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## 1. POLICY SUPPORTED

Conflict of Interest and Gifts and Benefits Management Procedure.

## 2. RELATED FORMS

- Decision Making Guide – Conflict of Interest (Appendix 1)
- Conflict of Interest Check List (Appendix 2)
- Examples of Pecuniary Interest (Appendix 3)
- Disclosure of Interest Declaration – Non-Recruitment Related (Appendix 4) Trim 13/77808V2
- Decision Making Guide – Gifts and Benefits (Appendix 5)
- Points to Consider (Appendix 6)
- Declaration of Receipt of Gifts and Benefits (Appendix 7) Trim 13/77920

## 3. PURPOSE

These procedures apply to all **employees** working for the City of Wanneroo in any permanent, temporary, casual or fixed term appointment.

The document aims to:-

- Assist management to implement a system to satisfactorily and reasonably deal with conflict of interest including interests affecting impartiality;
- Assist employees develop an awareness of conflict of interest/interest affecting impartiality situations and how to deal with them; and
- Provide procedures for the receipt and declaration of gifts and benefits.

## 4. PROCEDURE

### 4.1 CONFLICT OF INTEREST

#### 4.1.1 What is a conflict of interest?

~~Conflict of interest situations arise every day for many people in the public sector (entities providing basic government services). They may arise in a range of situations from buying services and products, through to recruiting staff and dealing with residents and ratepayers.~~

~~The community expects that public officials will perform their duties in a fair and impartial way, putting the public interest first at all times. It is not necessarily wrong or unethical to have a conflict of interest, however identifying and managing the situation is important.~~

~~Basically, a conflict of interest may arise when an employee, due to external and/or internal influences, may not (or could not) act:~~

- ~~• equally;~~
- ~~• fairly;~~
- ~~• with integrity and honesty.~~

Conflicts of interest can be **actual**, **perceived** or **potential**.

An **actual conflict of interest** involves a direct conflict between an employee's current duties and responsibilities and existing private interests.

~~A **perceived or apparent conflict of interest** can exist where it could be perceived, or appears, that an employee's private interests could improperly influence the performance of their duties— whether or not this is in fact the case. This could also apply to the receipt of gifts or benefits which could influence the decision making process.~~

~~A **potential conflict of interest** arises where an employee has private interests that could conflict with other official duties in the future. Conflicts of interest can also arise where an individual has official roles in more than one public organisation.~~

~~In these situations it may be difficult for a public official to keep the roles separate and this can lead to poor performance of one of the roles, at least, and unlawful or improper decision making at worst, or improper use of information to give advantage.~~

#### ~~4.1.2 Identifying an Interest~~

~~In the everyday work environment employees at all levels are exposed to possible conflicts of interest. It is not always easy to decide when private interests and public duty are, or might be, in conflict with each other.~~

~~Just because an employee has a personal interest outside of work, doesn't automatically mean that there is going to be a conflict of interest. The key test is whether an individual could be influenced, or appear to be influenced, by a private interest in carrying out their public duty.~~

~~Private interests are usually known only to an individual and it is important for employees to take responsibility for identifying and declaring their own conflicts of interest.~~

~~**Employees should ask themselves the questions shown at Appendix 1 and 2 to help decide if a conflict of interest exists or could be perceived by any person to exist.**~~

~~Additionally you may wish to consider what perceptions others could have i.e.~~

- ~~• What assessment would a fair minded member of the public make of the circumstances?~~
- ~~• Could my involvement in this matter cause doubt on my integrity or on the integrity of the City of Wanneroo?~~
- ~~• If I saw someone else doing this, would I suspect that they might have a conflict of interest?~~
- ~~• If I did participate in this action or decision, would I be happy if my colleagues and the public became aware of my involvement and any association or connection?~~
- ~~• How would I feel if my actions were highlighted in the media?~~
- ~~• Is the matter or issue of great public interest or controversy where my proposed decision or action could attract greater scrutiny by others?~~

#### ~~4.1.3 Employees reporting their own actual or potential interest.~~

~~Employees must declare any actual or potential conflict of interest (whether pecuniary or non-pecuniary). Employees are also expected to declare any circumstances that could result in a third party reasonably perceiving a conflict of interest to exist.~~

#### ~~4.1.4 Declaring an Interest~~

~~Employees should in the first instance discuss their perceived or actual conflict of interest with their Leader, declare in writing to the Chief Executive Officer on the approved form (**Appendix 4**) and forward to Governance for processing. Once the CEO has determined a course of action (decision may be made in consultation with employees and their leaders), Governance will advise~~

~~the officer as well as all his/her leaders of the outcome. Leaders are required to manage the conflict in accordance with the CEO's findings.~~

**~~Conflict as a result of participating on a recruitment or tender panel or committee meeting:~~**

~~There are circumstances where making an initial written declaration is not possible. For example if a conflict of interest arises whilst an employee is participating on a recruitment panel, tender evaluation panel or a committee meeting. In these situations a verbal declaration (see Declaration of Impartiality noted below) should be made to the panel or at the committee meeting, followed up with a declaration in writing to the CEO. If the conflict arises out of a financial interest, the officer is not to be involved in the matter and must leave the room or meeting. This may mean that the panel/interview/meeting be adjourned until such time as an alternative arrangement can be made.~~

**~~Disclosing an interest when dealing with a matter that is the subject of a report to Council:~~**

~~Where an employee is required to disclose an interest dealing with a matter that is the subject of a report to Council, the "Disclosure of Interest" section of the report should be completed by the officer. The aforementioned is dependant on the outcome of the initial declaration of interest to the CEO. In general the declaration would simply be "Impartial" however for a financial or proximity interest, it is most likely that you may be requested to step back from the matter.~~

