



Yarra Ranges Council Employee Gifts, Benefits and Hospitality Policy

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| Approved by Council: | 23 March 2021 |
| Responsible Officer: | Director Corporate Services |
| Department: | Financial Services |
| Contact Officer: | Steve Jones |

Revision History

| Version | Date | Summary of revisions |
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1. Introduction

- 1.1 It is of the utmost importance that the Council acts, and is seen to act, impartially in the conduct of its activities. It is therefore vital that the matter of receiving gifts, benefits or hospitality is treated carefully in order to ensure transparency, good governance and safeguard the reputation of the Council.
- 1.2 Members of the community should be able to trust that employees will perform their duties impartially. They can only do this if the personal interests of employees do not conflict with their public duty.

2. Objective

- 2.1 This Policy is designed to:
 - (a) provide a transparent and accountable process in the way the Council deals with the issue of receiving gifts, benefits or hospitality.
 - (b) ensure that the activities of the Council are conducted professionally and are not influenced, or perceived to be influenced, by the receipt or prospect of some form of gift, benefit or hospitality.
 - (c) provide clear guidelines to ensure that employees are not compromised in the performance of their duties by accepting gifts or benefits.
 - (d) ensure that any gifts accepted are properly managed and disclosed.
 - (e) promote public confidence.

3. Strategic Links

- 3.1 This Policy was developed in accordance with the Local Government Act 2020 which requires that councils have an employee gift policy that contains a requirement for members of Council staff to disclose all gifts above a specified level and provisions providing for disclosed gifts to be recorded in a gift register.
- 3.2 The Act also includes conflict of interest provisions which apply to employees who fall within the definition of 'relevant person' and require disclosure of general and material conflicts of interest, including where the receipt of gifts, benefits or hospitality may give rise to a conflict of interest.
- 3.3 This Policy has been made having regard to the public transparency principles at section 58 of the Act.
- 3.4 This Policy should be read in accordance with:
 - (a) Council's Employee Code of Conduct where employees are directed to be aware of and declare any actual or perceived conflicts of interest including the acceptance and/or refusal of any gifts, benefits and hospitality to ensure transparency.
 - (b) Council's Conflict of Interest Policy which sets out Council's conflicts management process in respect of 'relevant persons' making a conflict of interest disclosure in accordance with the Act.
 - (c) Council's Public Transparency Policy which sets out Council's commitment to the principles of public transparency, good governance, open and accountable conduct and making Council information publicly available subject to the Act.

- (d) Council's Disclosure of Gifts Benefits & Hospitality Guidelines which have been developed in accordance with this policy.

4. Scope

4.1 This Policy applies to:

- (a) all Council employees (including volunteers and senior executives) and contractors or consultants engaged by Council ; and
- (b) immediate family members and close associates of employees where the receipt of an applicable gift can be linked to the duties or position within Council.

5. Definitions

5.1 In this Policy:

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| Act | means the Local Government Act 2020. |
| Benefit | includes preferential treatment, privileged access, favours and other advantages and intangible benefits (e.g. an invitation to a sporting, cultural, or social event; access to a discount or loyalty program; the promise of a new job). |
| Bribe | is an offer of money or other inducement that is made with an intention to corruptly influence an employee in the performance of their duties. |
| Conflict of Interest | is when the private interests of an employee conflict with their public duty (see the definitions of 'general conflict of interest' and 'material conflict of interest' at sections 127 and 128 (respectively) of the Act and the Employee Code of Conduct). |
| Council | means Yarra Ranges Shire Council. |
| Declaration | means for the recipient of any gift, benefit or hospitality to complete and properly submit a Declaration of Gifts, Benefits & Hospitality Form (see Appendix 1). |
| Disclosable gift | has the same meaning as in the Act. |
| Disclosure of Gifts, Benefits and Hospitality Register | is a register of items declared using the Disclosure of Gifts, Benefits & Hospitality Form, be they accepted or declined. It records the date a gift was offered, information about the giver and recipient, the nature of the gift, its estimated value and how it was handled. The Register is maintained |

by the Governance Team and is protected from unauthorised changes. See Appendix 2.

