

Operational Procedure

18.9A – GIFTS, BENEFITS AND HOSPITALITY PROCEDURE

This procedure relates to Council policy 18.9 – Gifts, Benefits and Hospitality.

PURPOSE

This procedure sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. It also details the maintenance of the internal and public Gifts, Benefits and Hospitality registers.

SCOPE

This procedure applies to all workplace participants. For the purpose of this policy, this includes: the Mayor, Deputy Mayor, Councillors, executives, employees and any individuals or groups undertaking activity for or on behalf of Colac Otway Shire Council.

DEFINITIONS

This procedure relies on the definitions in 18.9 Gifts, Benefits and Hospitality Policy.

REFERENCES

18.9 Gifts, Benefits and Hospitality Policy

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020 (S.R. No. 116/2020)

Independent Broad-based Anti-corruption Commission (IBAC) Act 2011

Victorian Public Sector Commissions Gifts, Benefits and Hospitality framework policy guide (June 2018)

PROCEDURE

Step 1: Determine the type of offer

Offers fall into four categories: offers of goodwill, token offers, non-token offers and ceremonial gifts.

Offers of goodwill

Examples of offers of goodwill are:

- small gestures of appreciation from a community member or customers/clients such as flowers cut from a person's garden or homemade baked goods



- a souvenir received from a person or company as a result of attending a seminar or conference, conducted or sponsored by them, for which an appropriate fee was paid to attend. For example pens or mugs
- small gestures of appreciation (ie box of chocolates) from a client or from a person or company as a result of presenting at an external event.
- offers of goodwill are values of under \$30.

Token offer

A token offer is a gift, benefit or hospitality that is of inconsequential value to both the person making the offer and the recipient. Token offers must be worth less than \$50.

Non-token offer

A non-token offer is a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. Non-token offers are worth \$50 or more.

Ceremonial Gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government. Ceremonial gifts are the property of the public sector organisation, irrespective of value.

Step 2: Determine whether to decline or accept an offer

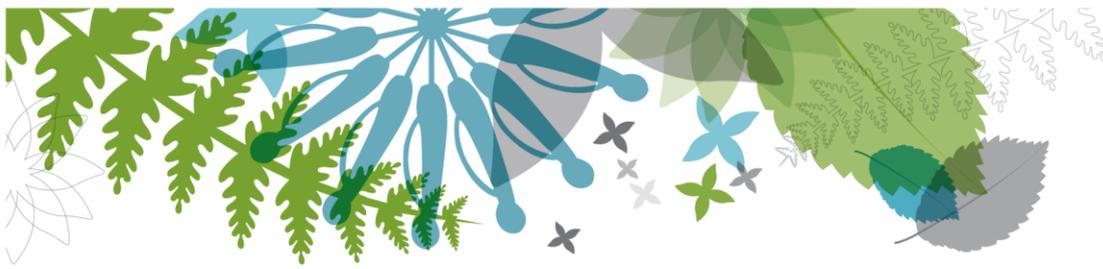
Use the flowchart on page 6 to determine if you should decline or accept an offer.

In general terms, the following offers must **not** be accepted:

- cash or equivalent (eg gift cards)
- offers that would give rise to an actual, potential or perceived conflict of interest
- offers from a current or potential supplier or contractor
- bribes or inducements
- offers that may adversely affect their standing as a public official or which may bring the Colac Otway Shire into disrepute
- Section 137 of the *Local Government Act 2020* imposes additional requirements on Councillors in relation to anonymous gifts. Essentially a Councillor must not accept, directly or indirectly, a gift which is equal to or exceeds the gift disclosure threshold unless the name and address of the person making the gift are known to the Councillor and the Councillor reasonably believes the name and address are true and correct.

When determining whether to decline or accept an offer, consider the following:

- Do you feel that anything is expected from you in return for the offer? If the answer is yes, do not accept the offer.
- If the offer is repeated from the same source to the same individual, treat it as a trigger for strong consideration as to whether the offer is seeking to gain influence.



