

Frankston City Council	Policy number: P/2017/0320 Record number: A3239377
Staff Gifts and Hospitality Policy	Issue: EMT 20/03/2017

1. STATEMENT:

Council is committed to the principles of transparency, accountability and good governance.

This policy provides guidance to Council officers about receiving or being offered gifts, benefits or hospitality; and sets out a transparent process for dealing with any offers of gifts, benefits or hospitality.

2. OBJECTIVE:

This policy is intended to assist Council officers in avoiding potential, actual and perceived conflicts of interest, and breaches of the *Local Government Act 1989* ('Act').

3. SCOPE:

This policy applies to all Council officers, including persons engaged as short term members of staff, contractors and volunteers undertaking duties on behalf of Council. It also applies to any gift or benefit offered to a Council officer's relative in connection with the Council officer's official duties, or which could reasonably be perceived to be offered in connection with the Council officer's official duties.

It does not apply to the acceptance of gifts, benefits or hospitality by Councillors or Council committee members.

The policy applies at all times, including Christmas and other cultural or religious occasions when gifts, benefits or hospitality may be offered.

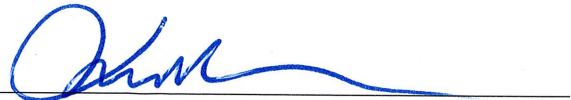
This policy does not remove any other obligations under the Act, any other legislation, or relevant codes and policies regarding the disclosure of interests.

This policy may be varied by the Chief Executive Officer ('CEO').

4. AUTHORISATION:

This policy is authorised and administered by the CEO, following endorsement by Council's Audit and Risk Management Committee on 25 November 2016 and by Council's Executive Management Team ('EMT') on 20 March 2017.

Signed: _____



Dennis Hovenden, Chief Executive Officer

Dated: _____

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5. RELEVANT POLICIES SUPERSEDED:

This policy supersedes the Gifts Policy which was endorsed by the Corporate Management Team (as it then was) in 2006 for application to officers, and then extended by Council resolution in October 2011 to apply also to Councillors.

This policy will remain in force until it is revised by the CEO.

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6. DEFINITIONS:

In this policy:

“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.

“bequest” means something given or left to a Council officer by means of a will.

“bribe” means a gift or benefit offered to or solicited by a Council officer, which is intended to influence a person or situation.

“ceremonial gift” means an official gift from one agency to another, and will often take the form of trinkets or items of cultural significance to the donor.

“cumulative value” means the total value of gifts offered or given to the officer by the same donor over a period of time.

“officer” means a person who is employed by Frankston City Council, including the CEO, and any person engaged as a short term member of staff or a contractor or volunteer undertaking duties on behalf of Council.

“gift” means the voluntary transfer of property to a Council officer at no charge or at a discounted charge or free of any other consideration, as a consequence of the officer’s service with Frankston City Council.

“gift declaration” means the formal disclosure of any offer of a gift or benefit on a “Gift Declaration” form. All such offers must be put on the public record to avert any perception or accusation of impropriety.

“gifts register” means the file containing all original “Gift Declaration” forms. The gifts register is maintained by the Governance team, and is available for public inspection.

“modest incidental 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.

“nominal value” means a value that is equal to or less than \$50.

“relative” includes (but is not limited to) the spouse or domestic partner of the Council officer, a member of the Council officer’s household or a member of the Council officer’s family (eg. a child, parent, sibling, uncle, aunt, grandparent, cousin, niece or nephew).

“token gift” means a gift offered in a business situation to the Council or a Council officer who is representing the Council. Examples include (but are not limited to) a small office or business accessory such as a pen, calendar, folder, tie, scarf or tie pin, or an item of clothing which contains a company or agency logo.

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7. PRINCIPLES:

- 7.1 Sometimes people who deal with Frankston City Council wish to express appreciation for good service or assistance provided by a Council officer, by the giving of some form of gift, benefit or hospitality.
- 7.2 Council officers must be fully accountable and responsible for their actions; they must ensure that their conduct and decisions are beyond reproach, and can withstand audit and scrutiny.
- 7.3 The acceptance of gifts and other benefits has the potential to compromise a Council officer's position by conveying a sense of obligation or an expectation of favours, support or repayment. This may influence the officer, or give rise to a perception of influence over the officer, in the exercise of their official duties, and affect the public's perception of the integrity and independence of Frankston City Council.
- 7.4 This potential must be balanced against the risk of causing offence by refusing an offer of a gift, benefit or hospitality.

8. ROLES AND RESPONSIBILITIES:

- 8.1 Every Council officer is responsible for ensuring that they are familiar with the requirements of this policy, and is accountable for managing their own compliance.
- 8.2 Clarification or advice about the interpretation of this policy may be sought, in the first instance, from the Manager Administration and Corporate Projects, or the Director Corporate Development.

