

Gifts, Benefits and Hospitality Policy

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1. POLICY OBJECTIVE (OR PURPOSE)

This policy ensures that Council staff have clear guidance relating to when offers of gifts, benefits or hospitality may be accepted and when they must be declined.

Greater Dandenong City Council (Council) is committed to being honest, open, and transparent in its operations and decision-making processes and strives to promote trust and goodwill within the community

The purpose of this policy is to provide guidance to Council staff on the ethical considerations and procedures involved in the acceptance and declaration of gifts, benefits or hospitality offered to them in the course of their duties with Council.

This policy ensures that Council staff have the necessary information to enable them to take accountability for their actions and sets out the methods and procedures available so the recipient can make decisions which are beyond reproach and can withstand audit processes and public scrutiny.

2. BACKGROUND

Section 49(2) of the Local Government Act 2020 states that a code of conduct for members of Council staff must include a policy that contains:

- a) A requirement for members of Council staff to disclose all gifts above a specified level; and
- b) Provisions providing for disclosed gifts to be recorded in a gift register.

It is common for Council staff to be offered gifts or hospitality as a thank you for good service, a job well done or fostering new or long-standing working relationships. However, it is important that the gesture of giving gifts or providing hospitality is not perceived to be, or result in, a form of unethical behaviour or one which may lead to an actual or perceived conflict of interest in a Council matter.

3. SCOPE

This policy applies to all gifts, benefits or hospitality offered to Council staff received from external sources regardless of whether the gift is accepted or declined. It also applies where the benefit has been issued in the context of a 'loan'.

This policy excludes gifts, benefits or hospitality awarded to staff through the employee rewards and recognition program.

For the purpose of this policy the reference to Council staff includes:

- fulltime, part time and casual employees including permanent and temporary appointments.
- contractors and agency personnel; and
- volunteers.

Council's Staff Code of Conduct includes detailed information relating to identifying and disclosing a conflict of interest and this policy should be read in conjunction with the Code.

4. DEFINITIONS

Unless otherwise specified within the policy, the following words, and phrases below are defined to mean the following in terms of this policy.

Benefit	Something which is believed to be of value to the receiver, such as preferential treatment, privileged access at an event, access to confidential information, personal services or any type of favour/advantage offered. Examples of benefits could include, but are not limited to, a promise of a new job, access to loyalty programs, gym memberships or access to discounts that others are not privy to.
Bribe	Money or other inducement given or promised made with the intention to influence the judgment or conduct of a member of Council staff. Bribery and/or attempted bribery of a public official is a criminal offence.
Ceremonial Gift	A gift received as part of the culture and practices of communities and government usually provided when conducting business with official delegates or representatives from another organisation or community. A Council staff member receiving a ceremonial gift is doing so on behalf of Council and must provide the gift back to Council to register it.
Conflict of Interest	Division 2 of the <i>Local Government Act 2020</i> requires relevant persons (member of Council staff) to declare general or material conflicts of interest. A conflict of interest is a conflict between a relevant person's public duty to act in the best interest of the Council and their private interests (financial or non-financial). A conflict exists whether it is: • Real – it currently exists. • Potential – it may arise, given the circumstances. • Perceived – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their Council duties, now or in the future.
Council staff	includes fulltime, part time and casual employees including permanent and temporary appointments; contractors and agency personnel; and volunteers.
Gift	Under section 3 of the <i>Local Government Act 2020</i>, a gift is defined as any disposition of property otherwise 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. To support this definition, a gift is anything of monetary or other value that is offered by an external organisation or individual to a member of Council staff as a result of their role in Council. A gift is given voluntarily without payment or compensation and is meant to convey a feeling of goodwill on behalf of the giver where there is no

expectation of favours or repayment in return. Examples of gifts include, but are not limited to, wine, gift vouchers, jewellery, clothing, door or raffle prizes if that individual has not paid to attend, chocolates, desk calendars, personal and other services (such as painting or repairs), commemorative objects or hampers.

Door and raffle prizes received at functions or conferences are not considered a gift if the individual has personally paid for their attendance or where the individual has personally paid for the raffle ticket.

