Councillor Gift Policy

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APPROVAL	Council	
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DIRECTORATE	Corporate and Commercial	
POLICY OWNER	Manager Governance	
NEXT REVIEW	October 2029	
REVISION RECORD	**VERSION**	**REVISION DESCRIPTION**
19 April 2021	1.0	Initial policy
27 October 2025	2.0	Review

1. Purpose

This policy has been prepared to satisfy the requirements of section 138 of the *Local Government Act 2020* ('Act'). In accordance with the legislative requirements, it includes procedures for the maintenance of a gifts register and any other matters prescribed by the regulations.

2. Scope

In accordance with the Model Councillor Code of Conduct, this policy applies to Councillors in relation to the acceptance and declaration of gifts that may be offered to them in connection with their role as a Councillor.

The offering of gifts by a Councillor is not within the scope of this Policy; this is covered within the Councillor Offering of Gifts and Donations Protocol.

3. Governance Principles and Council Plan Alignment

3.1. Governance Principles

A Council must, in the performance of its role, give effect to the overarching governance principles (section 9 of the Act). In accordance with the Act, this Policy aligns with the following governance principles:

Principle (a) Council decisions are to be made and actions taken in accordance with the relevant law;

Principle (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;

Principle (i) the transparency of Council decisions, actions and information is to be ensured.

3.2. Council Plan Alignment

Strategic Outcome 4: Council Performance and Leadership – A forward-thinking and responsive council that values community input, committed to optimising services, ensuring robust governance and making sustainable decisions.

4. Policy

4.1. Principles

4.1.1. Councillors must act with integrity, consistent with the Model Councillor Code of Conduct, when giving consideration to the offer of a gift.

4.1.2. Councillors will scrupulously avoid situations which create the perception that a person or body may gain favourable treatment from an individual Councillor or from the Council through the provision of a gift.

4.1.3. The acceptance of gifts has the potential to compromise a Councillor's position by conveying a sense of obligation or an expectation of favours, support or repayment. This may influence the Councillor, or give rise to a perception of influence over the Councillor in the exercise of their official duties and functions, and affect the public's perception of the integrity and independence of Council.

4.1.4. Councillors will take all reasonable steps to ensure that their immediate family members (parents, spouse, children and siblings) do not receive gifts that give rise to the perception of being an attempt to gain favourable treatment.

4.1.5. Councillors must give consideration to the minimum accountability standards. These standards are set out in the Victorian Public Sector Commission's *Minimum accountabilities – for managing gifts, benefits and hospitality in the Victorian public sector*:

4.1.5.1. Councillors must not solicit any gift, benefit or hospitality that could reasonably be seen as connected with their role as a Councillor

4.1.5.2. Councillors must refuse offers of gifts when they do not align with the principles set out in this policy and are subject to the parameters detailed in clause 4.9.

4.1.5.3. Councillors should declare all token and non-token offers, even if refused.

4.1.6. Councillors should give consideration to the following integrity-based questions:

Objectives

- What is the business reason the gift is being offered?
- Will it further the conduct of official Council business?
- Will it promote and support Council policy objectives and priorities?
- Does the gift align with Council's values?

- Are there any risks associated with accepting the gift?
- Will there be any sense of obligation, influence or favouritism?

Trust

- Is there a conflict of interest?
- Will public trust be enhanced or diminished?
- Will the gift or benefit be proportionate to public expectations or seen as excessive?
- Could you publicly explain the rationale for receiving the gift or benefit?
- Have records in relation to the gift been kept in accordance with reporting and recording procedures?

4.2. The statutory gift disclosure threshold

4.2.1. The *gift disclosure threshold* in the Act, currently $500, applies to a *gift* or *gift*s given to a *Councillor* by any person, company or body but does not include *reasonable hospitality* received by the *Councillor* at an event or function attended by the *Councillor* in an official capacity.

4.2.2. Where multiple *gifts* are offered to a *Councillor* by the same person, company or body, the cumulative value of the *gifts* will be relevant to the *gift disclosure threshold*.

4.2.3. A *gift* or *gift*s equal to or above the statutory *gift disclosure threshold* received during the period described in section 128(4) of the Act (ie in the 5 years preceding the decision on the matter) may give rise to a material conflict of interest.

4.3. Statutory disclosure requirements

4.3.1. A *Councillor* must disclose any *gift* valued at or over $500 in their biannual personal interests return (Local Government (Governance and Integrity) Regulations, r. 9(1)(k)).

4.3.2. A *Councillor* who has a conflict of interest as a result of receiving a *gift* or *gift*s must disclose the conflict of interest in accordance with the procedures outlined in Chapter 6 of the Governance Rules.

4.3.3. *Gift*s above the *gift disclosure threshold* that are election campaign donations must be disclosed in an election campaign donation return, in accordance with section 306 of the Act.

