

Administrator/Councillor Gift and Benefits Policy

Policy statement

Council is committed to open and transparent decision-making and discourages the acceptance of gifts, benefits and hospitality by members of Council when carrying out their public duties.

Purpose

The Policy aims to:

- regulate the acceptance of gifts, benefits and hospitality by members of Council;
- provide guidance to members of Council when they are offered gifts, benefits and hospitality; and
- support ethical and transparent decision-making free from actual or perceived influence.

Principles

The Policy is informed by the following City of Whittlesea Community Building Principles:

Community leadership

Administrators/Councillors have a unique opportunity to combine representative roles with facilitating community conversations around priorities and aspirations and encouraging participatory activity for better community outcomes. The Policy is designed to support the community's confidence that the leadership provided by the Council/Councillors is not influenced by personal interests or motivated by personal gain.

Community outcomes

We are focused on achieving positive and equitable community outcomes by gathering, analysing and sharing information to inform decision making with a consideration for long term planning. The Policy supports Council decision making that is free from influence and ensures that decision making is based solely on achieving the best outcome for the community.

Definitions

'Benefit' means something that is of value to the receiver, such as invitations to events, access to discounts and loyalty programs and 6 holidays.

'Gift' means as defined by section 3(1) of the *Local Government Act 2020*. 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:

- 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.

Examples include but are not limited to food hampers, alcohol, event tickets and building materials.

‘Hospitality’ includes free or discounted goods and services such as meals, entertainment, travel and accommodation.

‘Reasonable hospitality’ means hospitality that is not excessive in the circumstances and is in proportion to the likely benefits to the Council and the community.

‘Official capacity’ means an Administrator/Councillor who is exercising their powers or performing the responsibilities of a Councillor under relevant legislation, including section 28 of the *Local Government Act 2020*, and their attendance at the event or function is related to providing good local governance for the municipality.

‘Professional development’ includes formal activities conducted by ‘for profit’ organisations such as briefings on new or amended legislation by law firms and breakfast meetings with guest speakers.

Context/Rationale

Receipt of a gift or other benefit from a person or organisation can result in an actual or perceived conflict of interest arising between an Administrator’s/Councillor’s public duty and their private interests. Section 138 of the *Local Government Act 2020* requires Council to adopt a gift policy which must include procedures for maintaining a gift register and any other matters prescribed by the regulations.

Scope

The Policy applies to Administrators/Councillors and is administered by the Office of the CEO (OCEO) and Governance.

Key linkages

All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities*.

The Policy supports the Whittlesea 2040 goal of Council operating as a high performing organisation. It specifically links to the objective of making more informed Council decisions based on strong advice and community consultation and engagement.

It does this by ensuring Council decision making is based solely on achieving the best outcome for the community, as determined through community consultation and

engagement, and that it is not influenced or perceived to be influenced by offers of gifts or other benefits.

Council Policies

Public Transparency Policy

Code of Conduct for Administrators

Legislation

Local Government Act 2020 (including the Public Transparency Principles)

Local Government (Governance and Integrity) Regulations 2020

W2040 Key Direction

Date of Adoption

Directorate Responsible

High Performing Organisation

2 February 2021

Governance

Version 2.02

Procedural Guidelines

Part 1: Overarching Principles

- a. Administrators/Councillors must not under any circumstances solicit or request gifts, benefits or hospitality for themselves or another person;
- b. Monetary gifts are not to be accepted under any circumstances;
- c. Subject to the provisions below, any offer of a gift, benefit or hospitality, should be declined in the first instance;
- d. Administrators/Councillors are encouraged to advise stakeholders who may be likely to offer a gift, benefit or hospitality, of Council's position on their acceptance. This is particularly relevant in the lead up to the Christmas period;
- e. Every offer of a gift, benefit or hospitality must be reported to Governance, through the OCEO, and must be entered into the Gift and Benefits Register. This must occur regardless of whether the gift, benefit or offer of hospitality was accepted.
- f. An Administrator/Councillor must not directly or indirectly accept a gift for the benefit of the Administrator/Councillor, the amount or value of which is equal to or exceeds \$500, from a person unless they know the name and address of the giver. If a gift is received and the name and address of the person making the gift are not known to the Administrator/Councillor, the Administrator is not in breach of this policy and the Act if the gift is disposed to Council within 30 days of receiving it. Failure to do so may incur penalties under the *Local Government Act 2020*.

Part 2: Process of responding to offers of gifts, hospitality or professional development

The following process will be adhered to where an Administrator/Councillor is offered a gift, hospitality or professional development opportunity.