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| Employee / Staff | <p>means people appointed by or representing Yarra Ranges Council and includes:</p> <ul style="list-style-type: none">• people employed directly by Council (whether full time, part time, casual or fixed term);• senior members of staff (including CEO and Directors);• volunteers with Council;• contractors or consultants engaged by Council (including contractors or consultants engaged through an employment agency); and• work experience students or graduate placements who perform work for Council. |
| Gift | <p>is a free or heavily discounted item or service. It includes hospitality or benefits that exceed common courtesy. A gift may be enduring (e.g. a work of art) or consumable (e.g. a box of chocolates) and may be offered for a range of reasons.</p> |
| Gift disclosure threshold | <p>is defined in the Act as \$500 or a higher amount or value prescribed by the regulations and is the threshold at which a gift must be automatically declined.</p> |
| Giver | <p>means a person offering or giving a gift.</p> |
| Guidelines | <p>means the Disclosure of Gifts Benefits & Hospitality Guidelines.</p> |
| Hospitality | <p>means the friendly reception and treatment of guests, ranging from offers of light refreshment at a business meeting to restaurant meals and sponsored travel and accommodation.</p> |
| Monetary gift | <p>is defined as cash, cheques, money orders, travellers' cheques, direct deposits or items which can be easily converted to cash.</p> |
| Official capacity | <p>means an employee acting in their capacity as an official representative of Council.</p> |
| Official gift | <p>is a gift received on behalf of Council at an event or function (e.g. work of art, plaque, etc).</p> |

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| Policy | means this Gifts Benefits & Hospitality Policy. |
| Reasonable | means rational and in accord with common sense. |
| Recipient | is a person who has been offered or has accepted a gift, benefit or hospitality. |
| Token gift | includes gifts, hospitality or benefits to the estimated amount or value of up to the value of \$50.00 (which is the threshold at which a gift, benefit or hospitality must be declared). |
| Value | is the estimated or actual value of a gift in Australian dollars. |

6. Gifts and benefits

- 6.1 Accepting gifts, benefits or hospitality can give the impression that an employee will favour a particular person or organisation when making decisions or taking action. This may not be the intention of the recipient or the giver, but perceptions are important.
- 6.2 The legislative regard for gifts is not confined to what would commonly be considered as 'the workplace' but extends across all settings to include gratuities received in a private capacity (e.g. weekend away, use of boat, etc).
- 6.3 A gift may be offered directly or indirectly. It may be offered directly to an employee or offered indirectly via an offer to their relative or close associate, including:
- (a) a member of their immediate family (e.g. spouse, partner, parent, sibling, child);
 - (b) a regular member of their household; or
 - (c) another close associate (e.g. friend, relative, business partner).
- 6.4 All reasonable steps must be taken to ensure that immediate family members of employees do not receive gifts or benefits that could be perceived to be an attempt to influence the behaviour of the employee in question.
- 6.5 Participating in business related functions during the performance of official duties, including attending lunches or other meals, are acceptable where the function has an underlying business purpose, will enhance business relationships/partnerships, offers a developmental opportunity and is not excessive.
- 6.6 All gifts and benefits above the individual or cumulative¹ value of \$50 must be declared using the Declaration of Gifts, Benefits & Hospitality Form regardless

¹ Refer to section 8 of this policy in regards to repeat or multiple offers.

of them being accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register. Any gift (with the exception of official gifts) with a value of or in excess of the gift disclosure threshold must be declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.²