9. POLICY NON-COMPLIANCE:

- 9.1 Failure to comply with this policy may constitute a breach of the Staff Code of Conduct and/or the Act, which may result in disciplinary action including termination.
- 9.2 Non-compliance with this policy also has the potential to negatively impact on the reputation of individual officers, and of Council.

10. RELATED DOCUMENTS:

- 10.1 *Local Government Act 1989*, particularly sections 78C and 95;
- 10.2 Staff Code of Conduct; and
- 10.3 Conflict of Interest Policy.

11. IMPLEMENTATION:

Managers, Coordinators and Team Leaders will be responsible for educating their staff about this policy, and for facilitating compliance.

This policy will be published on Council's website and intranet, so that it can be used by Council officers to inform decisions about how to respond to an offer of a gift, benefit or hospitality, and about how to declare such offers.

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12. GUIDANCE – DEALING WITH OFFERS OF GIFTS:

Summary of key principles:

The key principles of this policy are:

- 12.1 No Council officer will seek any gift.
- 12.2 Gifts of nominal value (\$50 or under) may be accepted.
- 12.3 Ceremonial gifts may be accepted on behalf of Council.
- 12.4 Token gifts and modest incidental hospitality may be accepted.
- 12.5 The acceptance of gifts over \$50 is not permitted.
- 12.6 Director approval is required for a Council officer to keep any gift or benefit valued at over \$50.
- 12.7 Equivalent arrangements apply to gifts offered to a Director or the CEO.
- 12.8 Some types of gifts, benefits and hospitality must never be accepted.
- 12.9 The acceptance of gifts and benefits associated with recruitment, procurement, tendering or contract management is prohibited.
- 12.10 All gifts, benefits and offers must be declared (except token gifts and modest incidental hospitality, as described in clause 12.4).
- 12.11 An inadvertent acceptance of a gift above nominal value must be immediately declared and referred.
- 12.12 Cumulative gifts of nominal value must be shared or donated.
- 12.13 Prizes must be declared and referred.
- 12.14 Director approval is required to accept free or subsidised travel and/or accommodation associated with a meeting or conference.

These key principles are explained in more detail below.

12.1 *No Council officer will seek any gift.*

As a Council officer, you should never expect to be given anything extra for doing the work you are employed and paid to do. You must not seek, solicit or request any gift in connection with the performance of your work.

12.2 *Gifts of nominal value (\$50 or under) may be accepted.*

If neither clause 12.8 nor 12.9 applies, it is permissible for a Council officer to accept and keep a gift or benefit of nominal value (\$50 or under), which is given in gratitude or in appreciation of work done.

Examples of gifts of nominal value which may be accepted could include a small box of chocolates, cake, fruit, flowers, or a single bottle of wine (valued at \$50 or under).

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In deciding whether to accept a gift of nominal value it is important to consider whether you are likely to make any decision in the future which involves that person or organisation.

Where a gift is given for use at a later time (eg. a box of chocolates or a bottle of wine), the approval of the Director Corporate Development must be obtained where possible and practical, before the gift is used or consumed.

If you have any doubt about the intention of the gift giver or the value of the gift, you should seek advice from the Manager Administration and Corporate Projects or the Director Corporate Development.

12.3 Ceremonial gifts may be accepted on behalf of Council.

Ceremonial gifts are often provided to Council when it has acted as a host in conducting official business with delegates from another organisation, or delegations from overseas. Ceremonial gifts may be offered to express gratitude. The gratitude usually extends to the work of several Council officers and therefore the gift is considered to be for the Council, rather than for a particular Council officer.

It is important to avoid causing offence or embarrassment to the person or organisation offering the gift. Accordingly, ceremonial gifts may be accepted on behalf of Council, and must then be declared and referred to the Manager Administration and Corporate Projects or Director Corporate Development to determine the most appropriate course of action.

12.4 Token gifts and modest incidental hospitality may be accepted.

If neither clause 12.8 A nor B applies, token gifts and modest incidental hospitality (including food and drinks that are provided by another agency, organisation or individual as part of normal work related activities such as interviews, business meetings, conferences or seminars, where the same hospitality is offered to all participants) may be accepted.

There is no requirement to declare receipt of token gifts and modest incidental hospitality in these circumstances.

12.5 The acceptance of gifts over \$50 is not permitted.

Gifts, other than gifts of nominal value (\$50 or under) or of token or ceremonial nature, must be politely declined, unless you think that refusal of the gift would cause embarrassment or offence to the person offering the gift.

