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GIFTS AND HOSPITALITY POLICY 2014

This Policy was approved by resolution of Darebin City Council on 18 August 2014

1. PURPOSE AND PRINCIPLES

- 1.1** The purpose of this policy is to address the offer, received or declined, of any gift, benefit or hospitality to Councillors or to Council officers by ensuring that:
- 1.1.1. A high standard of probity and accountability is maintained;
 - 1.1.2. Legislative requirements and community expectations are met;
 - 1.1.3. Council activities are not influenced, or perceived to be influenced, by the receipt of gifts, benefits or hospitality; and
 - 1.1.4. Gifts that are accepted or declined are properly disclosed and managed.
- 1.2** Councillors and members of Council staff must:
- 1.2.1 At all times be ethical, fair and honest in the conduct of official duties.
 - 1.2.2 Be aware that fraudulently receiving a gift (including hospitality) is an offence under both common law and the *Local Government Act 1989*.
 - 1.2.3 Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions are beyond reproach and can withstand audit processes and proper scrutiny.
 - 1.2.4 Not seek, solicit, or use their position with Council to obtain gifts or benefits from external organisations or individuals.
 - 1.2.5 Ensure that a person, company or organisation is not placed in a position in which they feel obliged to offer gifts or hospitality to secure or retain Council business.
 - 1.2.6 Report any incidences immediately to a Director or the Chief Executive Officer where a Bribe and/or cash is offered.

2. SCOPE

- 2.1** The Policy applies to all Councillors and Council staff and operates in conjunction with the *Councillor Code of Conduct 2013* and the *Excellence in Governance - Employee Code of Conduct 2013*.

3. BACKGROUND

- 3.1** The Darebin City Council is committed to being open and transparent in its operations to minimise the risk of being placed in a compromising position that may have an adverse effect on its public endeavours and the promotion of trust within the community.
- 3.2** Darebin City Council recognises that Councillors and Council officers will on occasion be offered gifts, benefits and hospitality however it should always be remembered that Councillors and Council officers perform their roles to ensure the peace, order and good governance of the municipal district, and not to derive undue personal benefit.
- 3.3** Receipt of a gift from a person or organisation can result in a conflict of interest, or a perceived conflict of interest, in a matter. Councillors and Council officers need to familiarise themselves with the conflict of interest provisions of the *Local Government Act 1989* (the Act). The organisation will provide support through initiatives such as this policy and training, but each Councillor and Council officer must take personal responsibility for their own compliance.

3.4 The offer of a gift to a Councillor or Council officer may also affect perceptions of bias. This Policy confirms that gifts that are declined should also be recorded in the *Gifts and Hospitality Register*.

4. DEFINITIONS

4.1 Applicable Gift: An 'applicable gift' will be as defined in the Act from time to time. At the date of adoption of this policy 'applicable gift' is defined in section 78C of the Act as *'one or more gifts with a total value of \$500 or more, received from a person who has a direct interest in the matter; or*

(a) *A director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or*

(b) *A person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter'.*

4.2 Benefit: Something which is believed to be of value to the receiver, such as a service i.e. access to a sporting event, preferential treatment, access to confidential information, accommodation, personal services, pleasure or vacation trips.

4.3 Bribe: A corrupt inducement to reward.

4.4 Council officer: Any employee of the Darebin City Council.

4.5 Councillor: An elected representative of the Community.

4.6 Gift: A 'gift' will be as defined in the Act 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;*

4.7 Gift of appreciation: Refers to a gift that is presented to an individual to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment. These gifts are generally a one-off occurrence.

4.8 Hospitality: Where a meal or service is offered which has a more than nominal value and is not viewed as being connected to official Council business or part of the accepted meal at a conference or seminar.

4.9 Monetary gift: Defined as cash, cheques, money orders, travellers' cheques and direct deposits, lottery tickets and 'scratchies'.

4.10 Official gift: A gift received by Councillors or Council officers as representatives of the City or the Council. These gifts may be received from a Sister City, organisations or corporations that are bestowing a corporate gift (i.e. plaques, plates, vases, trophies, art work) or souvenir to the City, or as a token of appreciation for a contribution to a conference or industry event.

4.11 Significant Occasion Gift: A gift, which may be given by Council to the Mayor or a Councillor as a gesture of goodwill for official or ceremonial purposes.