Token Gifts

- 6.7 Gifts of a token value may be accepted provided they do not create a real or perceived sense of obligation that may lead to a perception of preferential service.
- 6.8 Such gifts may be accepted without declaration only when:
- (a) acceptance would not cause any potential perceived or actual compromise; or conflict of interest;
 - (b) the gift has a monetary value of less than \$50; and
 - (c) the gift is offered on a one-off basis and is not a regular occurrence.
- 6.9 Examples of token gifts may include:
- (a) gifts of single bottles of wine (or other alcohol), a bouquet of flowers or a box of chocolates at end of year functions, public occasions or in recognition of work done;
 - (b) free or subsidised meals of a modest nature and/or beverages provided to employees who formally represent Council at official functions and events;
 - (c) souvenirs and mementos of a modest nature e.g. ties, scarves, coasters, tie pins, pens, diaries, notepads, key rings, chocolates, flowers and small amounts of beverages
 - (d) invitations to attend out of hours events or social functions organised by groups, such as community organisations
 - (e) door prizes at conferences, trade shows, etc. (depending upon their value – see paragraphs 6.11 – 6.14).
- 6.10 All offers of token gifts above the individual or cumulative³ value of \$50 must be declared by completing the Declaration of Gifts, Benefits & Hospitality Form regardless of them being accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

Door prizes at conferences

- 6.11 Entry into a competition or draw for holding a ticket or from providing a business card whilst attending a seminar, conference or workshop may result in employees receiving a prize varying in value from token, to more significant value.
- 6.12 Examples of such prizes may include:
- (a) food hampers or bottles of liquor;
 - (b) tickets to events such as another seminar/conference/workshop or to an arts or sporting event; or

² Refer to section 14 of this policy in regards to gifts in excess of the gift disclosure threshold and conflicts of interest.

³ Refer to section 8 of this policy in regards to repeat or multiple offers.

(c) electronic goods (e.g. TV, tablet, audio device).

6.13 Such prizes may be accepted without declaration only when:

- (a) acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- (b) the prize has a monetary value of less than \$50; and
- (c) the prize is offered on a one-off basis and is not a regular occurrence.

6.14 All prizes above the individual or cumulative⁴ value of \$50 must be declared by completing the Declaration of Gifts, Benefits & Hospitality Form regardless of them being accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

Official Gifts

6.15 Employees may be involved in social, cultural or community events where official gifts are presented or exchanged. Such gifts may be enduring, such as a work of art, or consumables and can range in value from token gifts to gifts of significant value.

6.16 In circumstances where it would be impolite or inappropriate to decline the gift, it is reasonable for this to be accepted on behalf of the Council.

6.17 All official gifts received are to be reported to the employee's Manager or, for Managers and Directors, to the Chief Executive Officer and a Declaration of Gifts, Benefits & Hospitality Form must be completed. The official gift will be recorded in the Disclosure of Gifts Benefits & Hospitality Register.

6.18 The gift will be considered the property of Council, and where suitable, the gift will be displayed in an appropriate and secure location for public viewing.

6.19 Where an item is not suitable for public display, the employee can make an application to the Chief Executive Officer to retain the gift. The Chief Executive Officer will consider such applications on a case by case basis and will use their discretion as to the appropriate disposal/utilisation of the official gift. The retention of the official gift will be recorded in the Disclosure of Gifts Benefits & Hospitality Register.

Monetary gifts

6.20 The acceptance of monetary gifts of any amount is not acceptable and must be declined and reported to the Chief Executive Officer or the relevant Director at the earliest opportunity.

6.21 Offers of bribes, commissions or other irregular approaches from an individual or organisation should be immediately brought to the attention of the Chief Executive Officer.

6.22 All offers of monetary gifts, bribes, commissions or other irregular approaches should be declared using the Declaration of Gifts, Benefits & Hospitality Form and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

⁴ Refer to section 8 of this policy in regards to repeat or multiple offers

Benefits

- 6.23 Benefits offered may not be in the form of a physical gift, however could still create the impression that an attempt is being made to compromise the impartiality of the employee, or could be perceived as a conflict of interest.
- 6.24 Examples of benefits include:
- (a) preferential treatment;
 - (b) privileged access;
 - (c) favours;
 - (d) other advantages and immaterial benefits (e.g. an invitation to a sporting, cultural, or social event; access to a discount or loyalty program; the promise of a new job).
- 6.25 Such benefits may be accepted without declaration only when:
- (a) acceptance would not cause any actual, potential or perceived conflict of interest;
 - (b) the benefit has a monetary value of less than \$50; and
 - (c) the benefit is offered on a one-off basis and is not a regular occurrence.
- 6.26 All offers of benefits above the individual or cumulative⁵ value of \$50 must be declared using the Declaration of Gifts, Benefits and Hospitality Form regardless of them being accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