Souvenirs received from a company when attending a seminar or conference for which a fee was paid such as pens, workbooks, ties, and promotional items are not perceived as gifts under this policy.

Small gestures of kindness from members of the community such as, but not limited to cut flowers from a garden, homemade or home-grown goods are not considered gifts under this policy.

Gift Disclosure Threshold

Section 3 of the *Local Government Act 2020* states the gift disclosure threshold at \$500 or a higher amount or value prescribed by the regulations. If multiple gifts are received from one person or organisation, they must be treated as a single gift with an aggregate value.

Hospitality

The friendly reception and entertainment of guests with the provision of food or beverages, which may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation. Hospitality is offered to convey goodwill on behalf of the giver where there is no expectation of favours or repayment in return. Hospitality is considered a gift if it is common courtesy, reasonable and is attended in an official Council capacity.

Hospitality that exceeds common courtesy and reasonableness would include, but is not limited to:

- a fine dining lunch or dinner at a restaurant paid for by another person or organisation or held on its premises; or
- an offer to pay for a working lunch at a café; or
- an offer of a free spot on a golf weekend on the Mornington Peninsula.

Hospitality that **does not** exceed common courtesy and reasonableness would include, but is not limited to:

- sandwiches and pastries over a lunchtime meeting; or
- a cup of coffee and biscuits at another organisation; or
- a cup of coffee at a café.

Loan

Something granted for temporary use on the condition of it being returned. A loan includes significant resources, equipment, assets or similar, which the recipient has not received in the context of it being required to perform their duties with Council. An example of a loan includes, but is not limited to, the use of a vehicle (which is not issued in accordance with Council's policies and processes). Loans of money or funds are not allowed to be accepted under any circumstances.

Personal Services	Could include any service that is provided from any person or business including, but not limited to, any trade services such as plumbing or painting, medical services, real estate services, consultancy services, legal services, building services or architectural services.
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5. POLICY

5.1 WHEN CAN A GIFT, BENEFIT OR HOSPITALITY BE ACCEPTED?

A gift, benefit or hospitality may be accepted for cultural, protocol or business relationship purposes (subject to the restrictions noted in this policy) or where it has been offered in an honorarium form unless the value warrants it being considered a conflict of interest (see Section 5.6).

If offered, a gift, benefit or hospitality, Council staff must always consider whether or not it is appropriate to accept the offer. Issues to consider when accepting a gift, benefit or hospitality include why the offer was made and the public perception of the acceptance.

Council staff who are unsure about accepting a gift or hospitality should seek advice from the Manager Governance.

5.2 WHEN SHOULD GIFTS, BENEFITS AND HOSPITALITY BE DECLINED?

Gifts, benefits, or hospitality should not be accepted from any person or organisation where the gift causes a conflict of interest. This includes where the gift is above a certain value and as such warrants it being considered a conflict of interest in itself i.e., the value of the one gift is over the threshold of a total of \$500 (see also sections 5.3, 5.6 and Appendix 2) for further information to determine whether a gift could cause a conflict of interest.

Recipients of gifts can establish their approximate value without enquiring with individual givers allowing a total value to be determined for the purpose of the cumulative threshold of \$500 over a five-year period.

Careful consideration should always be given before acceptance of a gift from external organisations or individuals involved in:

- tender processes.
- procurement.
- enforcement and regulation.
- leasing or licensing; and
- recruitment and selection.

Where there is any doubt as to whether a gift, benefit or hospitality should be accepted, such offers should be politely declined. To reduce the possibility of causing offence, staff are encouraged to refer to this policy and the importance of transparent and ethical behaviours.

Gifts that constitute or may be construed to be a bribe or any form of bribery should be refused and reported immediately to Council's Public Interest Disclosures Coordinator. Details of Council's Public Interest Disclosures Coordinator are available on Council's website.

Gifts involving an offer of money or anything that can readily be changed or converted to money must never be accepted and must be immediately reported to the Manager Governance.

5.3 WHAT IS THE GIFT TEST?

The following table 'The Gift Test' was developed by the Victorian State Services Commission and is a good example of what to think about when deciding to accept or decline a gift, benefit, or hospitality.