~~i.e. you are a shareholder in a commercial enterprise which is the subject of a tender process or the matter is about a property that is adjacent to any property that you may own. It is then prudent to refrain from being involved in the decision making process for that matter unless advised otherwise from the CEO.~~

~~A Declaration of Interest form is to be completed by the officer stating the nature of the interest. For impartial interests the following declaration should be included:-~~

~~*"I disclose that as a consequence, there may be a perception that my impartiality on matters relating to the above may be affected. I declare that I will consider all matters relating to the above on its merits."*~~

**~~Exceptions~~**

~~There are certain circumstances where an employee may be excused from the requirement to disclose the nature of an interest i.e. if you did not know you had an interest in the matter; or you did not know the matter in which you had an interest would be discussed at the meeting you are attending. You should however disclose the nature of the interest as soon as possible after becoming aware of the conflict of interest.~~

**~~4.1.5 Employees who become aware of another employee's possible conflict of interest.~~**

~~Employees have an obligation to report possible conflicts of interest that will have the potential to bring the City of Wanneroo into disrepute. If employees are aware that another employee has a potential conflict of interest that has not been disclosed, they should report the matter to their Leader, Next Up Leader or the CEO.~~

**~~4.1.6 Managing Conflicts of Interest~~**

~~Once declared, the conflict of interest will be reviewed by the CEO and a response provided to the officer within seven calendar days.~~

~~If a decision is not reached promptly the employee concerned is to be kept informed of the progress. If the employee disagrees with the outcome he or she is to provide reasons to the CEO who may review or uphold the decision. Legislation requires that the CEO adopt procedures to~~

~~manage conflict of interest within the City, therefore the CEO's decision on the action to be taken is final.~~

~~Reporting potential or actual conflicts may involve disclosing personal information. This information is to be handled in such a way that privacy is appropriately managed having regard to the circumstances.~~

~~The assessment process is to be fully documented.~~

#### **4.1.7 Options for Dealing with a Conflict of Interest**

~~The options available to deal with a conflict of interest are dependent on the type of conflict i.e. pecuniary or non-pecuniary. Generally, if a pecuniary interest is disclosed, the individual with the interest must not be involved in consideration or discussion of the matter in which he or she has the interest.~~

~~In rare situations this may not be possible, for example, if a conflict of interest is identified at or near the conclusion of a process. Appointing an independent person at this stage would minimise the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict.~~

~~The option chosen to deal with the conflict will be at the discretion of the CEO in consultation with the employee and the employees Leader and Next Up Leaders.~~

~~Options can include:~~

- ~~● **Register the conflict of interest in a formal register** — All conflicts of interest must be registered however for minor or perceived conflicts of interest no further management action may be needed after the conflict is disclosed and registered. The conflict may be eliminated by disclosure or effective supervision.~~
- ~~● **Restricting the involvement of the individual in the matter that gives rise to the conflict.** This may include withdrawing from discussion of affected proposals or having restricted access to sensitive information. This strategy can be useful when it is possible to separate the individual with the conflict from parts of the activity or process, or when the conflict is not likely to arise frequently;~~
- ~~● **Removing the individual with the conflict from the matter entirely:** This may be appropriate where the conflict is serious and ongoing and ad hoc restriction or recruitment of others may not be feasible;~~
- ~~● **Recruiting a disinterested third party to oversee part or all of the process that deals with the matter.** This can be useful when it is not practical or desirable to remove the individual with the conflict from the decision-making process, or when there is specific expertise that needs to be retained (eg. for tendering or recruitment selection panels).~~

#### **4.1.8 Breaches**

~~Non-compliance with this policy might range from a failure to register a relevant private interest to refusal to resolve or properly manage a conflict of interest of which an employee is aware. Other more serious incidents may result from an employee actually acting on a conflict to the disadvantage of the public interest.~~

~~Possible penalties for breaches of this policy would include disciplinary action ranging from counselling to dismissal. Some breaches of policy or non-disclosure may be required to be reported outside the organisation, e.g. in circumstances that involve corrupt conduct.~~

~~A employee who becomes aware of a matter that breaches this policy must make a report to the Chief Executive Officer.~~

#### ~~4.1.9 Monitoring~~

~~To ensure the chosen management strategy remains relevant until conflicts of interest are resolved, it is important for the leader responsible for assessing the matter to regularly review and assess in consultation with the employee, the:~~

- ~~• Original situation that has given rise to declaring the conflict of interest.~~
- ~~• Initial determinations and management decisions.~~
- ~~• Strategy put in place to manage the conflict of interest.~~
- ~~• Actions taken in implementing the management strategy.~~
- ~~• Changes in the situation that may have an impact on the management strategy.~~
- ~~• Perceptions held by others that the conflict of interest is having an improper influence on the matter.~~
- ~~• Reassessments and management decisions made about the continued management of the conflict of interest.~~
- ~~• If changes to the situation are quite significant, you may need to re-start the complete management process that is, commencing with a formal identification of the current situation and any conflicts of interest that may apply before adopting a revised management strategy. Formal records should be kept of all reassessments and decisions made and actions taken.~~

#### ~~4.1.10 Training and Education~~

~~The City of Wanneroo is to:-~~

- ~~• Incorporate the provisions of this policy into the respective Human Resources Manuals.~~
- ~~• Include information hand outs at orientation sessions for new employees.~~
- ~~• Provide ongoing training programs/employee development on corruption prevention, fraud control and conflict of interest.~~
- ~~• Provide employees with fact sheets on conflict of interest and gifts and benefits.~~
- ~~• Include conflict of interest/corruption prevention as an agenda item for specified meetings e.g Tender Review meetings etc.~~
- ~~• Include in any risk assessment/risk management processes the requirement to identify conflict of interest issues.~~

#### ~~4.1.11 Conflict of Interest Register~~

~~A Conflict of Interest Register (available to the public) will be maintained by the Governance Unit to record all declared financial or proximity conflict of interest.~~

~~*[New separate Conflict of Interest Management Procedure approved 23/01/170*~~

## 4.2 GIFTS AND BENEFITS PROCEDURE

Employees may be offered gifts or benefits for a variety of reasons and in many different circumstances. The way that the City and its employees handle these situations is crucial to avoiding unprofessional and unethical conduct or the perception that such conduct has occurred.