Offer of a gift (see Figure 1)

If the offer falls within the category of '*gift*', the offer must be refused in the first instance.

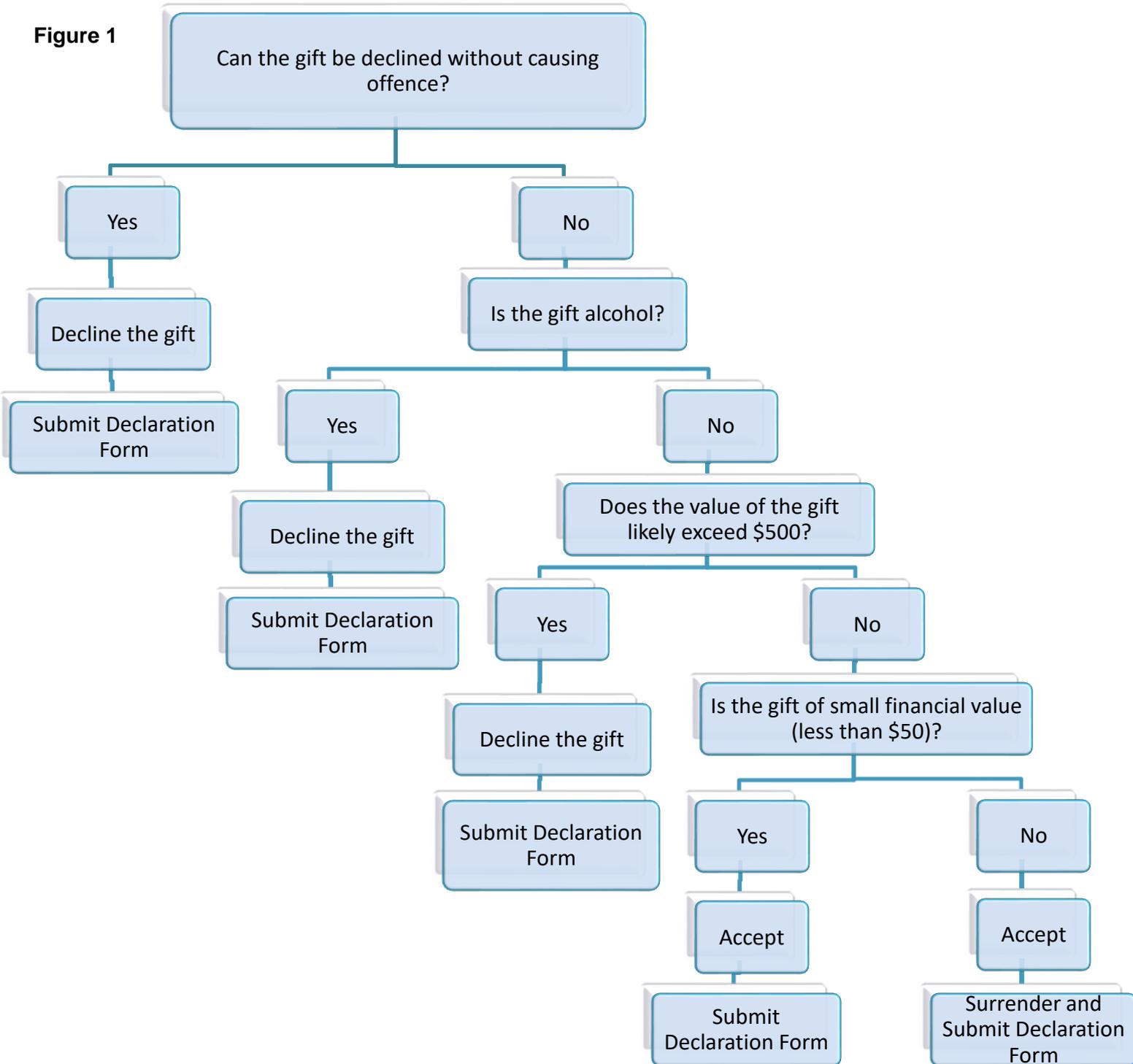
Council recognises there may be occasions where it is not appropriate to decline a gift due to cultural sensitivities or where the gift is of small financial value and to decline it would cause offence. In such circumstance, the gift may be accepted with the exception of gifts of alcohol which must always be refused. Examples of gifts of small financial value include but are not limited to baked goods, books, recordings of an event or inexpensive merchandise relating to an event such as a pen or keyring.

