



Councillor Gifts, Benefits and Hospitality Policy

June 2024

DRAFT

Council respectfully acknowledges and recognises Wurundjeri and Bunurong peoples as the Traditional Custodians of this land and pays respect to their Elders past, present and future.

Council acknowledges the legal responsibility to comply with the Charter of Human Rights and Responsibilities Act 2006 and the Equal Opportunity Act 2010. The Charter of Human Rights and Responsibilities Act 2006 is designed to protect the fundamental rights and freedoms of citizens.

The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.

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1 POLICY PURPOSE

This policy is based on principles of integrity, good governance, transparency and accountability and seeks to minimise improper practices and potential conflicts of interest.

The purpose of this policy is to:

- Specify the general obligations for Councillors who are offered Gifts, Benefits, and Hospitality in their role as Councillors, in order to assist Councillors to demonstrate their fair and impartial conduct, and avoid conflicts of interest and/or perceptions of conflicts of interest
- State the requirements and processes to be followed by Councillors when declaring offers of Gifts, Benefits, and Hospitality
- State the requirements in relation to the retention and disposal of Gifts by Councillors
- Specify instances when the giving or receiving of civic Gifts is appropriate
- Specify instances when the giving or receiving of ceremonial Gifts is appropriate
- Outline Council's accountability and reporting framework in relation to the reporting of offers of Gifts, Benefits and Hospitality, and the maintenance of the Gifts Register
- Give effect to the *Local Government (Governance and Integrity) Regulations 2020*, and the Standards of Conduct contained in the Regulations
- Give effect to the Public Transparency Principles in accordance with section 58 of the *Local Government Act 2020*.

2 POLICY SCOPE

2.1 This policy covers

Any circumstance where Councillors are offered or receive Gifts, Benefits, and Hospitality or give Civic and Ceremonial Gifts in their role as Councillors.

2.2 This policy applies to

The Mayor, Deputy Mayor and Councillors of Brimbank City Council (Council).

2.3 This policy does not cover

Offers or receipt of Gifts, Benefits, and Hospitality or by Council Staff. These circumstances are covered in the Employee Gift, Benefit and Hospitality Policy 2023.

3 DEFINITIONS

For the purposes of this policy, Council adopts the following definitions:

Term	Definition
Anonymous Gift	A gift given by an unknown donor. *It is an offence for a Councillor to receive an Anonymous Gift that has a value of or more than the Gift Disclosure Threshold. A breach of these provisions could result in a maximum penalty of 60 penalty units and a requirement to pay the Council an amount equal to the value of the Gift. A Councillor is not in breach of this clause if the Anonymous Gift is disposed of to the Council within 30 days.
Benefit	Any advantage or profit (whether monetary or otherwise) gained by a person.
Bribe	Money or other inducement to procure an action, decision or preferential treatment. Bribery of a public official is a criminal offence.
Biannual Personal Interests Return	The personal interests return that a Councillor submits to the Chief Executive Officer in accordance with section 134 of the <i>Local Government Act 2020</i> and Regulation 9 of the <i>Local Government (Governance and Integrity) Regulations 2020</i> on a biannual basis.
Declaration of Gift / Benefit / Hospitality Form	The form containing the details at Appendix A, made available to Councillors in digital form via the Councillor Portal for the purposes of declaring any relevant gift, benefit or hospitality.
Demonstrable Benefit	An offer of a form of Gift, Benefit or Hospitality that: • Has a clear Benefit to the City of Brimbank and its community. • Relates directly to the role of Council or a Councillor of Brimbank (under the <i>Local Government Act 2020</i>). • Has a clear link to achieving Council's key commitments under the current Council Plan. • Contributes to the development and skills of a Councillor, to perform their duties and responsibilities. • Supports the role of a Portfolio Councillor/Representative in developing their knowledge and advocating for Portfolio issues. • Is unlikely to create the impression an attempt is being made to compromise the impartiality of the Councillor in relation to their decision-making (including planning applications, tenders, policy positions, community fund, budget process