4.4. Requirement to complete a gift declaration form

4.4.1. *Councillor*s should declare any *gift* (even if the *gift* is not accepted) within 5 business days of the offer, using a Gift Declaration Form. This will enable the *gift* to be recorded in the *Councillor Gifts Register*.

4.4.2. Where multiple *gifts* are offered to a Councillor by the same person, company or body, the cumulative value of the *gifts* will be relevant to the requirement to complete a *gift declaration*.

4.4.3. Where a *gift* is received on behalf of the *Council*, the *gift* becomes the property of the *Council*. For transparency and accountability purposes, any such *gift* will be recorded in the *Councillor Gifts Register* with a notation that it is the property of the *Council*.

4.5. Gifts received that are under $50

4.5.1. On occasion, Councillors may be offered gifts, so long as they align with the principles outlined in this policy (clause 4.1), and these should all be declared, regardless of the value.

4.5.2. The following gifts may be accepted:

- Gifts of reasonable hospitality or recognition, valued at no more than $50, received while acting in an official capacity and or carrying out official duties.
- Gifts that cannot reasonably be declined – there may instances where declining a gift could cause offence due to cultural or other reasons, where a gift has been received in an official capacity.
  Such instances may include ceremonial gifts received from Sister or Friendship Cities – refer clause 4.6 Ceremonial and Official Gifts.
- Corporate gifts valued at $50 or lower, such as branded stationery.
- Corporate gifts received from Council, as authorised by the CEO, such as in recognition of significant events. These gifts should not exceed a value of $50.
- Gifts between Councillors valued at $50 or lower.

4.6. Ceremonial and Official Gifts

4.6.1. Any ceremonial or official gift received by the Mayor or a Councillor on behalf of the Council must be declared and added to the Councillor Gifts Register, irrespective of its value.

4.6.2. Any ceremonial or official gift valued at $50 or more will remain the property of Council and will be kept on display in the Councillors Lounge or the Office of the Mayor.

4.6.3. If a ceremonial or official gift is a token gift (up to $50), the individual Councillor may retain the gift. Any exchange of ceremonial or official gifts with Sister or Friendships Cities, will accord with the Councillor Offering of Gifts and Donations Protocol.

4.7. Ticketed Events

4.7.1. Frankston Arts Centre House Seat Tickets

In accordance with the Council Expense Policy, all House tickets for performances at the Frankston Arts Centre must be declared within one month of date of the performance.

4.7.2. Ticketed Events

Where a Councillor has been offered complimentary tickets or invited to a ticketed event, where the ticket would ordinarily have a monetary value, this should be declared. Any reasonable hospitality received as part of the ticketed event does not need to be declared.

Any hospitality received in addition to the ticketed event should be declared.

4.8. Estimating the Value

When declaring offers of gifts, benefits or hospitality, Councillors are required to include the actual or estimated value of each offer.

For example, the value of tickets to an event can be established by contacting the event organiser or by searching online. Prices are also often included on complimentary tickets. Similarly, the value of gifts of wine, chocolate, etc. can be established via an internet search.

On occasions where a value cannot be easily established, the estimated value should be the maximum of the estimated range.

4.9. Prohibited Gifts

4.9.1. Councillors should be mindful of the risk that a person or external entity, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment.

4.9.2. Councillors must refuse the following gifts:

- Anonymous gifts valued at or above the gift disclosure threshold of $500 (see clause 4.10 for further information).
- Gifts that would cause a real or perceived conflict of interest.
- Repeat gifts from an individual or single entity.
- Gifts of money, gift cards or shares.
- Gifts from individuals or entities that may benefit from or be affected by a decision of Council
- Gifts from individuals or entities that are a current or prospective supplier of goods or services
- Gifts from individuals or entities that have received a Grant from Council
- Gifts from individuals or entities associated with a developer or lobbyist group
- Any gift of property or personal assets resulting from their position with Council.
- Rewards or points must not be collected for personal use via rewards programs when completing Council related transaction, such as Fly Buys or Frequent Flyer points
- Any gift that is inconsistent with community values and could bring a Councillor's integrity or that of the Council into disrepute.
- Gifts that, if accepted, could be perceived as an endorsement or a product or service.
- Hospitality that does not align with the principles set out in this policy.

4.10. Anonymous gifts must not be accepted

4.10.1. Section 137 of the Act provides that it is an offence for a *Councillor* to accept an *anonymous gift* that has a value equal to or above the *gift disclosure threshold* ($500 or a higher amount that may be prescribed in regulations).

4.10.2. A breach of this provision could result in a penalty of up to 60 penalty units and a requirement to pay the *Council* an amount equal to the value of the *gift*.

4.10.3. A *Councillor* is not in breach of this provision if the *anonymous gift* is disposed of to the *Council* within 30 days.