If it is not possible or practical to refuse the gift, it may be accepted on behalf of Council and provided to the OCEO where the value likely exceeds \$50 in total.

Gifts that exceed a value of \$500 (or another amount prescribed by the regulations) should not be accepted by an Administrator/Councillor as this may result in a material conflict of interest arising.

A gift and benefits declaration form must be completed and submitted to the OCEO regardless of whether the gift was accepted and/or surrendered, and regardless of the value of the gift.

Figure 1



Offer of hospitality (see Figure 2)

If the offer falls within the category of 'hospitality' it must be refused unless it is reasonable in the circumstances and it was received at an event or function at which the Administrator/Councillor attended in an official capacity.

In determining whether the hospitality was reasonable in the circumstances, the following should be considered:

- The nature of the hospitality offered;
- Who offered the hospitality (peak industry body, planning permit applicant, community organisation etc);
- Whether accepting the offer of hospitality would benefit the good governance of the Council.

Examples of hospitality that may be appropriate in the circumstances include:

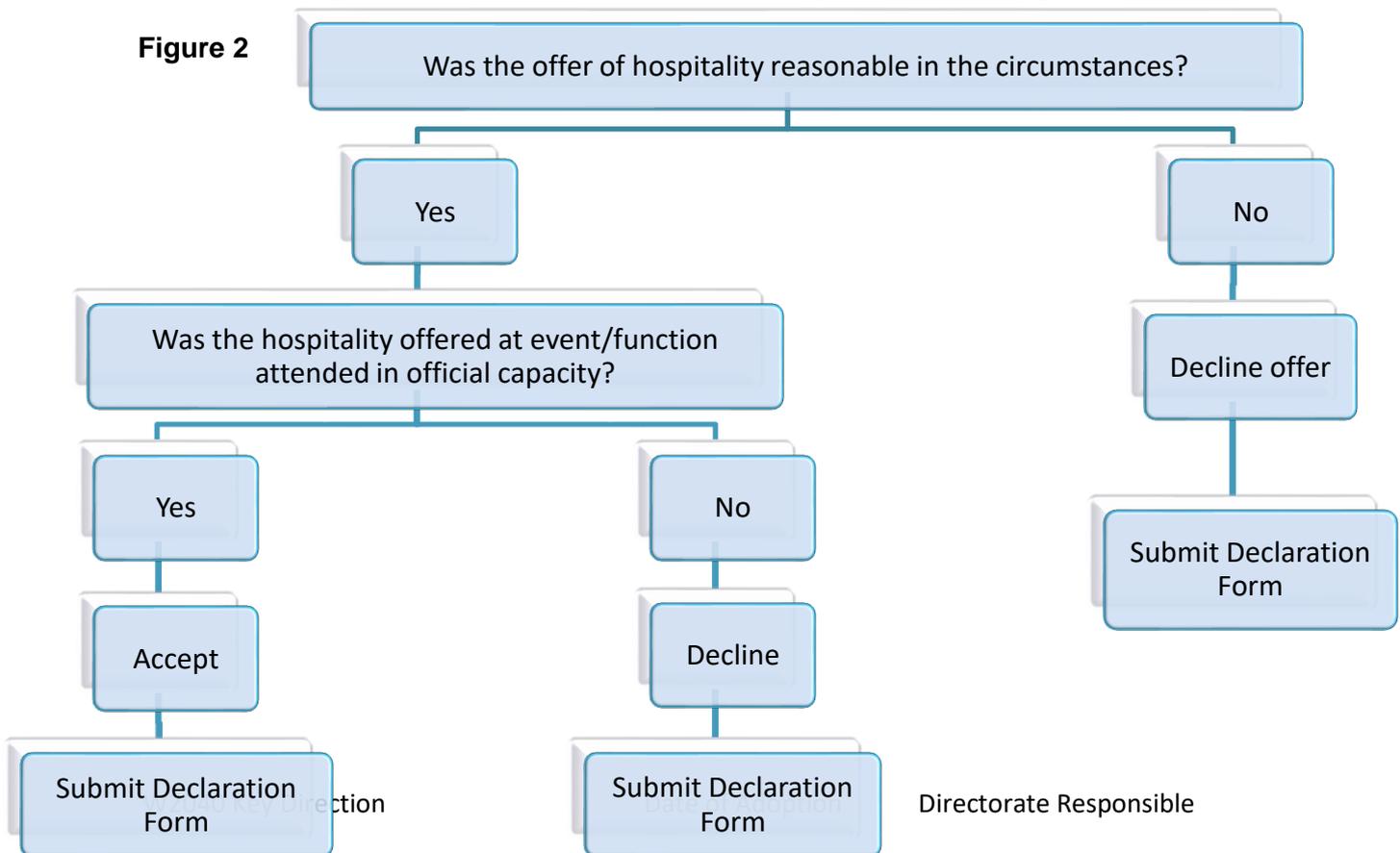
- Being provided with a meal at a local government organisation function; or
- Being invited to attend to listen to a guest speaker relevant to local government at no cost.