Employees:-

- Should not solicit gifts and benefits.
- Should not accept gifts of money.
- Must always consider the value and purpose of a gift or benefit before making any decisions about accepting it and decline those gifts or benefits that may be seen to influence work-related decisions.
- Should always seek approval before accepting gifts or benefits.

Transparency and openness is the key. If a gift is offered in a public forum, it is less likely to be perceived as a gift of influence than if it were offered in a private context.

In practice, a zero tolerance approach to acceptance of gifts is not practical, therefore employees are encouraged to discuss the matter with their Leader and seek approval from their Director prior to accepting gifts or benefits. It is however the City's preferred position that gifts, regardless of value or circumstance, be declined.

### 4.2.1 Key Definitions

A **gift or benefit** is anything of value that is offered to you that is over and above your normal salary or employment entitlements.

**Gifts** categorised as **token gifts** are inexpensive gifts of gratitude such as a bunch of flowers, of nominal value.

**Non token gifts or Notifiable Gifts** have a greater value (between \$50.00 and \$300.00 or is a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300), and can be seen to be given as an inducement.

A **Prohibited Gift** is a gift worth \$300 or more, or a or is a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.  
*Section 34B Local Government Administration Regulations 1996.*

A **benefit** is a service or non-tangible item that is of value to the receiver e.g:

- Access to a private box at sporting events.
- A new job or promotion.
- Preferential treatment – e.g. queue jumping.
- Access to confidential information.

A **bribe** is a gift or benefit offered to or solicited by an employee to influence that person to act in a particular way.

### 4.2.2 Overview

Employees should not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence the employee:

- to act in a particular way (including making a particular decision);
- to fail to act in a particular circumstance; or
- to otherwise deviate from the proper exercise of their official duties.

Employee should avoid all situations in which the appearance may be created that any person or body (companies), through the provision of hospitality or benefits of any kind, is securing or attempting to secure the influence or favour of the individual employee or the City of Wanneroo.

For example:

- A supplier of a piece of equipment being evaluated by the City offers to pay for an employee to attend the supplier's overseas office to view a demonstration of the equipment.
- A company tendering for a project within the City provides gifts and/or promise of future employment to an employee involved in the project.

Things that could influence the perception of a gift or benefit would include:-

- the scale, lavishness or expense/cost/value;
- the frequency of occurrence; and
- the degree of openness surrounding the occasion or gift.

As a general rule gifts and benefits **are not** to be accepted:-

- a) From suppliers, consultants and commercial organisations, specifically from City clients in the planning and development industries. It should be recognised that gifts or benefits are rarely offered by these organisations, where the giver would not expect to receive or to have received some advantage or reward and employees should be wary of accepting any such offers and the inherent debt that could result;
- b) By officers who exercise discretionary authority in relation to the gift-offerer/gift-giver; and
- c) By officers who influence or are likely to influence discretionary authority exercised by others in relation to the gift.

*Section 34B (3) of the Local Government (Administration) Regulations 1996* states that a person who is an employee and who accepts a notifiable gift from a person who is undertaking or seeking to undertake an activity involving a local government discretion; or it is reasonable to believe is intending to undertake an activity involving a local government discretion, is to notify the Chief Executive Officer, in accordance with sub regulation (4) and within 10 days of accepting the gift, of the acceptance. You are reminded, that although the Act does not categorise this type of gift as "**prohibited**", it is the City's policy that employees do not accept these gifts without the **prior** approval of their Director.

#### **4.2.3 Types of gifts (as per legislation)**

##### **(a) Token Gifts**

Token gifts and moderate acts of hospitality would be of nominal value (under \$50).

Remember that even gifts of small value might have the potential to influence decision making or the perception of influence. It is important that the value of the gift is not the only factor considered in deciding whether or not the gift should be accepted.



It should be noted that regular offers of a token gift or benefit by a particular individual or organisation is considered as a cumulative gift. Alone these gifts or benefits may be considered 'token' however when the cumulative value and frequency by which they are being offered is considered the gifts or benefits would be non-token and the employee may be comprised, hence the requirement to declare.

For example:-

*"A local Council employee was involved in a series of inspections on a building site. During the inspections, the developer offered the employee numerous relatively inexpensive gifts including alcohol and a present for his newborn baby. The employee accepted the gifts as he believed they were offered as unconditional and genuine tokens of appreciation for his work, especially as the inspection involved a number of lengthy tasks. The council's code of conduct was not contravened by his acceptance of each individual gift as they were within nominal value. The employee later made a recommendation that was not in the developer's interests and the developer complained to the council about the employee accepting the gifts.*

*Although the employee accepted the gifts in good faith, he had nevertheless placed himself in a vulnerable position. While each of the gifts was of modest value, when viewed in total, they seemed quite substantial. The developer was able to manipulate the situation to allege the employee had accepted bribes." (Managing Gifts and Benefits in the Public Sector – Independent Commission against Corruption).*

The following is considered as "Token Gifts":-

- Box of chocolates or flowers from a grateful resident.
- Free or subsidised meals and/or refreshments provided infrequently (and/or reciprocally) by representatives of other public sector agencies or Federal Government departments or agencies
- Gifts of a single bottle of reasonably priced alcohol in recognition of work done (such as providing a lecture/training session/address).
- Free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business.
- Free meals, of a modest nature, and/or beverages provided to you when formally representing the City at work related events such as training, education sessions and workshops.
- Refreshments of a modest nature, provided at conferences where you are a speaker
- Ties, scarves, coasters, tie pins, diaries, calendars, chocolates, flowers and small amounts of beverages.
- \*Invitations to appropriate out of hours social functions organised by groups, such as Council, Committees or community organisations, but excludes invitations from suppliers, consultants, developers or commercial organisations, especially end of year Christmas functions involving any of the aforementioned groups.