G	Giver	Who is providing the gift, benefit, or hospitality and what is their relationship to me? 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?
I	Influence	Are they seeking to influence my decision or actions? 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?
F	Favour	Are they seeking a favour in return for the gift, benefit, or hospitality? Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?
T	Trust	Would accepting the gift, benefit or hospitality diminish public trust? How would you feel if the gift, benefit, or hospitality became public knowledge? What would my colleagues, family, friends, or associates think?

5.4 HOW SHOULD GIFTS, BENEFITS AND HOSPITALITY BE REPORTED AND RECORDED?

Any gift, benefit or hospitality, regardless of value, which is offered by an external person or organisation, whether accepted or declined, must be promptly reported to the Governance Unit using the Gift Declaration Form (Appendix 2) which is also available on [The Source](#) (Council's Intranet facility).

In line with this policy, individuals must complete forms whenever they are offered or are the recipient of gifts, benefits or hospitality from external persons or organisations. Governance will alert individuals when their five-year running totals near the \$500 threshold to assist them to remain within the boundaries of s 128(4) of the *Local Government Act 2020* (see section 5.6 below).

Managers can be copied into these alerts for information to assist staff members to ensure that gifts, benefits or hospitality offered to the department as a whole are being monitored appropriately. Managers are also responsible to report gifts, benefits and hospitality offered to the department when a recipient is not nominated.

The value of the gift is not the only aspect that must be considered under this policy. I don't think this is very well worded.

5.5 EXEMPTIONS

Promotional products such as pens, diaries, show bags etc. that are given as part of a conference, seminar, workshop, or official function/event are exempt from this policy.

Meals or refreshments provided as part of a conference, seminar or workshop or an official function/event are exempt from this policy.

Local departmental guidelines provide support and guidance for unique circumstances. For example, local guidelines for Community Care Workers were developed to support them in understanding the nature of gifts that do not need to be declared, i.e., Plant cuttings, homemade baked goods. Governance can provide guidance to managers to assist them in developing and updating these. Governance and department managers will work together to determine appropriate exemptions and parity between departments in these guidelines. Governance will review and approve proposed guidelines (including updates) to ensure compliance with this policy and the *Local Government Act 2020*.

5.6 CONFLICTS OF INTEREST

The following will give rise to an individual having a conflict of interest to declare in accordance with s 128(4) of the *Local Government Act 2020*.

- any gift, benefit or hospitality valued at \$500 or more; or
- any gifts, benefits or hospitality accumulated to \$500 or more from one source, over a five-year period preceding any matter pertaining to the gifter.

5.7 FRAUDULENT RECEIPT OF GIFTS

If a Council staff member believes they have been offered a bribe, it is important that they immediately act to minimise any potential for negative consequences by contacting Council's Public Interest Disclosure Coordinator, who will investigate the matter under the *Public Interest Disclosures Act 2012*.

Council staff must be aware that fraudulently receiving a gift, benefit or hospitality is an offence under both common law and the *Local Government Act 2020*.

5.8 CULTURAL/OFFICIAL GIFTS

On occasions, Council staff members may be involved in social, cultural or community events where significant gifts of appreciation or goodwill are offered to Council. In circumstances, where it would appear to be impolite or inappropriated to decline the offer, it is reasonable for Council staff members acting in an official capacity to accept such gifts on behalf of Council.

All cultural/official gifts accepted on behalf of Council must be recorded in Council's Staff Gift Register. The gift will be considered the property of the Greater Dandenong City Council. Council will endeavour to ensure the gift is used with the intent in which it was given.

Small or token cultural gifts (i.e., Key ring, necktie, scarf) offered to individuals may be accepted by the individual, and in accordance with this policy promptly reported to the Governance Unit using the Gift Declaration Form (Appendix 2) which is also available on [The Source](#) (Council's Intranet facility).

5.9 RAFFLE PRIZES AND DOOR PRIZES

In all instances the recipient of a prize from an external person or organisation must complete a Gift Declaration Form (Appendix 2). This includes when the person has attended an event during paid hours, as they are acting as a representative of Council

If a Council staff member is uncertain, they can discuss with the Manager, Governance who will determine if it is acceptable for them to keep the gift.