Examples of hospitality that may not be appropriate in the circumstances include:

- Attending a corporate box at a sporting event booked by a developer; or
- An offer of discounted accommodation by a private business.

A gift and benefits declaration form must be completed and submitted to the OCEO regardless of whether the offer of hospitality was accepted or not.

Figure 2



Offer of professional development (see Figure 3)

If the offer falls within the category of '*professional development*' and the Administrator/Councillor is of the opinion that attendance will materially assist in the conduct of their Council business related duties, then they should:

- request a tax invoice from the organisers of the event so that Council can pay the full value of participation; or
- if requesting an invoice is not practicable, then they must seek agreement from the Chair/Mayor, or in the case of the Chair/Mayor, from the CEO, to attend the event, noting that a substantive Council business related reason must exist.

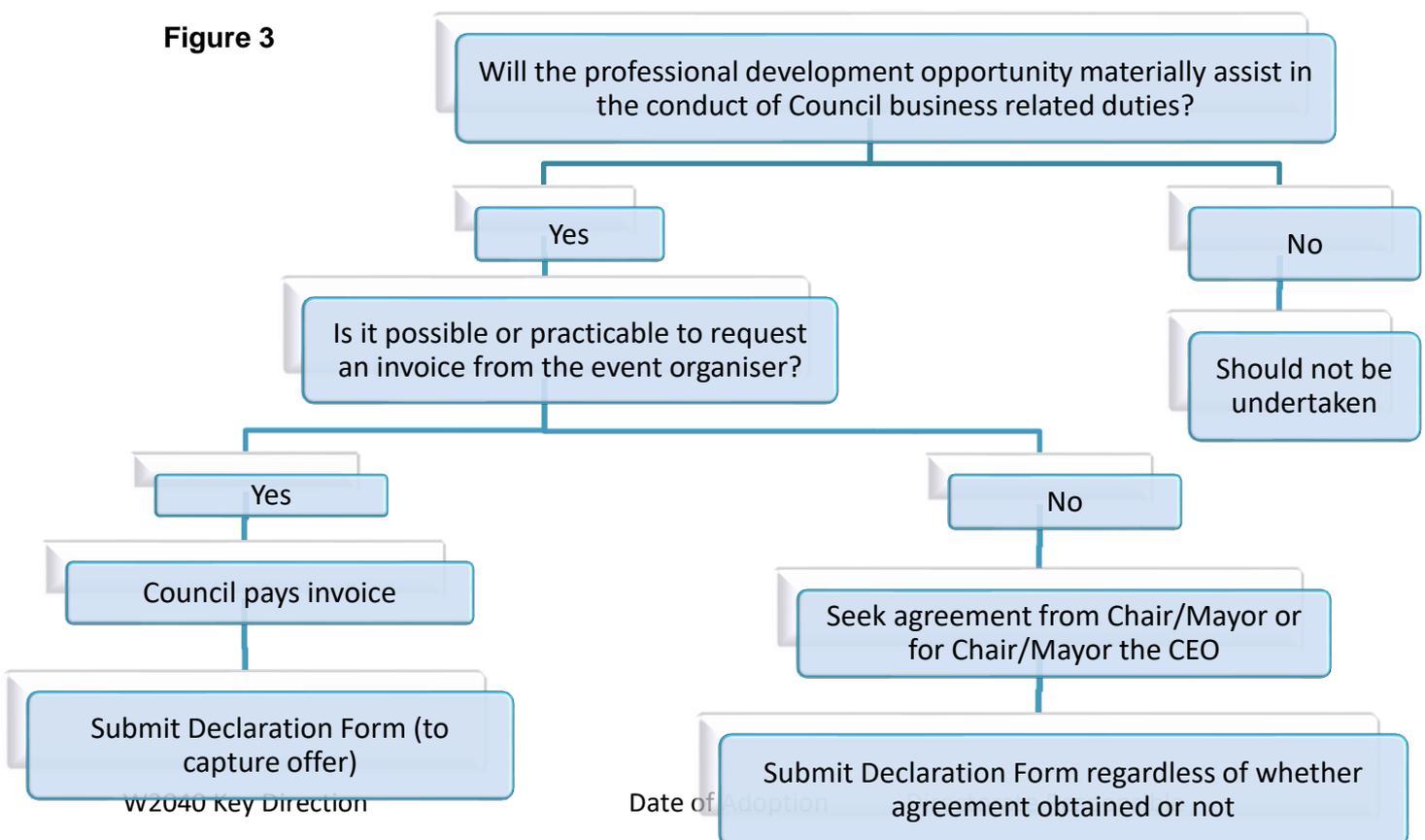
In some instances, an agreement or subscription will exist between Council and an organisation for the provision of these services as part of an ongoing commercial arrangement and attendance will fall outside the scope of this Policy.