\*Note: Should there be a defensible business reason to attend a function or Christmas event hosted by a supplier, consultant, developer or commercial organisation, this should be discussed with and approved by your Director prior to attending. In all other circumstances, should you wish to attend, you will be required to personally carry the cost.

**(b) Non Token Gifts or Notifiable Gifts**

These are gifts or benefits not essentially token or inconsequential in kind and exceeding the nominal value of \$50. In all cases approval of your Director is required before accepting Notifiable Gifts. In the case of the gift being offered to a Director, then approval is to be sought from the Chief Executive Officer and in the case of the Chief Executive Officer, approval should be sought from the Mayor.

Approval by the Director/CEO should only be given where the acceptance of the gift is unlikely to be seen by a reasonable 'impartial observer' to create a conflict of interest, or influence the performance of duties or functions. Refer to Section 4.2.7 for the management of inappropriate gifts.

Examples of gifts that could be approved are:-

- Where a gift is given to a employee in a public forum in appreciation for the work, assistance or involvement of the employee, and refusal to accept the gift would cause embarrassment or affront (the issue of causing embarrassment or affront does not apply to gifts offered by commercial organisations); or
- It does not influence, or have the potential to influence an officer in such a way as to compromise or appear to compromise integrity and impartiality or to create a conflict of interest or the perception of a conflict of interest; and
- It does not involve time away from official duties at public expense;
- It is not an offer of money or anything readily convertible into money, i.e. shares.

**Hospitality** that extends beyond courtesy, where there is no real benefit to the City of Wanneroo, or where it is clearly offered in an attempt to influence the employee's decisions, such as in relation to a procurement process, or development approvals, are to be **declined**.

In some circumstances the hospitality may relate to an event that involves legitimate work activities and it is considered essential for an employee to attend. It can be argued that attending the event is necessary in order to perform the City's functions, then the City should consider paying the expenses, rather than have the event organisers cover the expense.

Whether a gift is offered but declined or offered and approval extended to accept, in all cases employees are to complete a "Declaration of Gift" Form (**Appendix 7**).

**(c) Prohibited Gifts**

**A prohibited gift** is one worth \$300 or more, or where the same person or company has given more than one gift within a period of 6 months that totals \$300 or more. There are a number of offences and penalties that apply to non-compliance.

The acceptance of invitations to corporate boxes for sporting events, corporate golfing events and other such events or functions are generally not acceptable as they often exceed the prescribed range. In all instances Director/CEO approval is required having regard for all the provisions included in this procedure. In particular that acceptance "*does not involve time away from official duties at public expense.*" See (**Appendix 5 and 6**) for supporting information.

#### **4.2.4 Risks associated with accepting Gifts and Benefits**

There are very real risks for employees associated with being offered and accepting gifts or benefits in the course of their work. To protect the integrity of the City of Wanneroo and support employees in managing situations where a gift or benefit is offered, it is the City's policy that:-

- If offered a bribe an employee must immediately report the incident to their Leaders and the Next Up Leader must also be notified.
- Soliciting personal gifts or benefits is strictly prohibited under all circumstances. If an employee becomes aware of another employee soliciting gifts or benefits, the employee should report it immediately to their Leader.
- Gifts that may not be outright bribes but are nevertheless suspected of being offered for the purposes of influencing an employee's behaviour in his or her official capacity are to be declined. Your Leader must be notified if such an incident occurs and the CEO should consider whether to make a report to the Corruption and Crime Commission (CCC).
- Accepting gifts of cash is strictly prohibited. This includes offers of money to cover expenses for trips to view samples of work, gift vouchers etc. If a gift of money is offered, it must be refused and the incident reported immediately to your Leader.

#### **4.2.5 Prizes**

An employee may be the recipient of a prize as a result of entering a competition while engaging in official duties. For example, win a raffle or lucky door prize drawn at a conference or win a prize that was promoted as an incentive to complete a survey.

Employees should be aware that receiving a prize under these circumstances is not acceptable, if the employee is officially on duty, representing the City of Wanneroo and/or the City has paid for the employee to be in attendance at a conference/course.

Employees should not voluntarily enter competitions while working in an official capacity, e.g at a conference by submitting business cards as an entry for a prize draw or signing up for further information about a product.

If in receipt of a prize that exceeds a "token" value then the Director is to be notified and the prize managed in accordance with this management procedure. i.e. refer to Section 4.2.3 (b).

#### **4.2.6 Purchase Incentive Scheme**

It is not appropriate to retain a gift or benefit obtained through a purchase incentive scheme. For example, a company may offer a free ticket to the City's Social Club after they have purchased a certain quantity. It is important that the acceptance of the free tickets does not compromise any duty of impartiality in order to obtain such bonuses nor should the bonus bring private benefit to an individual employee. Disposal of these gifts or benefits, if it cannot be declined, should be by way of Section 4.2.7.

Employees involved with procurement and tendering should also be aware that it is highly inappropriate to keep a gift or benefit offered/obtained through a purchase incentive scheme.

Options available include not proceeding with the purchase or negotiating a refund for the value of the item offered. In all other circumstance to apply the principles of Section 4.2.7.