If this is the case, you may accept the gift on behalf of Council and must then declare it in accordance with clause 12.10 and seek advice from the Manager Administration and Corporate Projects or the Director Corporate Development, to determine the most appropriate course of action.

If a person offers you a gift as an expression of appreciation for your work, it may be appropriate to encourage them instead to express their gratitude by sending a letter of commendation to your manager, or to the CEO.

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12.6 *Director approval is required for a Council officer to keep any gift or benefit valued at over \$50.*

Approval must be obtained from the Director Corporate Development for a Council officer to keep any gift or benefit valued at over \$50.

Once you declare a gift or benefit, the Director Corporate Development will either endorse the course of action you have indicated on the Gift Declaration form, or direct you to take a specific alternative course of action.

You must abide by that decision, or seek the Director Corporate Development's approval for any alternative course of action.

12.7 *Equivalent arrangements apply to gifts offered to a Director or the CEO.*

Equivalent arrangements apply to gifts that are offered to a Director or the CEO, as follows:

Director

Approval must be obtained from the CEO for a Director to keep any gift or benefit which is valued at over \$50.

Once a Director declares a gift or benefit, the CEO will either endorse the course of action indicated on the Gift Declaration form, or direct a specific alternative course of action to be taken.

The Director must abide by that decision, or seek the CEO's approval for any alternative course of action.

CEO

Approval must be obtained from the Mayor for the CEO to keep any gift or benefit which is valued at over \$50.

Once the CEO declares a gift or benefit, the Mayor will either endorse the course of action indicated on the Gift Declaration form, or direct a specific alternative course of action to be taken.

The CEO must abide by that decision, or seek the Mayor's approval for any alternative course of action.

12.8 *Some types of gifts, benefits and hospitality must never be accepted.*

There is an absolute prohibition on the acceptance of gifts, benefits and hospitality in the following circumstances:

- A. No gift, benefit or hospitality from a tenderer may be accepted during the tender process, or within the period of three months prior to or after a tender being awarded.
- B. No gift, benefit or hospitality may be accepted from any club, body, group or association during the period of negotiation regarding the relocation or redevelopment of the premises occupied by that club, body, group or association. For the purposes of this prohibition, the period of negotiation commences from the time when the need for relocation or redevelopment is identified, and concludes when the final decision on the matter has been made, the works have been completed and the facility has been opened.

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- C. No gift of money (eg. cash, cheque, funds transfer) may be accepted from any person or organisation under any circumstances, regardless of the amount.
- D. A Council officer may not accept any bequest made as a direct result of their position with Council. Arrangements must be made to either donate the bequest to a charitable institution in the name of the donor, or to return it to the donor's immediate family.
- E. Council officers must not exact or accept from any person any bribe or fee for anything done by virtue of their role as a Council officer. Any offers of a bribe or other inducement must be reported in writing to the Director Corporate Development for consideration of appropriate action.

12.9 *The acceptance of gifts and benefits associated with recruitment, procurement, tendering or contract management is prohibited.*

Members of staff who make recruitment or purchasing decisions, or who have direct or indirect involvement in recruiting, tendering or contract management, must not accept any gift or benefit from potential candidates or suppliers and must refuse and report any such offers.

However, if neither clause 12.8 A nor B applies, token gifts and modest incidental hospitality provided at meetings may be accepted if you are satisfied that there is no intention to influence you in the performance of your official duties, nor any risk that you might feel obliged to perform your official duties in a particular way.

If you have any doubt about the intention of the potential candidate, supplier or contractor, you should seek advice from the Manager Administration and Corporate Projects or the Director Corporate Development.

12.10 *All gifts, benefits and offers must be declared.*

All gifts and benefits and offers (except token gifts and modest incidental hospitality, as described in clause 12.4) must be declared on a Gift Declaration form, which is then kept in the public Gifts Register.

The declaration requirement includes gifts of nominal value, and gifts and benefits that are offered but not accepted. It also includes any gift or benefit offered to a relative which arises in connection with your official duties, or which could reasonably be perceived to be connected with your official duties.

The only exception to the declaration requirement is token gifts and modest incidental hospitality that are offered and/or accepted in the circumstances described in clause 12.4.

12.11 *An inadvertent acceptance of a gift above nominal value must be immediately declared and referred.*

If you have inadvertently accepted a gift or benefit with a value greater than nominal value (\$50), and the gift or benefit cannot easily be returned, it must be declared and referred to the Director Corporate Development, as soon as practicable but not later than within one week after its acceptance.

Examples where a gift above nominal value might be inadvertently accepted include: a wrapped gift which was not opened in the presence of the giver, an

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anonymous gift, a gift received in a public forum where to decline the gift would have caused embarrassment or offence, or when it becomes apparent that a gift that was first thought to be of nominal value, actually has a greater value.