Where an offer combines both hospitality and professional development, the process set out above under professional development should be used.

A declaration form must be completed and submitted to the OCEO regardless of whether the offer of professional development was accepted. Where the professional development was paid for by Council, this should be noted on the form.

Where small tokens such as pens, notepads or lanyards are provided to as part of the professional development program, they may be retained if they are estimated to be of a value less than \$50. **Where the estimated value of such tokens individually or accumulatively exceeds \$50, a gift declaration form must be completed, and the tokens surrendered to the OCEO.**

Figure 3



Declaration of Gifts Benefits and Hospitality

A gift and benefit declaration form must be completed whenever a gift or benefit has been offered regardless of whether it is accepted.

A copy of the form is contained in Appendix 1 of the Policy. The form is also available on the Administrator/Councillor Portal and through the OCEO. A form should be submitted at the Administrator's/Councillor's earliest convenience and no more than 14 days from the date the offer of a gift or other benefit was made.

Once a gift and benefit declaration form has been submitted to the OCEO, the form is to be provided to the CEO for noting. Upon being signed by the Administrator/Councillor making the declaration, the Chair of Administrators/Mayor and the CEO, the form will then be provided to Governance to be entered in the Gift and Benefits register. The register will at a minimum record:

- The name of the recipient of the offer of gift or benefit;
- The date the offer was made, or the gift or benefit was received;
- The name of the person or organisation making the offer or providing the gift or benefit;
- The nature of the gift or benefit offered or received; and
- The action that was taken in response to the offer or receipt of the gift or benefit.

Governance will maintain the Gift Register and the information contained in the Register will be published on Councils website at least quarterly in accordance with Council's Public Transparency Policy.

Offers of gifts or benefits made outside of capacity as a Councillor

Council recognises that Administrators/Councillors may receive offers of gifts, benefits or hospitality when acting in a role other than their role of Councillor. This may include in their personal capacity, as a company executive, as a board member, as a member of a professional organisation etc.

Whilst the Policy only applies where acting in official capacity as a Councillor, it is important that Administrators/Councillors consider the potential for gifts or benefits received in other capacities to give rise to a declarable conflict of interest under the *Local Government Act 2020*.

Under the Act, an Administrator/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. The definition of an affected person includes a person from whom the relevant person has received a gift with a value of \$500 or more.

Appendix 1

 City of Whittlesea	GIFT AND BENEFITS DISCLOSURE FORM
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Name of Administrator/Councillor: _____

Date gift or benefit offered: _____

Name of individual, company or organisation offering the gift or benefit:

Nature of gift or benefit: (Please provide a brief description)

Action taken:

(e.g. refused, accepted as reasonable hospitality, provided to the OCEO)

Approximate Value of Gift or Benefit: \$ _____

Administrator/Councillor	Chair of Administrators/Mayor	CEO
Signed: _____ Date: _____	I have noted the declaration. Signed: _____ Date: _____	I have noted the declaration. Signed: _____ Date: _____

Privacy Notification Statement

The personal information on this form is collected for the purpose of ensuring transparency and accountability in Council's decision-making processes. Provision of this information is required under Council's Gift and Benefits Policy and the *Local Government Act 2020*. A record of your disclosure will be entered in a Register held by the Governance Department, will only be accessed by authorised staff and will be disposed of in accordance with the requirements of the *Public Records Act 1973*.

Note that Council reserves the right to publish some or all of the information contained in the Register in the Council's Annual Report or similar document in a de-identified form. A version of the Register will be published on Council's website. You may seek access to your personal information contained in the Register by contacting the Governance Department.

W2040 Key Direction

Date of Adoption

Directorate Responsible

High Performing Organisation

2 February 2021

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