

# Acceptance of Gifts, Benefits and Hospitality



<b>Council Policy Number</b>	<b>123</b>
Date adopted	25 June 2019
Scheduled for review	June 2021

## Purpose

To establish guidelines for appropriate conduct in circumstances where Councillors or staff are offered gifts, hospitality, benefits, or are granted awards or win prizes, whether part of their official duties or while attending functions as Campaspe Shire Council ('Council') representatives.

## Policy Statement

The acceptance of gifts, benefits or hospitality can involve a conflict of interest or the perception of a conflict of interest, and while such conduct may not be corrupt it is inappropriate.

Before accepting any gift, benefit or hospitality the Councillor or staff member must ask themselves does this create any obligation on my part to the giver. If the answer is yes it must be declined.

### 1. Gifts Received

Gifts may be received by Councillors or staff (or their partners) only in accordance with this policy.

- Gifts must not be accepted which give the appearance of a past, present or future conflict of interest or obligation; and
- Gifts must not in any circumstances be accepted involving the transfer of money regardless of value (by cash or loan) other than as part of an assistance program approved by Council.
- Under no circumstances should gifts, benefits or hospitality be accepted by Councillors or staff by any person or organisation who has or may have in the near future a matter before Council.

Where a gift is offered, and it is appropriate for a Councillor or member of staff (or that person's partner) to accept the gift, the following must apply:

- Any gift immediately becomes 'public property' and is disposed of in accordance with the procedure for **Disposal of Gifts** as set out below
- The recipient must complete a "Declaration of Official Gifts" form within 14 days of receiving the gift or 14 days of the date of returning to Australia, if the gift was received overseas. The declaration must state:
  - from whom the gift was received;
  - the date the gift was received; and
  - a full description of the gift;

Where a gift is offered and not accepted a declaration of official gift form should still be completed.

The Chief Executive Officer must hold the declaration in the 'Register of Interests', located in Council's record system. The declaration must contain the above details and have provision for the manner of disposal of the gift.

If a gift is of particular significance regarding its historical, cultural or protocol value, or was given to a Councillor or member of staff by virtue of the discharge of that person's duties, it must be delivered to the Chief Executive Officer. The Chief Executive Officer must determine whether the gift is to be retained, utilised or displayed.

## 2. Disposal of Gifts

The Chief Executive Officer may dispose of gifts by any of the following methods:

- Disposal by resolution of Council;
- Transfer to other public agencies or authorities;
- Transfer as a gift to a recognised charitable aid or non-profit organisation;
- Archival action by the Victorian Museum or State Library; or
- Destruction.

## 3. Awards and Prizes Won at Conferences, Seminars and Events

Councillors and staff understand that prizes or awards won at functions they attend at Council's expense, must immediately become the property of Council. Such prizes or awards are owned by the person / organisation which has provided 'consideration' for the attendance. Councillors and staff acknowledge that whenever they attend functions as a Council representative and make no financial contributions to the attendance, they lose entitlement to any award or prize won as a result of attending the function.

Circumstances in which a person may be entitled to keep a prize where personal payment has been made for the attendance, or the person pays for a raffle ticket that wins a prize. In each case the recipient has provided consideration for the prize / award and may lay legal claim to its title. Even though the person owns the prize, from a transparency perspective the person should advise the Chief Executive Officer in writing of the prize as soon as possible.

Where it is established that the prize or award that has been won belongs to the Council as they have paid for the attendance of the person, they must be treated as a special type of gift in accordance with the procedures outlined for **Gifts**. The following aspects detailed under **Gifts**, in particular, must apply.

- Completion of a "Declaration of Official Gifts" form;
- Determination of the item's significance; and
- Disposal by the Chief Executive Officer.

## 4. Benefits and Hospitality

A Councillor or member of staff must not knowingly accept travel or hospitality (including meals and accommodation) sponsored wholly or partly by any person, organisation or business, where such acceptance implies an obligation on the recipient. However, travel or hospitality may be accepted in the circumstances where it is:

- Approved by the Chief Executive Officer; or
- Provided at rates that are openly available to people other than Councillors or staff, or
- Of value less than \$100 and by reason of its triviality could not be construed as creating an obligation.

## 5. Policy Breach

### Staff

If a staff member breaches this policy, it will be considered to be a breach of the Staff Code of Conduct and appropriate action will be taken in accordance with council's *Corrective and Disciplinary Action Procedure* and treated individually with all relevant circumstances being taken into account. In some cases, the breach may constitute a criminal offence or breach of other legislation and be prosecuted by an external authority such as Victoria Police, Independent Broad – based Anti-corruption Commission ('IBAC'), Worksafe or the Victorian Local Government Inspectorate.

### Councillors

If a Councillor breaches this policy, it will be considered to be a breach of the Councillor Code of Conduct. A breach will immediately be reported to the Chief Executive Officer (if the complainant is a member of the public or a staff member) or the Mayor (if the complainant is a Councillor) who will determine the course of action to be taken. If the Mayor is the subject of the complaint, the complaint shall be directed to the Chief Executive Officer.