	etc.).
Disclosable Gift	One or more Gifts with a total value of, or more than, \$500 received from a person in the 5 years preceding the decision on the matter: - if the relevant person held the office of Councillor, was a member of Council staff or was a member of a delegated committee at the time the Gift was received; or - if the Gift was, or Gifts were, or will be, required to be disclosed as an election campaign donation— but does not include the value of any Reasonable Hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a Councillor, member of Council staff or member of a delegated committee.
Gift	A 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— - the provision of a service (other than volunteer labour); and - the payment of an amount in respect of a guarantee; and - the making of a payment or contribution at a fundraising function. A Gift received by a Councillor from Brimbank City Council is not covered by this Policy, and does not need to be declared. For example, a Civic Gift provided by Brimbank City Council to a Mayor or Councillor at the end of a term does not need to be declared.
Gift Disclosure Threshold	The Gift Disclosure Threshold as defined in section 3(1) of the Local Government Act 2020. *At the time of this review it is \$500 or a higher amount or value prescribed by the Regulations.
Hospitality	Any item or service (e.g. food, drink, transportation or accommodation) provided by a party that is to be consumed at a function (e.g. networking function, conference, speaking engagement), and includes the provision of services associated with the function (e.g. travel). Hospitality does not include items that you or Council have paid for (e.g., tickets to the event, official conference dinner).
Reasonable Hospitality	Hospitality that: Is received by a Councillor at an event or function, where the Councillor was attending the event or function for an official purpose that is related to their duties as a Councillor and in

	their official capacity as a Councillor; and - Is reasonable in the circumstances. That is, the Hospitality is of a standard and type that an independent observer would consider appropriate and not excessive, in the circumstances. Examples of Reasonable Hospitality include: - A cup of coffee at another organisation's premises; - a modest working lunch, such as sandwiches and pastries, at another organisation's premises. The following are examples of hospitality that are not Reasonable Hospitality, and Councillors are to disclose: - a 'fine dining and wines' working meal at another organisation's premises; - an offer to pay for a working meal at a dining establishment; - an offer of a free spot at an industry golf day; - where the Hospitality is provided at event or function, the offer of the ticket to the event or function; or - functions where alcohol is served.
Token Gift	A Token Gift is a gift that is of very low monetary value. The combined total of offers to a Councillor from that source in the last 12 months must not exceed \$50.

4 POLICY STATEMENT

Council's goals for Brimbank are to be an inclusive, liveable and prosperous community and to be an innovative and responsive Council that puts our 'Community First'.

The Local Government Act 2020 (Act) requires Council to adopt a Councillor Gift Policy within regulated timeframes. This policy is also required to comply with the Public Transparency Principles in the Act, and the Brimbank City Council Public Transparency Policy.

Councillors agree to uphold the 'Community First' principle by complying with the applicable legal and regulatory requirements (inclusive of the *Local Government Act 2020*), the Councillor Code of Conduct 2021 (Code) and this Policy. In accordance with the Standards of Conduct in the *Local Government (Governance and Integrity) Regulations 2020*, a 'Councillor must ensure that their behaviour does not bring discredit upon the Council is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity'.

5 SPECIFIC REQUIREMENTS

5.1 Councillors are to comply with the General Obligations of this Policy:

- 5.1.1** Councillors are to comply with Council's values and behaviours as expressed in the Code. This includes the prescribed Standards of Conduct as incorporated into the Code from the *Local Government (Governance and Integrity) Regulations 2020*.

- **5.1.2:** Councillors are not to accept any offer Gift, Benefit, or Hospitality where the purpose of the offer is to maintain or return a favour. (See Conflicts of Interest)
- **5.1.3:** A Councillor is only to accept an offer of a Gift, Benefit or Hospitality if the Councillor considers that acceptance of the offer would provide a Demonstrable Benefit to Council.
- **5.1.4:** Councillors are to declare all offers of Gifts and Benefits, (including those offers that have been declined, apart from offers of Token Gifts,) in accordance with this Policy (See Definitions and Declaration Processes).
- **5.1.5:** Councillors are to declare all offers of Hospitality (including those offers that have been declined) except Reasonable Hospitality.
- **5.1.6:** Councillors are to immediately report all offers of bribes, cash or inducements to the Police or Independent Broad-Based Anti-Corruption Commission.
- **5.1.7:** Councillors are not to accept Anonymous Gifts over the Gifts Disclosure Threshold. (See Anonymous Gifts).
- **5.1.8:** Councillors are to decline to give or receive Civic and Ceremonial Gifts except in accordance with this Policy.