- If the offer is of hospitality, is it of a standard and type that an independent observer would consider appropriate and not excessive and is it clear that you are attending the function or event as part of your duty and role at the Council? If the answer is no, do not accept the offer.

The following offers may be accepted:

- offers of goodwill (under \$30)
- token offers from clients (under \$50)
- token or non-token offers with a legitimate business benefit (ie networking, promotion of shire etc)
- ceremonial gifts may be accepted on behalf of the organisation if non-acceptance may cause offence or embarrassment.

Step 3: Declining or accepting an offer

Having decided to decline an offer, you must advise the person who made the offer that you are declining it.

When declining offers, to avoid the possibility of offence, the simplest explanation may be to advise that you are unable to accept the offer under Council's *Gifts, Benefits and Hospitality Policy*.

Pre-approval of whether an offer has a legitimate business benefit must be obtained prior to accepting a non-token offer, in accordance with the table below.

Person receiving the offer	Pre-approval required from
Officer	Relevant Manager
Manager	Relevant General Manager
General Manager	CEO
CEO	Mayor
Councillors	CEO

Step 4: Declaring offers

To declare an offer, complete the Gift, Benefits and Hospitality Declaration form and submit it to Governance.

Offers of goodwill

You are not required to declare offers of goodwill (under \$30).

Token Offers

You must declare all accepted token offers within seven (7) business days of receiving the offer.

The Gifts, Benefits and Hospitality Declaration form must be completed by yourself and acknowledged by:

- your Manager – when the individual completing the form is an officer; or
- your General Manager – when the individual completing the form is a Manager; or
- the CEO – when the individual completing the form is the Mayor or a Councillor or direct report; or
- the Mayor – when the individual completing the form is the CEO.

Submit your completed declaration form to Governance.



Non-Token Offers

You must declare all non-token offers (whether accepted or declined) within seven (7) business days of receiving the offer.

The Gifts, Benefits and Hospitality Declaration form must be completed by yourself and approved by:

- your Manager – when the individual completing the form is an officer; or
- your General Manager – when the individual completing the form is a Manager; or
- the CEO – when the individual completing the form is the Mayor or a Councillor or direct report; or
- the Mayor – when the individual completing the form is the CEO.

Submit your completed declaration form to Governance.

Ceremonial Gifts

If you accept a ceremonial gift on behalf of the organisation it must be declared by completing the Gifts, Benefits and Hospitality Declaration form within seven (7) business days and submitting it to Governance.

The Gifts, Benefits and Hospitality Declaration form must be completed by yourself and acknowledged by:

- your Manager – when the individual completing the form is an officer; or
- your General Manager – when the individual completing the form is a Manager; or
- the CEO – when the individual completing the form is the Mayor or a Councillor or direct report; or
- the Mayor – when the individual completing the form is the CEO.

Submit your completed declaration form to Governance.

Step 5: Managing Registers (Completed by Governance)

The Gifts, Benefits and Hospitality Register will be maintained and updated by the Governance Department.

The register will contain sufficient fields and information to provide the necessary functions of an internal register and a public register.

Internal Register

The internal register will contain information included on the declaration form. Access to the internal register is restricted to relevant persons within Council.

The internal register will be reported to the Executive Management Team on a quarterly basis and annually to the Audit and Risk Committee. The report is to contain analysis of the gifts, benefits and hospitality risks, risk mitigation measures and any proposed improvements.



The following offers will be recorded in the internal register:

- accepted token offers.
- all non-token offers (whether accepted or declined).
- ceremonial gifts.

The internal register will record the following information:

- Name of the person who accepted/declined the offer
- Date the gift was offered
- If the offer was accepted or declined
- Name of the individual/company/group making the offer
- The nature of the offer and estimated market value
- The reason for making the offer (if known)
- Any legitimate business reason for accepting the offer
- Whether the offer is considered 'reasonable hospitality' received by the relevant person at an event or function that they attended in an official capacity
- Any actual, potential or perceived conflicts of interest or reputational risks (to the individual or Council) that the offer raises.