#### **4.2.7 Gifts that cannot be returned**

A situation where an inappropriate gift cannot be returned would be rare but could occur if an employee is in receipt of a gift that:-

- arrives anonymously through the mail;
- is left for the employee without a return address;
- is offered for cultural, protocol or other reasons, where returning it would be inappropriate; or
- the gift was received in a public forum where attempts to refuse or return it would cause significant embarrassment.

If you are not in a position to refuse receipt of such a gift for any reason, you must immediately refer the gift through to your Director who will either:-

- Request that you make every effort to return it; or where this fails;
- Declare the receipt of the gift and lodge it with the CEO.

Options available to the CEO in regard to managing receipt of gifts and benefits received in the above circumstances could include:-

- Donate the gift or benefit to the Mayor's Christmas Appeal or to an approved Charity of the CEO's choice;
- Goods of cultural significance (such as artworks and statues) could be displayed in public areas and books could be donated to the social club to be raffled.
- Gifts such as tickets to sporting events can be raffled to raise funds for the Mayors Christmas appeal, a charity or towards the City's social club.

It is important to ensure that the gift is registered and a record kept of how the gift was dealt with, such as whether it was kept by the individual, it became the property of the City or it was donated and to whom.

#### **4.2.8 Gifts to family members**

Employees should ensure that immediate family members are not the recipients of gifts and benefits that could be perceived to be an attempt to influence your behaviour as an employee of the City of Wanneroo.

If a gift or benefit is offered to an immediate family member by a business or individual with an association to you as an employee of the City of Wanneroo, and it could be perceived as an attempt to influence you in relation to your public duties, the matter must be reported and managed in accordance with this policy as if the offer had been directly to an employee.

#### **4.2.9 Bribes**

A gift or benefit is considered a bribe if it is offered or sought in order to influence the behaviour of a employee. Bribery is a crime, therefore if an offer or suggestion of a bribe is made directly or indirectly to an employee the employee is required to take the following action:

- Reject the offer and stop interacting with the person;
- Immediately inform your leader;
- Keep a record of events;
- Consider reporting the matter directly to the CCC. The CEO has an obligation to notify the CCC; however individuals can contact them directly.

More specifically in recent times, the CCC along with other state and federal agencies have conducted investigations into alleged misconduct by public officers in purchasing consumable goods, outside procurement policies and arrangements, in exchange for offers of gifts and benefits. The CCC believes that public sector agencies need to focus on gift offers as opposed to just gifts received, and the relationship between the gift-offerer/gift-giver and the gift-receiver, rather than the monetary value of the gift given.

#### **4.2.10 Alternative to Gifts**

The CCC advice is that as a general rule, offers of gifts should be declined. It is possible to promote other means of expressing appreciation to a potential gift-recipient, such as a letter of thanks. This message can be promoted to all stakeholders to the public authority in advance, so there is no expectation that a gift is an appropriate course of action.

#### **4.2.11 Breaches**

Non-compliance with this policy might range from a failure to declare the offer of a gift or acceptance of an approved gift, the acceptance of a prohibited gift, or undervaluing a gift or benefit to avoid reporting it. Officers are to assign 'fair market value' for each gift or benefit accepted. Deliberately undervaluing a gift or benefit constitutes official misconduct. Uncertainty about the value of a gift or benefit should be referred to your Leader or Next Up Leader for advice.

Consequences of continual breaches could impact on the City's reputation and result in the City being the subject of an external enquiry, whereas for individuals this could include disciplinary action ranging from counselling to dismissal, embarrassment or even criminal prosecution. Some breaches of policy or non-disclosure may be required to be reported outside the organisation, e.g. in circumstances that involve corrupt conduct.

An employee who becomes aware of a matter that breaches this policy must make a report to the Chief Executive Officer.

#### **4.2.12 Training and Education**

The City is to:

- Incorporate the provisions of this policy into its respective Human Resources Manuals;
- Present information hand outs at orientation programs for new employees;
- Provide ongoing training programs/employee development on corruption prevention, fraud control and conflict of interest;
- Issue information to re-enforce policy;
- Provide employee with fact sheets on conflict of interest and gifts and benefits;
- Include gifts and benefits/conflict of interest/corruption prevention as an agenda item for specified meetings eg Directorate Managers Meetings etc.

#### **4.2.13 Gifts and Benefits Register**

All "approved" gifts disclosed are required to be entered in a register maintained by Governance which is for the public record. The Gift Register is an official record that records a gift and/or a benefit received by or offered to an employee and details the decisions made and action taken.

### **ROLES AND RESPONSIBILITIES**

All Leaders have responsibilities to ensure that City employees are aware of their obligations under the City's Code of Conduct and Conflict of Interest and Gifts and Benefits Policy and Procedure and to manage any breaches accordingly.

All Employees have responsibility in respect of their public duty to:-

- Be aware of their obligation to identify and assess private and personal interests and whether they conflict or have the potential to conflict with their official duties;
- Avoid, where possible, conflicts of interest and manage those conflicts that cannot be avoided;
- Declare immediately any conflict of interest or potential conflict of interest;
- Not expect to receive anything for doing what they are paid to do and not seek any payment, gift or benefit, for themselves or an immediate family member;
- Never accept gifts of cash;
- Not accept gifts, rewards, travel or meals from suppliers or contactors, or if in a situation where it has not been possible to decline or return the gift or benefit, manage the receipt thereof according to the guidelines of this procedure; and
- Treat all persons equally and fairly and not show preference to any individual or organisation.