7. Hospitality

- 7.1 Employees, when acting in an official capacity, will from time to time receive invitations of hospitality to attend various functions and events.
- 7.2 Where hospitality provides an opportunity to network, or undertake business of a common purpose, it may be appropriate to accept such invitations.
- 7.3 Reasonable hospitality received at an event or function attended in an official capacity as an employee is not considered as being a conflict of interest under the Act. However, this does not negate the need for any such hospitality to be recorded in the Disclosure of Gifts Benefits & Hospitality Register.
- 7.4 Offers of hospitality must be declined if acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the employee, or could be perceived as a conflict of interest.
- 7.5 All offers of hospitality above the individual or cumulative⁶ value of \$50 must be declared using the Declaration of Gifts, Benefits and Hospitality Form regardless of them being accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

⁵ Refer to section 8 of this policy in regards to repeat or multiple offers.

⁶ Refer to section 8 of this policy in regards to repeat or multiple offers

8. Gift disclosure threshold and multiple or repeat offers of gifts, benefits or hospitality

- 8.1 If accepted, multiple or repeat offers of gifts, benefits or hospitality from a single source (organisation or person) are likely to create the impression that an attempt is being made to compromise the impartiality of the employee. To avoid the perception of a conflict of interest, these should be declined.
- 8.2 Multiple or repeat offers from a single source, when added together may exceed the gift disclosure threshold. Where this occurs within a five year period, these gifts constitute a 'disclosable gift' within the meaning of the Act and will likely lead to a conflict of interest.
- 8.3 Instances of multiple or repeat offers from a single source (organisation or person) with an individual or cumulative value of more than \$50 must be declared using the Declaration of Gifts, Benefits & Hospitality Form and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

9. Soliciting gifts, benefits or hospitality

- 9.1 Employees must not seek or solicit gifts, benefits or hospitality for themselves or anyone else, in any form, in their role as an employee.

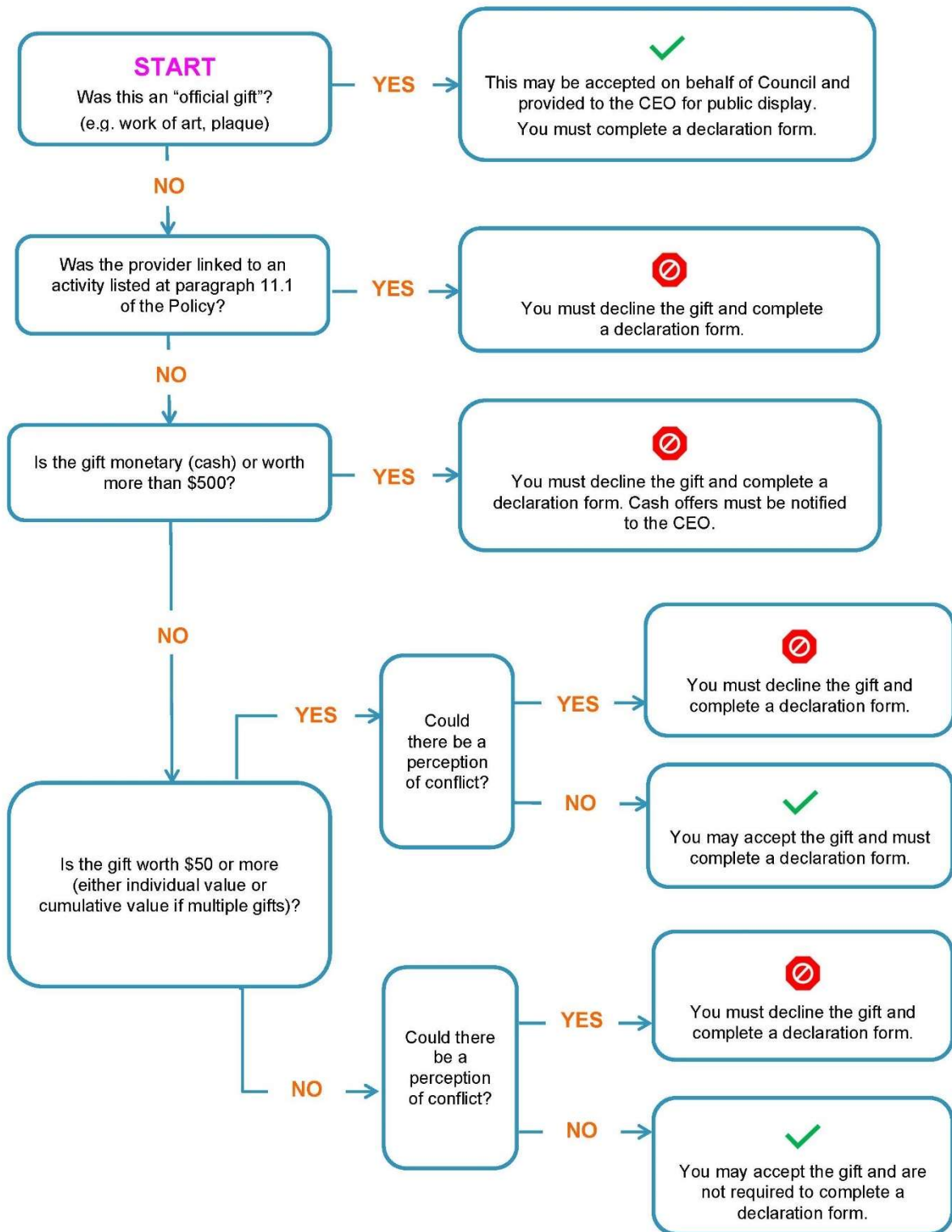
10. Gifts, benefits and hospitality: suppliers and contractors