5.2 Declaration of Offers of Gifts, Benefits, and Hospitality

- **5.2.1** A Councillor who receives an offer of a Gift, Benefit, or Hospitality (excluding Reasonable Hospitality and an offer of a token gift that the Councillor declined) will complete and submit the Declaration of Gift / Benefit/ Hospitality Form on the Councillor Portal within one calendar week of receiving the offer.
- **5.2.2** A Councillor is to disclose particulars of any Gift, or cumulative Gifts over five years, of or above the Gift Disclosure Threshold received, on their Biannual Personal Interests Return, unless the Gift is from a family member.
- **5.2.3** A Councillor who has a material conflict of interest in a matter based on receipt of a Disclosable Gift, is to comply with the disclosure requirements in the Brimbank Governance Rules 2020 (Governance Rules) with respect to that Conflict of Interest.

Table 1. GIFT table with questions for Councillors should they be presented with a gift, benefit or hospitality.

G	GIVER	<i>Who is providing the gift, benefit or hospitality and what is their relationship to me?</i> Could the person or organisation benefit from a decision I make?
I	INFLUENCE	<i>Are they seeking to gain an advantage or influence my decisions or actions?</i> Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make?
F	FAVOUR	<i>Are they seeking a favour in return for the gift, benefit or hospitality?</i> 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	<i>Would accepting the gift, benefit or hospitality diminish public trust?</i> How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?

5.3 Civic Gifts

- **5.3.1** The giving of Civic Gifts by Council will be determined in accordance with this Policy. The giving of a Civic Gift by, or on behalf of, Council, should be made in a consistent and equitable manner in order to avoid perceptions of improper relationships, and to ensure the proper use of Council resources.
- **5.3.2** A Councillor proposing to give a Civic Gift will circulate the proposal to all other Councillors.
- **5.3.3** The Mayor will decide whether or not the proposed Civic Gift should be made in accordance with and subject to the limits in the Thresholds for Civic Gifts in Table 2 of this Policy.
- **5.3.4** Upon request by the Mayor, the Chief Executive Officer will make arrangements for the purchase or supply of the civic Gift provided that it is in accordance with and subject to the limits in the Threshold for Civic Gifts at in Table 2 of this Policy. No Council Officer can make arrangements for the purchase or supply of a civic Gift that is outside the Thresholds for Civic Gifts at Table 2 of this Policy.
- **5.3.5** A Councillor will not seek to direct or influence Council officers in the giving of civic Gifts.

Table 2. Thresholds for Civic Gifts.

Recipient	Type of Civic Gift
Mayor – End of Term	Bound Mayoral Album; or Soft cover Mayoral album and framed print to the value of \$200
Deputy Mayor - End of Term	Flowers or potted plant up to the value of \$100
Councillor - End of Term	Framed BCC photo with inscription to the value of approximately \$150
Councillor - End of Year	Soft copy album – The Year That Was (produced in-house)
Civic Hosting - Guests of the Head of Council or Chief Executive Officer – for example, overseas delegations	Commemorative Brimbank City Council item (e.g. commemorative plate) value up to \$300 per group
Hosts of Brimbank Councillors or Council officer delegations (representing Council on official Council business)	Council marketing items as appropriate and available(e.g. boxed Brimbank pen or Brimbank pin)
Volunteers who make a significant contribution to a Council-run event/ initiative	Certificate
Civic Award recipients, for example, Australia Day Awards, We are Brimbank Awards	Trophy Up to the value of \$150 and flowers up to a value of approximately \$100
Civic condolences/congratulations	Flowers up to the value of \$100
Commemorations for key events, for example, ANZAC Day, Armistice day	One floral wreath per occasion/site to the value of approximately \$300, or such greater value approved by a Director
New Citizens – citizenship ceremonies	Sapling tree to the value of approximately \$3 each Commemorative Brimbank Coin to the value of approximately \$6 each

5.4 Ceremonial Gifts

- **5.4.1** The giving of Ceremonial Gifts as an official Gift or token of respect or appreciation is a common cultural practice of communities and organisations, both within Australia or internationally.
- **5.4.2** Council may occasionally receive a Ceremonial Gift from an official delegate or representative from another organisation, for the purpose of acknowledging, establishing, and/or strengthening a relationship with Council.