## RELATED POLICIES AND LEGISLATION

City of Wanneroo Code of Conduct  
Local Government Act 1995  
Local Government (Administration) Regulations 1996  
Corruption and Crime Commission Act 2003

## RESPONSIBILITY FOR IMPLEMENTATION

Governance – Implementation  
Human Resources – Breaches

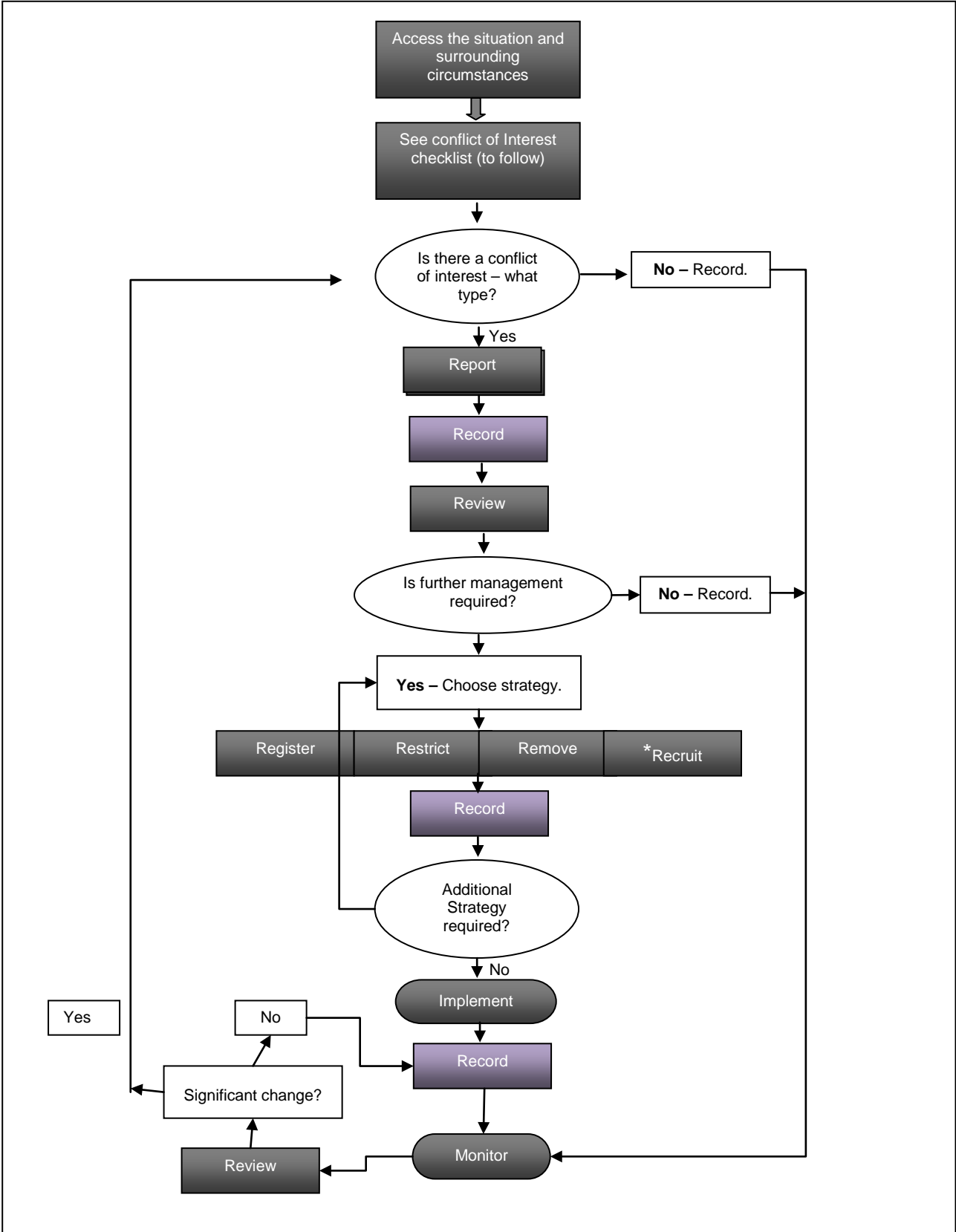
## REVISION HISTORY

Version	Next Review	Record No:
November 2012		12/146674

## REFERENCE DOCUMENTS

- *Corruption and Crime Commission Information Sheet: Misconduct Risk Related to Gifts and Benefits (November 2011)*
- Independent Commission Against Corruption - *Managing Gifts and Benefits in the Public Sector Toolkit*
- Independent Commission Against Corruption – *Managing Conflicts of Interest in the Public Sector - Guidelines and Toolkit*
- *The Integrity Coordinating Group – Conflict of Interest Guidelines.*
- *Chartered Secretaries Australia documents.*
- *Local Government Act 1995, Local Government (Administration) Regulations 1996 Part 5 and 6.*

DECISION MAKING GUIDE – CONFLICT OF INTEREST



\*Note: "Recruit" could involve engaging an external consultant or another officer to undertake the task.

**APPENDIX 2**

**CONFLICT OF INTEREST CHECK LIST**

	Yes	No
Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision or action?		
Could there be benefits for me in the future that could cast doubt on my objectivity?		
Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?		
Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?		
Do I or a relative or friend or associate of theirs stand to gain or lose financially in some covert or unexpected way?		
Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?		
Have I contributed in a private capacity in any way to the matter my agency is dealing with?		
Have I made any promises or commitments in relation to the matter?		
Have I received a benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?		
Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?		
Could there be any other benefits or actions that could cast doubts on my objectivity?		
Do I still have any doubts about my proposed decision or action?		
Am I confident of my ability to act impartially and in the public interest?		
Do I feel the need to seek advice or discuss the matter with an objective party?		
Do I know what the City of Wanneroo Code of Conduct requires in relation to conflicts of interest?		
Do I understand the possible penalties that may apply if I proceed with an action or decision with an unresolved conflict of interest?		