- 10.1 No gift, benefit or hospitality from any actual or potential supplier or contractor shall be accepted or solicited.
- 10.2 All offers received from an actual or potential supplier or contractor during the procurement process must be declared using the Declaration of Gifts, Benefits & Hospitality Form regardless of their actual or assumed value and recorded in the Disclosure of Gifts Benefits & Hospitality Register.

11. Should I accept or decline the offer of a gift, benefit or hospitality?

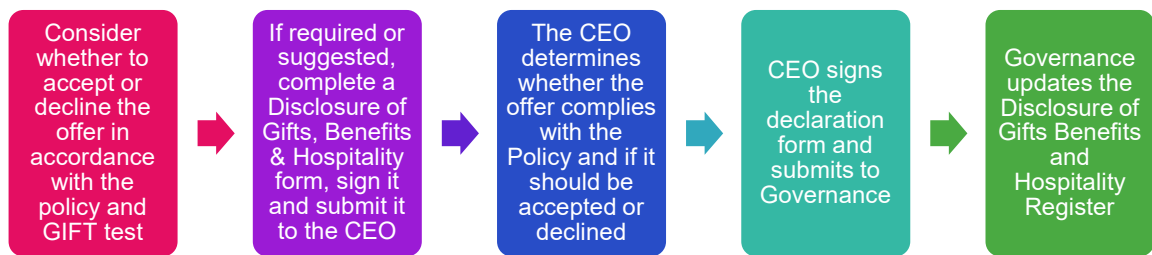
- 11.1 All offers of gifts, benefits or hospitality must be declined when made by any source (organisation or person, directly or indirectly) in respect of whom the employee is likely to make or influence a decision in the context of:
- Policy decisions;
 - Procurement and tender processes;
 - Applications of any kind (e.g. permits, grants, exemptions, etc);
 - Enforcement (e.g. local laws); and
 - Legal proceedings.
- 11.2 Use the following 'Gift Decision Tree' in Figure 1 to step through the decision process when offers of gifts, benefits and hospitality are made.