- **5.4.3** A Ceremonial Gift is the property of Council, irrespective of value. The Councillor meeting with the official delegate or representative is responsible for providing the ceremonial Gift to a member of the Governance Department, who will arrange for the Gift to be recorded in Council's Civic Collection and arrange for it be stored/displayed, as appropriate.

5.5 Anonymous gifts

Section 137 of the Act states that a Councillor should not accept a gift that exceeds the Gift Disclosure Threshold, unless they know the name and address of the person giving the gift, or if they are given the name and address at the time of the gift and reasonably believe it to be true. If the Councillor does not know the giver's name and address, they are not in breach if they give the gift to the Council within 30 days of receiving it.

5.6 Conflicts of Interest

- **5.5.1** The Act provides that a Councillor has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.
- **5.5.2** An affected person includes a person from whom the Councillor has received a Disclosable Gift.
- **5.5.3** Each Councillor will:
 - o comply with the conflict of interest provisions in the Act, Code and Governance Rules, including, without limitation, the provisions with respect to material conflicts of interest arising out of the receipt of a Disclosable Gift; and
 - o review the requirements of the Act to ensure they comply with their personal legal obligation to comply with the requirements of the Act, including the requirements in relation to conflicts of interest in the Act.

6 ROLES AND RESPONSIBILITIES

6.1 Councillors

Councillors are responsible for:

- Complying with the General Obligations in the Councillor Gifts Policy
- Completing a Declaration of Gift / Benefit/ Hospitality Form

6.2 Executive Management Team / Audit and Risk Committee / Council

The Executive Management Team, Audit and Risk Committee and Council are responsible for:

- Quarterly review of Gift Register

6.3 Governance

Governance is responsible for:

- Upon being provided with a completed declaration form, the Governance Department will enter the details in the form into the Councilors' Gifts, Benefits, and Hospitality Register (Gift Register). For avoidance of doubt, all declared offers of Gifts, Benefits and Hospitality will be recorded in the Gift Register.

- Reporting the Gift Register to Council's Executive Management Team, and Audit and Risk Committee on a quarterly basis and to Council in the monthly Governance Report.
- Making the Gift Register available upon request to facilitate public awareness of the availability of Council information, in a format that is understandable and accessible to members of the municipal community in accordance with the Public Transparency Policy.

7 OWNERSHIP

Responsible Director: Director, People, Partnerships and Performance

Responsible Officer: Manager, Governance and Risk

Directorate: People, Partnerships and Performance

Unit: Governance and Risk

8 REVIEW AND COMMUNITY CONSULTATION

8.1 Consultation

Council will ensure that the community are consulted in the formation and the review of this policy in accordance with the Community Engagement Principles in section 55 of the Local Government Act 2020 and Council's Community Engagement Policy.

8.2 Review

A review of this Policy will be completed on no less than a biennial basis. More frequent reviews may occur due to changes in the legislative and regulatory framework or on request by Council.