Circumstances in which a person is entitled to keep the prize is where personal payment has been made for the attendance/registration fee at the function/seminar/event or raffle ticket that wins a prize unless a conflict of interest may still occur – refer to the GIFT test (above) and ‘What should I do when I receive a Gift’ section (below).

5.11 EXAMPLES OF ACCEPTABLE AND UNACCEPTABLE GIFTS

Gift	Acceptable	Inappropriate
	Small thankyou gifts or token items: • Box of chocolates • Flowers • Bottle of wine • Stationary • Diary or calendar • Book • Mug	• Money or cash • Gift vouchers • Gifts of high value • Random travel/accommodation offers • Frequent gifts from same source • Gifts from a company during the procurement process <i>Note - that a Gift Declaration Form should always be completed whether the gift is received or declined.</i>
Hospitality	Acceptable	Inappropriate
	• Refreshments (tea/coffee) • Working lunches/dinners • Meals at conference or seminar	• Attendance at lavish events • Travel and accommodation not related directly to Council activities • Frequent invitations from the same source • Entertainment from a company during the procurement process <i>Note - that a Gift Declaration Form should always be completed whether the gift is received or declined.</i>

5.11 DECLARING A GIFT

A register for Gifts, Benefits and Hospitality is maintained by the Governance Unit and under the Council’s Public Transparency Policy is available for public inspection.

Any Council staff member offered a gift, benefit or hospitality is required to complete a ‘Gift Declaration Form (see Appendix 2) and submit it to the Governance Unit in a timely manner as part of Council’s commitment to open and accountable governance and to meet the necessary requirements of the *Local Government Act 2020*.

6. RESPONSE TO THE OVERARCHING GOVERNANCE PRINCIPLES OF THE LOCAL GOVERNMENT ACT 2020

Section 9 of the *Local Government Act 2020* states that Council, in the performance of its role, gives effect to the overarching governance principles. This policy considers and responds to the overarching Governance principles by:

- complying with the relevant law.
- giving priority to achieving the best outcomes for the municipal community, including future generations. This policy ensures that, in relation to the receipt of gifts, Council staff are compliant, act with integrity and act in the best interests of Council and the community;
- considering the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks (section 9(c) of the Act). While this policy has no impact on the economic and social sustainability of the municipal district, it has considered climate change and sustainability in its preparation (see section 9 of this policy);
- pursuing innovation and continuous improvement is to be pursued. This policy has provision for evaluation, monitoring, and review (see section 11 of this policy); and
- ensuring the transparency of Council decisions, actions, and information through the enactment of this policy.

In giving effect to the overarching governance principles, a Council must also take into account the community engagement principles (section 56 of the Act), the public transparency principles (section 58 of the Act), the strategic planning principles (section 89 of the Act), the financial management principles (section 101 of the Act), and the service performance principles (section 106 of the Act).

While it is crucial that Council decisions are transparent and open to scrutiny, there is no specific legislative requirement for this particular internal and administrative policy to be subjected to a community engagement process. This policy operates in conjunction with Council's Public Transparency Policy and Conflicts of Interest Policy. It has no financial impact on Council and the resources required to manage and administer it are allocated from existing resource budgets.

7. VICTORIAN HUMAN RIGHTS AND RESPONSIBILITIES CHARTER 2006 – COMPATIBILITY STATEMENT

The *Victorian Charter of Human Rights and Responsibilities Act 2006* has been considered in relation to whether any human right under the Charter is restricted or interfered with in anyway by enacting any part of this policy. It is considered that this policy is consistent with the rights outlined in the Charter.

8. RESPONSE TO THE GENDER EQUALITY ACT 2020

The *Gender Equality Act 2020* has been considered in the preparation of this policy but is not relevant to its contents as it is purely administrative in nature and does not benefit any one gender group over any other.

9. CONSIDERATION OF CLIMATE CHANGE AND SUSTAINABILITY

This policy has no impact on Council's Declaration of a Climate and Ecological Emergency, Council's Climate Change Emergency Strategy 2020-2030, or the requirements of the *Local Government Act 2020* in relation to the overarching Governance principle on climate change and sustainability. The protective and administrative measures in this policy do not affect the natural environment and do not seek to change any built environment. Council staff will have access to electronic formats of both the policy and the Gift Declaration Form.