4.12 Token gift: Is of such a nature and value that it could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter.

The gift also does not create a sense of obligation in the receiver that will influence, or appear to influence, the exercise of their official duties. In the event that a gift might reasonably be perceived to influence, or appear to influence, the recipient, it cannot be defined as a token gift.

4.13 Value: Value means the face value or estimated retail value.

5. THE GIFT TEST

The GIFT test (developed by the Victorian State Services Commission) is a good example of what to think about when deciding whether to accept or decline a gift, benefit or hospitality.

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>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>
I	Influence	<p>Are they seeking to influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers of the last 12 months? Would accepting it create an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family friends or associates think?</p>

6. POLICY AND PRINCIPLES

6.1 Gifts must never be sought

Councillors and Council officers must not solicit, demand or request gifts or any personal benefit for themselves or another person by virtue of their position.

6.2 No sense of obligation

No gift may be accepted that could influence, or be perceived to influence, a Councillor or Council officer in the performance of their public or professional duties.

6.3 Prohibited Gifts

In addition to other limitations imposed by this policy, monetary gifts (of any value) must never be accepted.

6.4 Token Gifts

Gifts of token value may be accepted by Councillors or Council officers provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for Councillors or Council officers in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- 6.4.1 Such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- 6.4.2 Acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- 6.4.3 The gift does not have a significant monetary value (as a guide, less than \$5);
- 6.4.4 The gift is not offered on a regular basis.
- 6.4.5 There is no requirement to record token gifts in the *Council Gifts and Hospitality Register*.

6.5 Official Gifts

From time to time individuals or organisations may offer gifts of goodwill to the Council organisation. The Chief Executive Officer or relevant Director will ensure that any such official gift is recorded in the *Council Gifts and Hospitality Register* as a gift to the Council.

Individuals may be involved in conferences or social, cultural, community, industry events where official gifts are presented or exchanged. Where it would appear not to be polite or inappropriate to decline the offer, it is reasonable for official representatives of the Council to accept official gifts on behalf of the Council. Unless otherwise determined as set out below, such gifts shall be considered to be the property of the Council and may be displayed in an appropriate and secure location for public viewing.

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, the Chief Executive Officer will use his/her discretion as to the appropriate use of the official gift.

A record will be made in the *Council Gifts and Hospitality Register* in the event that the gift is used for other than Council purposes.

6.6 Significant Occasion Gifts

A Councillor or Council officer may accept a significant occasion gift on behalf of Darebin City Council.

A significant occasion gift to the Mayor and Chief Executive Officer must not exceed \$500. A significant occasion gift to a Councillor or Council officer must not exceed \$250.

All significant occasion gifts must be declared and the details recorded in the Council *Gifts and Hospitality Register* and disclosed on the Council website.

6.7 Gifts of Appreciation

Demonstrating appreciation for services received from the Council or Council officer should not involve the presentation of a gift or benefit. Acceptable alternatives may include a letter of thanks or a thank you card as these are considered less likely to result in a situation that may compromise or be perceived to compromise either party.

No individual is to accept a gift of appreciation that has significant monetary value (as a guide, more than \$50) or personal effort. Where such gifts are offered, the individual should politely refuse the offer explaining that it is against the Council's policy to accept such a gift.

If such a gift is offered in an open or public forum and refusal would be obviously discourteous or acceptance would cause any potential perceived or actual compromise or conflict of interest, the gift may be accepted but is to be referred to the Chief Executive Officer or Director for a decision as to the appropriate treatment. The gift must be recorded in Councils *Gift and Hospitality Register*.

Multiple gifts from the same person/organisation are considered inappropriate and should not be accepted.

All gifts of appreciation, whether accepted or declined, are to be recorded in the Council *Gifts and Hospitality Register*.

6.8 Hospitality

Councillors and Council officers, in an official capacity, will from time to time receive invitations of hospitality to attend various functions and events.

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

Such incidental refreshments at meetings, working lunches, community events, or similar, are not considered to be a gift and need not be recorded unless they occur at a frequency that may give rise to the perception of a conflict of interest under the Act.

In some circumstances a Councillor or Council officer may attend the event if the Council either fully reimburses the organisation for the full cost of the hospitality or if the Councillor or Council officer personally pays for their own attendance.

If acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Councillor or Council officer, or could be perceived as a conflict of interest, the offer of hospitality should be politely declined and recorded in the Council *Gifts and Hospitality Register*.