The principles of natural justice will be observed, and the person to whom the information relates will be given full details and a reasonable opportunity to respond. In some cases, the breach may constitute a criminal offence or breach of other legislation and be prosecuted by an external authority such as Victoria Police, IBAC, Worksafe or the Victorian Local Government Inspectorate.

### Exclusions

The Council sponsors a number of local sporting, artistic and cultural events within its municipal district. The acceptance of a small number of free tickets by Councillors and staff to such events is considered reasonable as attendance at such events is part of the role of Councillors and senior staff. All Councillors and staff must complete the "Declaration of Official Gifts" form.

If there is any concern about the acceptance of free tickets from Council sponsored local organisations, advice should be sought from the Chief Executive Officer, a member of the Executive Management Group or the Governance Manager. From time to time Councillors or staff will be invited to dinner or drinks by colleagues from other Councils, suppliers, like organisations, official visitors or other levels of government. Acceptance of these invitations is considered reasonable if the costs are under \$100 and a "Declaration of Official Gifts" form is completed.

It is common practice for some cultures to provide gifts to visiting groups. If you or your partner are part of an overseas delegation it would be appropriate to accept and keep a small gift from your host as rejection may be considered impolite. Once again, a "Declaration of Official Gifts" form should be completed.

Where a Councillor or staff member has made a direct personal transaction where consideration has been provided, e.g. the purchase of goods or services at a conference, seminar or event then that is deemed to be personal business and is not relevant to this policy.

### Human Rights

This report has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

### Definitions

For the purposes of this policy, the definition of the term 'gift', benefit and hospitality are interchangeable and includes:

- The transfer of money;
- The transfer of property of a presentational or charitable nature or otherwise;
- The provision of services free of charge or at a reduced rate;
- Loans of money;
- The sale of virtual property with a sale price below proper valuation;
- Meals, entertainment and accommodation;
- Travel.

The term 'gift' does not include:

- Items which can be regarded as mementoes, such as branded caps, t-shirts, pens, stationery, USB keys, keep cups, promotional items and the like, the manufacturer's wholesale value of which did not exceed \$50 at the time and place of purchase.

### Related Legislation

Nil

### Attachments

Corporate Gifts Declaration Form

**Review Period**

Two years

**Responsible Officer**

Governance Manager

**Administrative Updates**

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 the policy, such a change may be made administratively. 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.

**Approval History**

Adopted	16 June 2009	Minute Book Reference No	13929 (item 9.1)
Revised	21 September 2010	Minute Book Reference No	16407 (Item 12.6)
Revised	19 August 2014	Minute Book Reference No	878 (Item 6.1)
Revised	18 August 2015	Minute Book Reference No	905 (Item 6.2)
Revised	21 November 2017	Minute Book Reference No	3382 (item 6.3)
Revised	25 June 2019	Minute Book Reference No	1988 (item 7.1)
Revised	24 February 2021	Administrative review to apply consistent reference to Campaspe Shire Council ('Council') and abbreviations	

Chief Executive Officer: ..... 

Date: ..... 24/2/2021

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# Declaration of Official Gifts

by Councillors and staff of Campaspe Shire Council

Declarations made using this form will be held on the Register of Interests maintained by the Chief Executive Officer as required by the *Local Government Act 1989*.

This form must be completed with 14 days of receiving the gift or benefit or, if was received overseas, within 14 days of returning to Australia.

Name: .....

Gift Offered From: .....

Gift Received/Declined On (Date): .....

Gift Description: .....  
.....  
.....

Estimated Gift Value: .....

Was the gift handed to the Chief Executive Officer?  Yes Date: .....

No (state reason) .....

- Reason  it has a historical value
- it has a cultural value
- it has a protocol value
- it was given to me by virtue of the discharge of my duties (e.g. presenting at a conference/event)
- other: .....

I certify that to the best of my knowledge and belief, this declaration contains all the information available at the time and it is correct. I acknowledge that I have read Council Policy 123 – Acceptance of Gifts, Benefits and Hospitality and consider the item listed does not create a sense of obligation and do not improperly influence or secure a favour from myself or my colleagues.

Recipient Signature: ..... Date: .....

CEO Signature: ..... Date: .....

**Completed forms must be provided to the Chief Executive Officer's Executive Assistant**

Office Use Only - Gift Disposed of as Follows:	
<input type="checkbox"/> Retention by recipient	<input type="checkbox"/> Returned to sender
<input type="checkbox"/> Transfer to other public agencies or authorities	<input type="checkbox"/> Resolution of Council
<input type="checkbox"/> Transfer as a gift to a recognised charitable aid or non-profit organisation	<input type="checkbox"/> Destruction
	<input type="checkbox"/> Other .....