10. RESPONSIBILITIES

10.1 DISCLOSURE OBLIGATIONS OF COUNCIL STAFF

The *Local Government Act 2020* dictates that member of Council staff are required to disclose all gifts in accordance with this policy and that all disclosed gifts must be recorded in a gift register.

10.2 COUNCIL STAFF GIFTS REGISTER

The Governance Unit will maintain the Council Staff Gifts Register for all gift declarations made by members of Council staff. Governance will alert any member of Council staff when any aggregate amounts become close to the gift disclosure threshold.

All gifts accepted or declined will be included in the Register. The Register will also contain:

- a description of the gift and its estimated value;
- the name of the gift giver;
- what was done with the gift (was it retained by the member of Council staff, provided to Council, declined);
- gift offers from suppliers (irregular approaches from suppliers) when advised.

Consideration will be given to maintaining reasonable confidentiality in situations where public disclosure will prejudice council business transactions or breach privacy considerations.

10.3 PEOPLE, CULTURE AND INNOVATION

Organisational Development is responsible for ensuring that the Gifts, Benefits and Hospitality Policy for Council staff is incorporated within the Staff Code of Conduct as required under s 49 of the Local Government Act 2020.

Organisational Development, with the support of the Governance Unit, will ensure that Council staff are regularly made aware of their obligations under this policy through awareness activities and reporting mechanisms.

11. REPORTING, MONITORING AND REVIEW

This policy incorporates recommendations from the Independent Broad-Based Anti-Corruption Commission's (IBAC's) *Local Government Integrity Frameworks Review, March 2019*. The recommendations of this review were further endorsed by IBAC's *Managing Corruption Risks Associated with Conflicts of Interest in the Victorian Public Sector, October 2019*.

This policy is also consistent with the Department of Environment, Land, Water and Planning *Model Policy on Gifts, Benefits and Hospitality, June 2019*.

The Council Staff Gifts Register will be monitored by the Manager Governance to identify any systemic patterns of gifts offered and accepted.

The Council Staff Gifts Register will be reported quarterly to the Executive Team if required and annually to the Audit and Risk Committee.

