



14.4 COUNCILLOR GIFT AND HOSPITALITY POLICY

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1. PURPOSE

1.1 To present to Council for formal endorsement, the Councillor Gift and Hospitality Policy.

2. EXECUTIVE SUMMARY

- 2.1 The Local Government 2020 (the Act) requires Council to adopt a Councillor Gift Policy within six months of when section 138 comes into operation. This section came into effect on 24 October 2020, and therefore Council must adopt its Gift Policy by 24 April 2021. The Policy must make provision for the maintenance of a gift register and any matters in the regulations, including a minimum value of gifts that must be disclosed. Councils must also ensure their Policy complies with the public transparency principles.
- 2.2 There was no requirement for a Councillor Gift Policy in the 1989 Act, however Council has had a Gift Policy in place since June 2016. A copy of the current policy is included at Attachment 2.
- 2.3 The gift policy is intended to complement personal interest returns by recording gifts that may be below the threshold for disclosure in a personal interest return or that may have been received since the latest return was lodged.

3. RECOMMENDATION

That Council:

- 3.1 Adopts the Councillor Gift and Hospitality Policy, required under Section 138 of the Local Government Act 2020 as outlined in Attachment 1.
- 3.2 Authorises the Chief Executive Officer to finalise the document and make any minor editorial amendments that do not materially alter the intent of the policy.
- 3.3 Formally rescinds the 2016 Councillor Gift Policy in Attachment 2.

4. KEY POINTS/ISSUES

- 4.1 In accordance with section 138 of the Local Government Act 2020, Council must adopt a Councillor Gift Policy (the Policy) by 24 April 2021. The Policy must include:
- Procedures for the maintenance of a gift register; and
 - Any other matters prescribed by the regulations.
- 4.2 In drafting the Policy officers have had regard to:
- 4.2.1 The current Councillor Gifts Policy;
- 4.2.2 Councillor Gift Policies developed by other councils;
- 4.2.3 The guidance material on the 'Consultation - Councillor Gift Policy' page on the Engage Victoria website; and



4.2.4 The DELWP - Model policies for agencies and boards Gifts, benefits and hospitality.

4.2.5 The Policy has been drafted in a manner that complies with the Public Transparency Principles as outlined in the Local Government Act and with Council's Public Transparency Policy.

4.3 Policy scope

This Policy applies to all City of Port Phillip Councillors. Processes for the receipt of gifts, benefits and hospitality by Council staff will be managed through the Employee Code of Conduct.

4.4 Key elements of the Policy:

4.4.1 Declaring gifts, benefits or hospitality valued at \$50.00 or more

The Policy proposes that all reportable gifts (whether accepted or declined) valued at or more than \$50.00, must be disclosed by councillors. In the interests of transparency and good governance, the Policy encourages councillors to disclose the acceptance or declination of all gifts, benefits and hospitality, regardless of the monetary value. This is ultimately a matter for each councillor to determine as appropriate when accepting or declining a gift valued at less than \$50.00.

4.4.2 Procedures for the maintenance of the gift register (section 138(2)(a) of the Act)

Following the receipt of the Gifts Declaration Form, the following information will be recorded on the Gifts Register:

- The name of the councillor who received the gift, benefit or hospitality.
- The date the gift, benefit or hospitality was offered or received.
- The estimated dollar value of the gift, benefit or hospitality.
- The name of the individual or organisation who was the donor of the gift, benefit or hospitality.
- How the gift was allocated (i.e. declined, retained, donated to the civic collection etc).

In accordance with Council's Public Transparency Policy, the Gift Register (not the form submitted by a councillor) will be made available on Council's website.

The Gift Register will also be made available for public inspection upon request.

4.4.3 Any other matters prescribed by the regulations (section 138(2)(b) of the Act)

At the time of writing this report, the only matters prescribed by the regulations relating to the declaration of gifts, can be found within the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). Specifically, Regulation 9 relates to the lodging of biannual personal interest returns, rather than disclosing gifts received in accordance with the Councillor Gift Policy.

Should any Regulations come into effect that prescribe requirements that need to be documented in the Policy, a review of the Policy will be conducted



and presented to Council for adoption to ensure continued compliance with the Act. It is officers' understanding that at this point in time, no further regulations will be introduced on or before 24 April 2021 with respect to councillor gift policies.

4.4.4 Anonymous gifts

The Policy reflects the requirement of Section 137 of the Act outlined as follows, that it is an offence to accept an anonymous gift that has a value of more than the gift disclosure threshold (\$500.00).

- (1) *A Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is equal to or exceeds the gift disclosure threshold unless:*
 - a) *the name and address of the person making the gift are known to the Councillor; or*
 - b) *at the time when the gift is made:*
 - i *the Councillor is given the name and address of the person making the gift; and*
 - ii *the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.*

Penalty: 60 penalty units

- (2) *If the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection (1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.*
- (3) *In addition to the penalty specified in subsection (1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.*

5. CONSULTATION AND STAKEHOLDERS

5.1 The Councillor Gift Policy is an administrative policy of Council. There is no requirement in section 138 of the Act for community consultation on the Policy. Once adopted, a copy of the Policy will be given to each councillor and published on Council's website. The Gift Register will also be made publicly available via Council's website.

6. LEGAL AND RISK IMPLICATIONS

6.1 Council is required to have a gift policy under the Local Government Act 2020.

7. FINANCIAL IMPACT

7.1 The costs to develop the Policy is managed within Council's operational budgets.

8. ENVIRONMENTAL IMPACT

8.1 There is no direct environmental impact resulting from Council adopting this policy.



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9. COMMUNITY IMPACT

9.1 The Policy establishes a framework and a clear understanding for the acceptance and declaration of gifts, benefits and hospitality by councillors to ensure the highest standard of integrity, transparency and accountability is maintained at all times.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Strategic Direction 6 – Our Commitment to You.

11. IMPLEMENTATION STRATEGY

11.1 The Policy takes effect once adopted. Officers will provide a copy of the policy to each Councillor and make the policy publicly available on Council's website.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS

1. CoPP-Policy-Gifts and Hospitality- March 2021
2. 2016 Councillor gift policy