9 RELATED POLICIES & LEGISLATION

- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- Council Officer Gifts, Benefits and Hospitality Policy
- Councillor Code of Conduct 2021

10 APPROVAL

Approved by:

Date:

INTERNAL USE ONLY

Version	Version notes	Adopted	Next Review
1	New Policy	10/06/2015	10/06/2016
2	Review	2/11/2016	2/11/18
3	Review (Local Government Act 2020)	20/04/2021	20/04/2023
4	Review	5/02/2024	5/2/2026

Local Government Act 2020 Compliance Statement

Section 9(1) of the *Local Government Act 2020* (Act) requires Council to give effect to the overarching governance principles, in the performance of its role. Section 9(2) of the Act specifies the governance principles as follows:

- a) Council decisions are to be made and actions taken in accordance with the relevant law (Compliance with the law);
- b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations (Achieve best outcomes for the community);
- c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted (Promote the sustainability of the municipality);
- d) The municipal community is to be engaged in strategic planning and strategic decision making (Engage the community in strategic planning and decision making);
- e) Innovation and continuous improvement is to be pursued (Strive for innovation and continuous improvement);
- f) Collaboration with other Councils and Governments and statutory bodies is to be sought (Collaborate with all other levels of government and government agencies);
- g) The ongoing financial viability of the Council is to be ensured (Secure the ongoing financial viability of Council);
- h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making (Strategic planning and decision making must take into account plans and policies in operation at all levels);
- i) The transparency of Council decisions, actions and information is to be ensured (Council decisions, actions and information must be transparent).

Governance Principles

In developing the Councillor Gifts Policy, Council has considered and given effect to the overarching governance principles, as summarised below:

Governance Principle	Considerations
(a) Compliance with the law	All relevant legal requirements have been considered in developing the Policy. In particular, and without limitation, the Policy complies with the requirements in Part 6 of the Act, the public transparency principles at section 58 of the Act, and the <i>Local Government (Governance and Integrity) Regulations 2020</i> .
(b) Achieve best outcomes for the community	Refer to the comments under (i) below.
(c) Promote the sustainability of the municipality	Refer to the comments under (i) below.
(d) Engage the community in strategic planning and decision making	In developing the Policy, Council undertook a community consultation process, in accordance with Council's Community Engagement Policy. Council will ensure that the community are consulted in the review of the Policy in accordance with the Community Engagement Principles in section 55 of the Act and Council's Community Engagement Policy.
(e) Strive for innovation and continuous improvement	Council will review the Policy on a no less than biennial basis, and pursue innovation and continuous improvement during every review.
(f) Collaborate with all other levels of government and government agencies	In developing the Policy, Council considered the Victorian State Government's "Model policies for agencies and boards: Gifts, benefits and hospitality".
(g) Secure the ongoing financial viability of Council	Not applicable for the Policy.

(h) Strategic planning and decision making must take into account plans and policies in operation	Not applicable for the Policy.
(i) Council decisions, actions and information must be transparent	The Policy: - relates to the systems and processes by which offers of gifts and hospitality to Councillors are recorded, addressed, and reported to the municipal community, to promote the transparency of Council's decisions, actions, and information; - has met all of the relevant requirements of transparency within Council's management and decision making processes.

Appendix A - Declaration of Gift / Benefit/ Hospitality Form

What are you declaring?	An offer of: ☐ Gift ☐ Benefit ☐ Hospitality
Name of Councillor	
Name of Offeror	
Description of Gift, Benefit, or Hospitality offered.	
Assessment of Demonstrable Benefit to Council (if offer was accepted)	
Total Value	
Date of Offer	

Declaration

I declare that:

- The information I have provided in this form, is true and correct.
- I have read and understood the Councillor Gifts Policy.
- I agree that I am aware that in accordance with the Standards of Conduct in the Local Government (Governance and Integrity) Regulations 2020, a 'Councillor must ensure that their behaviour does not bring discredit upon the Council and is fit to conscientiously perform the role of a Councillor when acting in that capacity or purporting to act in that capacity'.
- I agree that non-compliance with this policy may bring discredit upon the Council and compromise my ability to conscientiously perform the role of a Councillor.
- I agree that I have declared and will continue to declare any Conflict of Interest that may arise in accordance with the Local Government Act 2020.
- I understand that compliance with the Councillor Gifts Policy is my personal responsibility as a Councillor, and acknowledge that it is not the responsibility of any Council Officer to monitor my compliance with this Policy.

Signed Councillor _____ Date _____



Brimbank City Council

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Hearing or speech impaired?

- TTY dial 133 677
- Speak & Listen 1300 555 727
- www.relayservice.gov.au, then enter 03 9249 4000



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