Decisions on whether such gifts may be retained by a Council officer will be made by the Director Corporate Development, on a case by case basis.

12.12 Cumulative gifts of nominal value must be shared or donated.

If you are offered two or more gifts of nominal value within a 12 month period by the same person or organisation, they will be regarded as a cumulative gift. You should consider whether the “serial giving” might be an attempt to influence you in the performance of your official duties.

Cumulative gifts of nominal value must be declared and may then either be shared with other staff or donated.

12.13 Prizes must be declared and referred.

A gift or benefit that is won as a result of entering a competition while engaging in official duties or attending a function at Council’s expense (eg. lucky door prize at a seminar) may be accepted on behalf of the Council, and must then be declared and referred to the Director Corporate Development for decision on the appropriate allocation of the prize in accordance with the particular circumstances.

Note that Supreme Court has ruled that prizes won at a function attended at Council’s expense are owned by the organisation because the organisation paid for the attendance. The situation is different if the person has made a personal payment towards the prize (eg. purchased a raffle ticket with their own money). In such a case, the person has provided consideration for the prize and may be able to retain it.

12.14 Director approval is required to accept free or subsidised travel and/or accommodation associated with a meeting or conference.

Any offer of free or subsidised travel and/or accommodation for a Council officer to attend a meeting or conference, as a participant or presenter, must be declared and approved by the Director Corporate Development prior to being accepted.

13. GIFTS REGISTER:

- 13.1 The details of all gifts offered and/or received must be entered in to the Gifts Register by completion of a Gift Declaration form.
- 13.2 The Gifts Register will be maintained by the Governance team and will be available for public inspection.
- 13.3 The Director Corporate Development will determine the appropriate course of action in relation to any officer’s entry in the register. Such action may include a direction that:
 - A. the gift may be retained by the officer;

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- B. the gift must be returned to the donor;
- C. the gift must be donated to Council, or to charity;
- D. the gift is to be retained by the officer's department for use in a future program or project;
- E. the officer be given advice, counselling or discipline;
- F. the officer be removed from a decision making, regulatory or purchasing role; or
- G. a combination of the courses of action listed above, or any other course of action that is deemed appropriate in the circumstances.

13.4 The Gifts Register will be presented to Council's Executive Management Team and the Audit and Risk Management Committee for review every six months, in February and August each year, or as soon as practicable thereafter.

14. BREACHES OF THIS POLICY:

- 14.1 An alleged breach of this policy will be investigated by the Director Corporate Development, who will then determine the appropriate course of action in the particular circumstances.
- 14.2 If the investigation concludes that the policy has been breached by an officer, such action may include counselling, disciplinary action (including termination of employment), referring the matter to Victoria Police, and/or the taking of civil action.
- 14.3 Any person may report an alleged breach of this policy to one of the following:
 - A. the Protected Disclosure Coordinator;
 - B. the Manager Administration and Corporate Projects;
 - C. the Director Corporate Development;
 - D. the CEO; or
 - E. the Independent Broad-Based Anti-Corruption Commission (IBAC) on 1300 735 135 . There are guidelines on IBAC's website about how to report corruption and misconduct: www.ibac.vic.gov.au



GIFT DECLARATION

This form is for use in conjunction with the Staff Gifts and Hospitality Policy. Please complete and submit this form within seven (7) days of being offered or receiving a gift or benefit. All completed forms will form part of a register which is available for public inspection. Refer to the policy for definitions and details.

Date offered	
Offered to	Name: Position:
Offered by ("Donor")	Name: Role: Organisation:
Reason gift was offered	
Description of gift	
Estimated value of gift	Tick to indicate if this was a: <input type="checkbox"/> first time offer; OR if there have been <input type="checkbox"/> previous offer(s) within last 12 months by this donor. If so, state estimated cumulative value of gifts offered by this donor within the last 12 months: \$ _____ \$ _____
Decision regarding gift	<input type="checkbox"/> declined <input type="checkbox"/> retained by self <input type="checkbox"/> donated to _____ (arrange receipt or proof) <input type="checkbox"/> retained by Department for use in future program or project (provide details) _____ <input type="checkbox"/> other (provide details) _____
Comments (optional)	I wish to make the following comments in relation to this declaration:
Signature	I declare the above to be true and correct: <div style="text-align: right;">Date: __ / __ / ____</div>

Noted by Director Corporate Development: Date: __ / __ / ____	Noted by CEO: Date: __ / __ / ____
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Governance admin: Register page no. _____ <input type="checkbox"/> Confirmation to officer
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