Where possible, any offer of hospitality made to Councillors or Council officers should be declared and approved prior to the event.

6.9 Remote or Insignificant Interest

If the acceptance of a gift, benefit or hospitality relates to an interest that is remote or insignificant in accordance with section 77A(4) of the Act, the Councillor or Council officer will not be considered to have a conflict of interest.

7. PROCEDURAL GUIDELINES

7.1 Declaration of Gifts

Nothing in this policy shall be construed to override the provisions of the Act. In the event of any apparent inconsistency, the provisions of the Act will prevail.

7.2 Gifts and Hospitality Register

All gifts or benefits received by Councillors or Council officers (regardless of their value) must be declared by completing the relevant *Darebin Gifts Registration Form* (see **Appendices A – C**) and returned to the Manager, Corporate Governance and Performance within 48 hours for inclusion in the Council *Gifts and Hospitality Register*.

Gifts, benefits or hospitality that are declined must also be recorded in the Council *Gifts and Hospitality Register*, however any gift that is declined shall not be treated as an 'Official Gift' under section 78C of the Act.

The *Gifts and Hospitality Register* will contain the following information:

- 7.2.1 Date the gift or benefit was received or declined
- 7.2.2 Recipient of the gift or benefit
- 7.2.3 Name of gift/benefit provider
- 7.2.4 Description of the gift or benefit
- 7.2.5 Estimated value of the gift or benefit
- 7.2.6 Treatment of the Gift

The Council *Gifts and Hospitality Register* will be made available for public inspection in accordance with the provisions of the Act and reported on a quarterly basis to the Audit Committee.

7.3 Darebin Gifts Registration Forms

7.3.1 Councillors

Upon receipt or refusal of a gift, benefit or hospitality, Councillors must complete the *Gifts and Hospitality Registration Form – Councillors* (**Appendix A**) and have the form endorsed by the Manager Corporate Governance and Performance.

7.3.2 Chief Executive Officer

Upon receipt or refusal of a gift, benefit or hospitality, the Chief Executive Officer must complete the *Gifts and Hospitality Registration Form - CEO (Appendix B)* and have the form endorsed by either the Mayor or a Director.

7.3.3 Council officers

Upon receipt or refusal of a gift, benefit or hospitality, Council officers must notify their direct supervisor immediately, complete the *Gifts and Hospitality Registration Form – Employees (Appendix C)* and have the form endorsed by their Director.

7.3.4 Register of Interests Primary or Ordinary Return

Particulars of any gift of or above the value of \$500 received by a Councillor or Nominated Officer must be declared on the *Register of Interests Primary or Ordinary Return* which is available for public inspection.

7.4 Improper Behaviour

If a Councillor or Council officer declines a gift, benefit or hospitality the Chief Executive Officer or relevant Director must be advised immediately and the details recorded in the Council *Gifts and Hospitality Register*.

If a Councillor or Council officer believes they have been offered a bribe it is important that they immediately act to minimise any potential for negative consequences by taking the following steps:

- (a) Terminate the interaction with the person.
- (b) Keep a clear record of the events by making notes about what you saw and heard, using terminology such as “I said...”, “he said....” to ensure accuracy.
- (c) Report the matter to the Manager Corporate Governance and Performance, a Director or the Chief Executive Officer with all details and as a matter of priority, confirm what action he/she has taken. In the event your direct supervisor is involved in the incident, the matter must be reported to the next level of management.
- (d) Prepare a formal report to include the:
 - (i) Date, time and place of the incident;
 - (ii) Circumstances of the offer (bribe);
 - (iii) What the offer (bribe) involved;
 - (iv) What you believe the offer (bribe) intended to achieve;
 - (v) Who offered the bribe;
 - (vi) The details of what you/they said, any other relevant information; and
 - (vii) Your signature and date.
- (e) Discuss with the Manager Corporate Governance and Performance, a Director or the Chief Executive Officer exactly how future relations should be conducted with the person offering the bribe; and
- (f) Confirm that the Mayor or relevant line Manager has been informed.

or

Report the matter in accordance with the *Protected Disclosures Act 2013*.

8. GENERAL

Implementation of this policy and statutory obligations relating to gifts requires constant alertness regarding perceptions of probity. Probity concerns will be managed in an environment that encourages disclosure. Where any person is concerned regarding a lack of clarity in relation to the requirements of the policy or the *Local Government Act 1989*, they should err toward disclosure.