12. REFERENCES AND RELATED DOCUMENTS

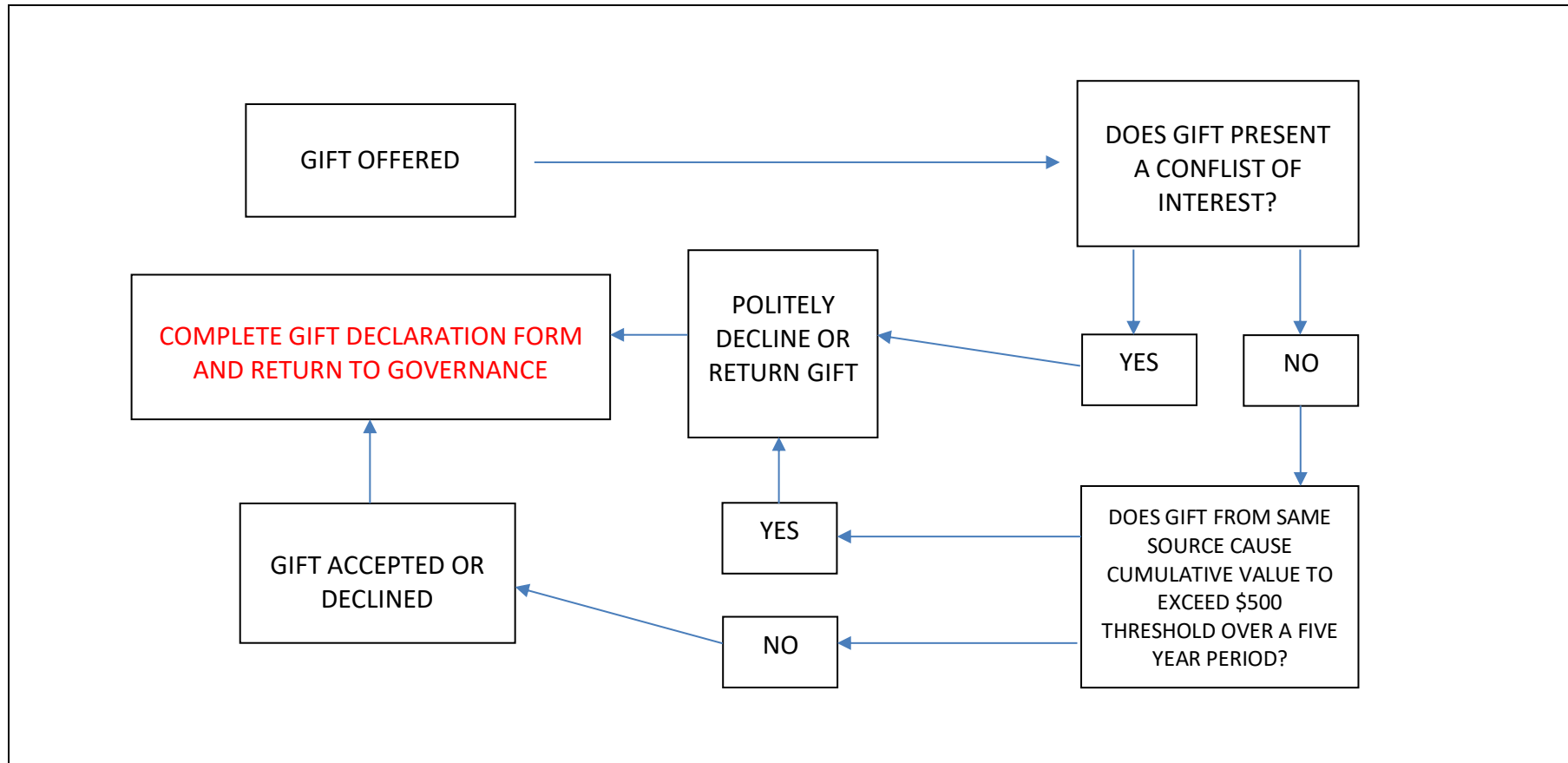
Legislation and References

- *Charter of Human Rights and Responsibilities Act 2006*
- *Crimes Act 1958*
- *Gender Equality Act 2020*
- *Local Government Act 2020*
- *Local Government Integrity Frameworks Review, March 2019* - Independent Broad-Based Anti-Corruption Commission
- *Local Government (Governance and Integrity) Regulations 2020*
- *Managing Corruption Risks Associated with Conflicts of Interest in the Victorian Public Sector, October 2019* - Independent Broad-Based Anti-Corruption Commission
- *Privacy and Data Protection Act 2014*
- *Public Interest Disclosures Act 2012*

Related Council and Other Policies, Procedures, Strategies, Protocols, Guidelines (in alpha order)

- [Greater Dandenong City Council Local Department Gifts, Benefits and Hospitality Guidelines.](#)
- [Greater Dandenong City Council Procurement Policy](#)
- [Greater Dandenong City Council Staff Code of Conduct](#)
- [Greater Dandenong City Council Staff Gift Register](#)
- Greater Dandenong City Council Volunteer Code of Conduct
- [Greater Dandenong City Council Working from Home Policy and Guidelines](#)

13. APPENDIX 1 – FLOW CHART FOR CONSIDERING AN OFFERED GIFT



14. APPENDIX 2 – GIFT DECLARATION FORM



GIFT DECLARATION FORM (COUNCIL STAFF)

The information contained on this form will be included in the Council Staff Gifts Register. The Register is available for public inspection upon request.

GIFT DETAILS

Name of receiver: _____

Date gift, benefit or hospitality (gift) offered: _____

Date gift received (if different): _____

Name of individual or organisations offering gift: _____

Nature of gift - please provide a brief description:

Approximate value of gift (best estimate): _____

DISPOSAL OF GIFT

Please advise if the gift was accepted, accepted and then returned, accepted and donated to a person or an organisation, declined or provided to Council for its archives - please be specific.

Completed by: _____

Signature: _____

Date received by Governance: _____