Figure 1 – Gift Decision Tree



12. Employee Disclosure of Gifts, Benefits and Hospitality Register

- 12.1 The Disclosure of Gifts Benefits & Hospitality Register is a record of all relevant offers of gifts, benefits and hospitality, whether accepted or declined. The purpose of the register is to promote transparency in Council decision making.
- 12.2 All offers of gifts, benefits or hospitality above the individual or cumulative⁷ value of \$50 must be declared regardless of whether the offer is accepted or declined and recorded in the Disclosure of Gifts Benefits & Hospitality Register.
- 12.3 To make a declaration, employees should:



- 12.4 A completed Disclosure of Gifts, Benefits & Hospitality Form must be submitted as soon as reasonably practicable but no more than 14 days after the receipt or offer of the gift, benefit or hospitality was made.
- 12.5 The Governance Team will be responsible for recording the details of any declaration made in the Employee Disclosure of Gifts, Benefits and Hospitality Register once a completed disclosure form is received. The Register will be available for public inspection and may be published to Council's website.

13. Conflict of interest

- 13.1 Any gifts or hospitality with an individual or cumulative value equal to or exceeding the gift disclosure threshold, received from one source within a five-year period, is a disclosable gift under the Act and will likely give rise to a conflict of interest.
- 13.2 It is the responsibility of employees to identify when a conflict of interest may be incurred and to declare it in accordance with the Act⁸ or the Employee Code of Conduct (as applicable). Employees have a duty to always resolve a conflict in the public's interest, not their own. Employees must therefore avoid conflicts of interest, and if this is not possible, disclose, manage and monitor them appropriately.
- 13.3 If a gift of lesser value may be perceived as influential to decision making, then it is best to declare a conflict of interest.
- 13.4 Employees may be required to excuse themselves from any decision making in relation to a matter where they have identified a conflict of interest.

⁷ Refer to section 8 of this policy with regards to repeat or multiple offers.

⁸ In accordance with [section 130 of the Local Government Act 2020](#)

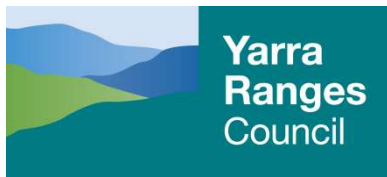
14. Breaches of this Policy

- 14.1 Where an employee fails to comply with this policy, the issue shall be dealt with in accordance with the [Employee Code of Conduct](#)⁹.

15. Administrative amendments

- 15.1 From time to time, circumstances may require minor administrative or consequential amendments to be made to this Policy. Where such an amendment does not materially alter the Policy, this may be made administratively under delegation of the Chief Executive Officer.
- 15.2 Any amendment which materially alters the Policy must be approved by resolution of Council.

Appendix 1 – Disclosure of Gifts, Benefits & Hospitality Form



DISCLOSURE OF GIFTS BENEFITS & HOSPITALITY

1. **Recipient Name:**

2. **Position in Council:**

3. **Date gift/hospitality was received:**

4. **Name of individual/group company/providing gift:**

5. **Nature of gift or consideration:**
(please provide a brief description)

6. **Approximate value of gift:** \$ NOTE: Please provide evidence of value wherever possible.

7. **Offers have previously been received from this individual/group/company:** (please tick / circle)
 Yes No

| | |
|--|--|
| <p>8. Action taken (tick all applicable):</p> <p><input type="checkbox"/> Accepted (Go to 9) →</p> <p><input type="checkbox"/> Declined</p> <p><input type="checkbox"/> Returned (date:.....)</p> | <p>9. If the gift was “Accepted” please tick</p> <p><input type="checkbox"/> Retained by a recipient</p> <p><input type="checkbox"/> Retained on behalf of Council †</p> <p><input type="checkbox"/> Donated (provide details at 10)</p> |
|--|--|

10. **Other (state):**

11. **Additional comments (i.e. reason for gift, details of donation etc):**

Recipient’s Signature: **Date:**

CEO Signature: **Date:**

†If the gift is retained on behalf of Council, it must be given to the CEO (or delegate).

Please forward this form to Governance

Note: this form will be filed securely and retained for a period of 5 years, at which time it will be destroyed