Public Register

The public register will be formed by extracting a subset of data from the internal register and contain only non-token records.

The following offers will be recorded in the public register:

- accepted non-token offers.
- declined non-token offers.

The public register will contain the following fields:

- Date of offer
- Name and position of Councillors and members of the Executive Management Team and position only of all other employees (eg Officer, Coordinator, Manager)
- Category of person from whom the offer was made (Supplier, Stakeholder, Community Member). If a company, then the company name will be listed.
- Brief description of offer
- Value of offer.

The Public Register will be:

- Updated at the end of each quarter
- Once updated, reported to EMT for confirmation and review
- Published on Council's website on a quarterly basis, following review by EMT.



Offer of Gift, Benefit or Hospitality

Offer of goodwill
 Valued under \$30
 Examples:

- Small gestures of appreciation such as flowers cut from a person's garden or homemade baked goods
- Souvenir (eg pen or mug) from a seminar where a fee was paid to attend
- Gesture of appreciation (eg box of chocolates) from a client or for presenting at an external event

Token offer
 A gift, benefit or hospitality that is of inconsequential value to both the person making the offer and the recipient.

Token offers are worth less than \$50 and not offers of goodwill.

Non-token offer
 May be considered to be of more than inconsequential value.

Non-token offers are worth \$50 or more.

STOP!
 Is it cash or equivalent (ie gift card)? Would it give rise to an actual, potential or perceived conflict of interest? Is it from a current or potential supplier/contractor? Is it a bribe or inducement? Would it adversely affect your standing as a public official or bring Colac Otway Shire into disrepute?

YES

- Decline offer
- No need to declare

NO

CONSIDER
 Is the offer repeated frequently?
 Do you feel that anything is expected in return for the gift?

YES

- Decline offer
- No need to declare

NO

- May accept offer
- No need to declare

YES

- Refuse offer
- No need to declare

NO

CONSIDER
 Is it an offer from a client?
 OR
 Is it an offer for a legitimate business benefit?

YES

- Can accept
- Must declare (complete form)
- Acknowledged by manager
- Not listed on public register

NO

- Refuse offer
- No need to declare

YES

- Refuse offer
- Must declare (complete form)
- Acknowledged by manager
- On public register

NO

CONSIDER
 Has the offer been approved as having a legitimate business benefit?
 AND
 If hospitality would it be considered reasonable?

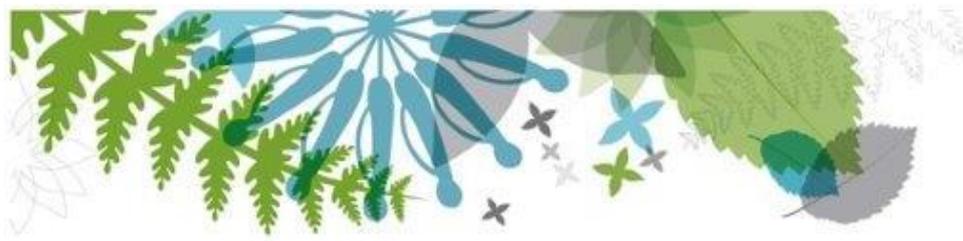
YES

- Can accept
- Must declare (complete form)
- Approval by manager required
- Listed on public register

NO

- Refuse offer
- Must declare (complete form)
- Acknowledged by manager
- On public register

Uncontrolled when printed



RELATED DOCUMENTS

Code of Conduct for Employees

Code of Conduct for Councillors

Department of Environment, Land, Water and Planning – Model Policy Minimum accountabilities for the management of gifts, benefits and hospitality

Victorian Auditor-General’s Report - Implementing the Gifts, Benefits and Hospitality Framework

Victorian Public Sector Commission’s Gifts, Benefits and Hospitality – Policy Guide

Public Transparency Policy

Gifts, Benefits and Hospitality Policy

DOCUMENT CONTROL

Procedure owner	Manager, Governance & Communications	Division	Executive
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