Ceremonial and Official Gifts

Ceremonial and Official gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. These gifts are the property of Council, irrespective of value, and should be accepted by officers on behalf of the City of Casey.

Any gift received by the Mayor or Councillor on behalf of the Council must be declared and added to the register. Gifts will be kept on display in the Office of Mayor for the duration of the relevant Mayoral term at which point they will be archived and viewable as a digital record.

In some circumstances, including where the item may not be suitable for public display or the gift is of a personal nature to the recipient, Governance will provide the Chief Executive Officer advice as to the appropriate use or disposal of the official gift.

4.1.6. Travel

Some non-token offers may appear to hold a business benefit but are still inappropriate to accept. For example, travel sponsored by private or commercial sources may have a business benefit to Council, however, this should generally be declined because there is a high risk that a conflict of interest will arise. These types of gifts must also be declared and will be added to the register.

4.1.7. Corporate Hospitality

If offered Corporate Hospitality, a declaration must be submitted. This request must have an explanation of the corporate value to Casey Council and note all potential conflicts of interest.

Exemptions to this include:

- where the hospitality is offered as part of a training session and the Councillor's attendance has been paid for by Casey Council
- at Casey Council organised events, where Council provides or pays for the Hospitality.
- where the hospitality is offered by another Council at an event in which the Councillor was invited.

4.1.8. Awards

Councillors may be recipients of awards which may include financial and material gifts or services. Where an award is provided through an independent process such gifts and services are not considered gifts.

Awards may raise future conflicts of interest which will need to be declared as per Council's Conflict of Interests procedures.

4.1.9. Bribes

If a Councillor believes that a gift or hospitality has been offered as bribe, they should decline and immediately inform the CEO.

Governance will report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission.

4.2. Refusing offers

Councillors should consider the Gift, Benefit and Hospitality Process and the requirements below to help decide whether to refuse an offer. Councillors are to refuse offers when:

- it is 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;
- could bring them, the City of Casey or the sector into disrepute;
- 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:
 - made by a current or prospective supplier; or
 - made during a procurement or tender process by a person or organisation involved in the process.
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- of currency, or used in a similar way to currency, or something easily converted to currency;
- where, in relation to hospitality and events, Council will already be sufficiently represented to meet its business needs;
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- made by a person or organisation with a primary purpose to lobby; or
- made in secret

4.3. Ownership

Councillors must transfer all official gifts, any gift of cultural significance or significant value to Council. Council will return, retain or dispose of these gifts, benefits or hospitality on a case by case basis.

4.4. Disposal

Where the gift would likely bring the Councillor or Council into disrepute, the Councillor will be required to politely return the gift, with reference to this Policy and the Local Government Act.

Where the gift, benefit or hospitality is accepted, Governance will provide the Chief Executive Officer advice as to the appropriate use or disposal of the official gift.

4.5. Declarations and Record Management

4.5.1. Declarations

Declarations are required whether accepted or declined for all gifts except token gifts.

Where multiple gifts, benefits and hospitality are offered by one person on the same day, one declaration form should be completed for all the items from that one person. The items must not be split across multiple declarations.

All declarations must be submitted within three business days of the offer.

At the conclusion of every financial year, a nil return form must be completed and submitted to the CEO or his delegate, for reporting by any Councillor that has not accepted any gift or hospitality over \$50 as defined.

4.5.2. Record Management

All declarations, whether accepted or declined, must be recorded in Council’s gifts, benefits and hospitality register. The business reason for accepting the non-token offer must be recorded in the register with sufficient detail to link the acceptance to the stakeholders work functions and benefit to the Council or the sector.

Governance will submit an annual report to the Audit and Risk Committee detailing:

- analysis of gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates)
- risk mitigation measures
- proposed improvements
- quality control and effectiveness of the policy and process

Governance will maintain the Gifts and Hospitality Register. There is no requirement to record token gifts on the Register.

4.6. Conflicts of Interest – Requirements of Local Government Act 1989

Even if accepted or declined, Gifts may lead to conflicts of interest be that actual or perceived, , refer to section 78C of the *Local Government Act 1989*.

4.7. Local Government Act 1989 Threshold Requirement

The *Local Government Act 1989* has specific requirements in regard to gifts. Councillors must include details of gifts received in their Ordinary Return, if the total value from a single person or organisation exceeds \$500 in the five years preceding completion of the return.

4.8. Responsibilities

Who	Responsibilities
<p>Councillors offered gifts, benefits and hospitality</p>	<p>Individual Councillors are accountable for:</p> <ul style="list-style-type: none"> • refusing all offers of gifts, benefits and hospitality that: <ul style="list-style-type: none"> ○ are money, items used in a similar way to money, or items easily converted to money ○ give rise to an actual, potential or perceived conflict of interest ○ may adversely affect their position as a Council officer or which may bring the Council or sector into disrepute; or ○ are non-token offers without a legitimate business benefit • their actions and must not seek or solicit gifts, benefits and hospitality for themselves or others • declaring all non-token offers (valued at \$50 or more and whether accepted or declined) of gifts, benefits and hospitality • seek written approval from their supervisor and manager to accept any non-token offer • refusing all bribes or inducements • reporting all inducements and bribery as per the fraud reporting process • following the gifts, benefits and hospitality process and declaring all non-token offers of gifts, benefits and hospitality • declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer • Completing a nil return as required <p>Council officers can contact Governance for advice and guidance or adherence to this policy.</p>
<p>Governance Department</p>	<p>Governance will:</p> <ul style="list-style-type: none"> • conduct training for all Councillors • establish, implement and review Council policies and processes for the effective management of gifts, benefits and hospitality

	<ul style="list-style-type: none"> • Establish and communicate a clear policy position to business associates • Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities. • On a quarterly basis, publish a version of the last 12 months' worth of declarations on the register on the City of Casey's public website. • Report at least annually to the Audit and Risk Committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register, including analysis of the gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements. • report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission
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4.9. Breaches

Breaches will be dealt with under the provisions of the following:

- Code of Conduct for Councillors
- Section 78C, 80B, 80C, 81 of the *Local Government Act 1989*

5. Relevant Forms

Title	Link
Gifts, Benefits and Hospitality Declaration form for Councillors	Please see the Chief of Staff.

6. Document History

Date approved	Change Type	Version	Next Review Date
17 July 2019	Major changes in line with internal audit recommendations.	6.0	31 July 2023