Extract from Local Government Act 2020

s.137 Anonymous gift not to be accepted

(1) Subject to subsection (2), 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.

4.11. The Councillor Gifts Register

4.11.1. The details of any *gift* offered to and/or received by a *Councillor* must be declared on the *Councillor Gifts Register* by completion of a Gift Declaration form, and submission of the form to the Governance team.

4.11.2. The *Councillor Gifts Register* will be maintained by the Governance team and will be available for public inspection.

4.11.3. An extract of the *Councillor Gifts Register* data will be published on Council's website and Transparency Hub, on a quarterly basis. The extract will include:

i. the date of the offer;

ii. the name of the Councillor to whom the gift was offered;

iii. a generic description of the person, company of body who offered the gift (eg. resident, customer, member of the public, local business, sport association, developer etc);

iv. a description of the gift;

v. the estimated value of the gift;

vi. the reason the gift was offered (if known);

vii. the decision regarding the gift (declined, retained by self, donated, other)

4.11.4. The extract of *Councillor Gifts Register* data will be presented to Council's Audit and Risk Committee for review every six months.

5. Roles and Responsibilities

Role	Responsibility
Councillors	Responsible for: • Refusing offers of gifts, benefits or hospitality in the categories listed as Prohibited Gifts in this policy • Declaring all gifts that are offered
Manager Governance	Responsible for: • Assisting Councillors in understanding their obligations under this policy • Ensuring a copy of this policy and associated register is available on Council's website or available for public inspection when requested • Ensuring the Councillor Gift Register is reported to the Audit and Risk Committee every six months • Providing oversight and advice on the implementation of the policy • Reviewing this policy
Governance	Responsible for: • The administration of the Councillor Gift Declarations, including lodging all declarations into the Councillor Gift Register • Uploading the Councillor Gift Register to Council's website and Transparency Hub on a quarterly basis

6. Policy non-compliance

Non-compliance with this policy has the potential to negatively impact on the reputation of individual Councillors and of the Council.

Accepting a prohibited gift may constitute misuse of a Councillor's position and a breach of this policy, which may result in serious misconduct allegations for Councillors. If a gift was offered with the expectation of something in return, such as preferential treatment or a favourable Council decision, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

Failure to comply with this policy may constitute a breach of the Councillor Model Code of Conduct and/or the *Local Government Act 2020*.

7. Definitions

Term	Definition
anonymous gift	means a *gift* given for the benefit of a *Councillor*, where the name and address of the person making the *gift* are unknown to the *Councillor*.
benefit	means a non-tangible item of value (eg. preferential treatment, privileged access, favours or some other advantage offered). For the purposes of this policy, *gifts* and *benefits* are treated in the same way and are considered to be interchangeable.
Ceremonial or official gift	means an item with cultural, ceremonial, religious, historic or other significance which has been given on behalf of an organisation, group, city or country, as part of business with official delegates or representatives.
Council	means Frankston City Council.
Councillor	means a person who holds the office of a member of Frankston City Council.
gift	means 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. For the purposes of this policy, a *gift* includes a *benefit* or hospitality other than *reasonable hospitality*.
gift declaration	means the formal disclosure of any offer of a *gift* on a Gift Declaration form.
gifts register	means the file containing all Councillor Gift Declaration forms. The *gifts register* is maintained by the Governance team and is available for public inspection.
gift disclosure threshold	means $500 or a higher amount or value prescribed by the regulations.
Non-token gift	means a gift that is worth $50 or more.
reasonable hospitality	means hospitality which is incidental to a meeting, conference, seminar or other function where the primary purpose is related to *Council* business. It could include refreshments such as tea, coffee and cake, sandwiches, finger food, a light meal and entertainment offered in the course of the meeting, conference or seminar. It would not include a three-course meal and alcoholic beverages.
Token gift	A gift that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). The minimum accountabilities state that token offers cannot be worth more than $50.

8. Related documents

8.1. Legislation

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Privacy and Data Protection Act 2014*

8.2. Documents and resources

- Model Councillor Code of Conduct
- Governance Rules
- Public Transparency Policy
- Procurement Policy
- Staff Gifts and Hospitality Policy
- Councillor Offering of Gifts and Donations Protocol
- Victorian Government: Gifts, Benefits and Hospitality Policy – June 2024 (https://www.vic.gov.au/gifts-benefits-and-hospitality-policy-june-2024)
- Victorian Public Sector Commission: Minimum accountabilities – For managing gifts, benefits and hospitality in the Victorian public sector (https://www.vpsc.vic.gov.au/ethics-behaviours-culture/gifts-benefits-hospitality/minimum-accountabilities/#heading5)

9. Implementation of the Policy

This Policy will be published on Council's website and will be available for access by Councillors on the Councillor portal.