**Examples of Pecuniary and Non Pecuniary Interests**

Some examples of pecuniary and non-pecuniary interest

<p><b>Pecuniary interests</b></p> <p>involve an actual or potential financial gain or loss, or other material benefits or costs</p> <p>(In some jurisdictions they are also known as material personal interests.)</p>	<p><b>Non-pecuniary interests</b></p> <p>do not have a financial or other material component.</p> <p>(They may arise from personal or family relationships or involvement in sporting, social or cultural activities.)</p>
<p>You have shares in a family business which tenders for a contract with your agency.</p>	<p>Your child is a star player in a local sporting group which submits a grant application to your agency.</p>
<p>Your spouse owns a company in which you have no direct interest, which tenders for a contract with your agency.</p>	<p>One of your regular fishing buddies has submitted a tender with your agency and asks you to keep an eye on its progress.</p>
<p>You have a second job with a company which tenders for a contract with your agency.</p>	<p>An old enemy from schooldays who used to bully you is an applicant for a job with your agency.</p>
<p>You own property adjacent to a block of land which is the subject of an application to your agency for redevelopment.</p>	<p>You are the president of a local amateur operatic society which seeks sponsorship from your agency.</p>
<p>You have a private business which may lose custom to a rival concern which has lodged an application with your agency for permission to set up new premises near your private business.</p>	<p>Your children's nearby school will be affected by a new development. The development proposal has been lodged for approval with your agency.</p>
<p>Your spouse is an applicant for a job with your agency.</p>	<p>You are active in a voluntary organisation and in your spare time you draw up plans for an extension to its premises. These plans are lodged for approval with your agency.</p>

Whether the interest is pecuniary or non-pecuniary, in all above circumstances, you will have a conflict of interest if your public duties require you to become involved in any decision or action regarding the matter.

Scenario	Type of conflict	Why this is so
<p>You are a town planner in a small regional agency and you and your supervisor regularly assess development applications.</p> <p style="text-align: center;">↓</p> <p>You meet and marry a partner of a local architectural firm.</p> <p style="text-align: center;">↓</p> <p>Your spouse's firm submits plans to your agency as part of a development application, but your supervisor assesses the application.</p>	<p style="text-align: center;"><b>No</b> conflict</p> <p style="text-align: center;"><b>Potential</b> conflict</p> <p style="text-align: center;"><b>Perceived</b> conflict</p>	<p>This is part of your assigned official duties, but you have <b>no relevant private interests</b> that may impact on carrying out these duties.</p> <p>Your <b>private interests are currently not relevant</b> to your official duties but they could be in the future if your spouse's firm submits plans as part of a development application.</p> <p>Although you do not assess the application yourself, as a town planner in a small unit some may consider your own <b>private interests are relevant</b> to, and</p>
<p style="text-align: center;">↓</p> <p>Your supervisor allocates the file to you to assess a second development application submitted by your spouse's firm.</p> <p style="text-align: center;">↓</p> <p>Your supervisor resigns and is not replaced quickly leaving you as the only town planner available to assess development applications, for a significant time period.</p>	<p style="text-align: center;"><b>Actual</b> conflict</p> <p style="text-align: center;"><b>Potential</b> conflict</p>	<p>may have influenced, the assessment of the development application.</p> <p>As a town planner your <b>private interests are relevant</b> to your assigned official duties and could improperly influence your assessment, that is, your spouse is a related individual who stands to benefit or lose by the assessment outcome.</p> <p>As a town planner your <b>private interests will be relevant</b> to your assigned official duties any time during this period that your spouse's firm submits plans to your agency.</p>

**DISCLOSURE OF INTEREST DECLARATION  
LOCAL GOVERNMENT ACT 1995**

The Disclosure of Interest Procedure (Trim 13/89538) should be read prior to completing this form. The Office of the CEO is required to process the declaration within **7 (seven) days**, if this timeframe cannot be met, the officer is to be advised and an expected deadline date provided.

Given Name:		Surname:		Date:	
Position:		Unit/Directorate:			
Matter under consideration: <i>(Attached additional information if required.)</i>					
Expected role/duties to be performed by the employee in dealing with this matter: <i>(Attached additional information if required.)</i>					
Private interests identified which have the potential to impact on the employee's ability to carry out, or be seen to carry out their official duties impartially and in the public interest. <i>(Attached additional information if required.)</i>					
Select one: Actual Conflict of Interest: <input type="checkbox"/> Perceived Conflict of Interest: <input type="checkbox"/> Potential Conflict of Interest: <input type="checkbox"/>					
Select one: Financial Interest ( <i>Pecuniary</i> ): <input type="checkbox"/> Impartial Interest ( <i>Non-pecuniary</i> ): <input type="checkbox"/>					
<input type="checkbox"/> In the case of Impartial Interest, I declare that as a consequence, there may be a perception that my impartiality on matters relating to the above may be affected. I declare that I will consider all matters relating to the above on its merits					
<b>Declaration:</b> I declare that the above information is true and correct. I confirm that I will notify the City should circumstances change or arise that may alter this declaration.					
<b>Employee Signature:</b>				<b>Date:</b>	
<b>Leaders Name and Title:</b>					
Comment:					
<b>Signature:</b>				<b>Date:</b>	
<b>Approved – Leader's Name and Title:</b>					
Comment:					
<b>Signature:</b>				<b>Date:</b>	
Governance Use Only: Entered into Declaration of Interest Register by Governance Officer. _____ Date: _____					

***(Completed form to be sent through to Governance for registering. In the case of declarations not pertaining to recruitment, Governance will process through to the CEO's office for approval)***

**STATEMENT OF CONFLICT OF INTEREST RESOLUTION OR MANAGEMENT**

To be completed by the Chief Executive Officer:-

Proposed action to be taken to resolve or manage declarations of interest:


Signature: Chief Executive Officer
Date:

*~~Please return to Governance for further processing. The Declaration along with any comments from the CEO will be returned to the officer's Leader who has the responsibility to manage the conflict according to the CEO's determination and is to ensure that the officer making the declaration is informed of the action to be taken.~~*

**STATEMENT OF ADJUSTMENT TO CONFLICT OF INTEREST RESOLUTION OR MANAGEMENT**

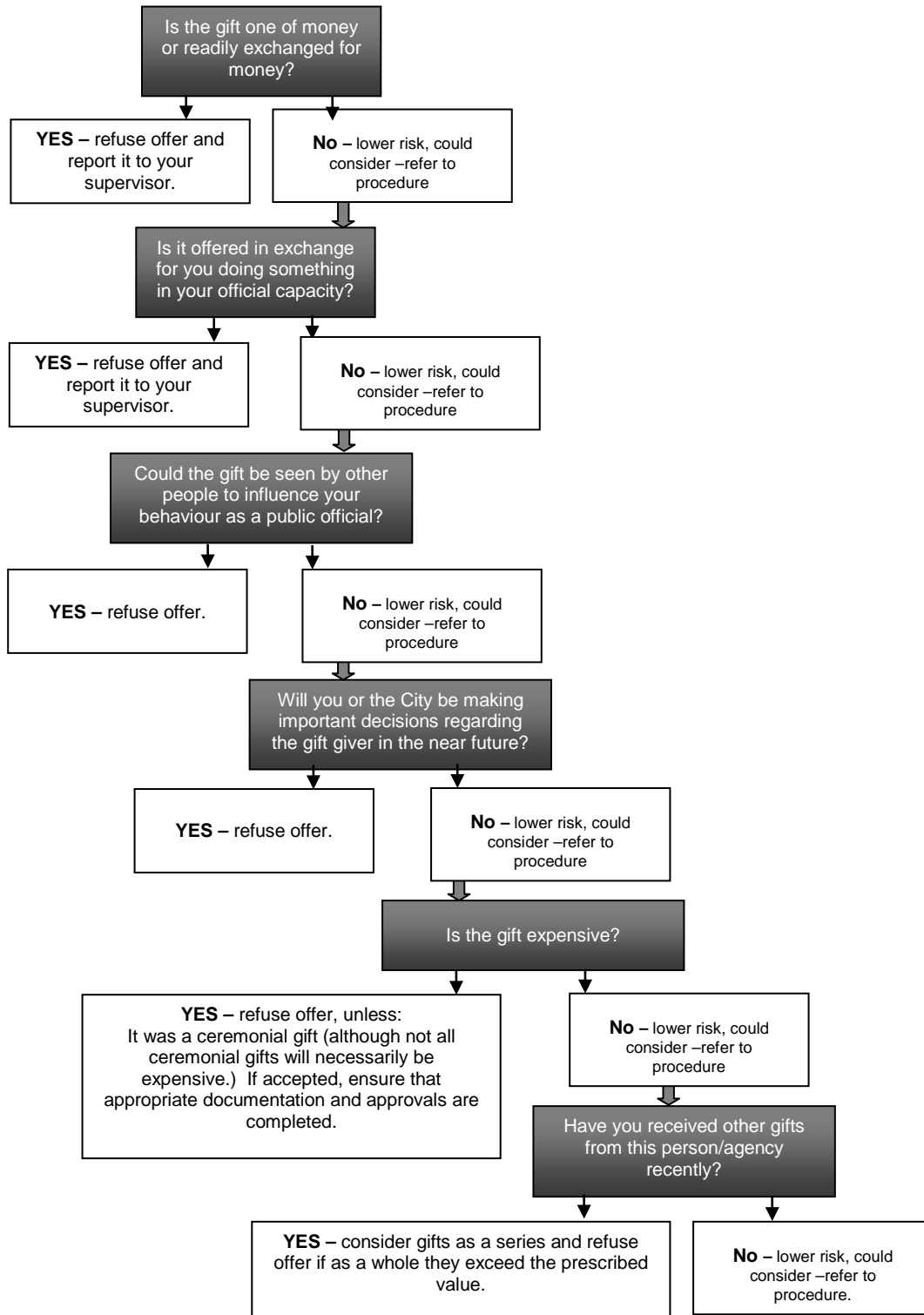
Adjustment to action taken to resolve or manage declarations of interest:


Signature: Chief Executive Officer
Date:

**Note:**—Should you require further information in relation to Declarations of Interest please contact Governance or refer to the City's Code of Conduct and Conflict of Interest and Declarations of Gifts and Benefits Policy and Management Procedure on the City's Intranet under Policy and Procedures.

*[New separate Conflict of Interest Management Procedure approved 23/01/170*

DECISION MAKING GUIDE – GIFTS AND BENEFITS



## POINTS TO CONSIDER

<b>G</b>	<b>Giver</b>	<p><b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b></p> <p>Does my role require me to select contractors, award grants, regulate industries or determine policies? Could the person or organisation benefit from a decision I make.</p>
<b>I</b>	<b>Influence</b>	<p><b>Are they seeking to influence my decisions or actions?</b></p> <p>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?</p>
<b>F</b>	<b>Favour</b>	<p><b>Are they seeking a favour in return for the gift, benefit or hospitality?</b></p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers that could be construed to be a "Cumulative gift". Would accepting it create an obligation to return a favour?</p>
<b>T</b>	<b>Trust</b>	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family or associates think?</p>

**Declaration of Receipt of Gift or Benefit**

Date*:			
Offered To:		Offered By:	
Name:		Name:	
Position:		Position:	
Signature:		Agency:	
		Contact Details:	
Relationship with Gift-Offer/Gift-Giver:			
Reason for Offer:			
Description of Gift:			
			*Estimated Value:
Accepted:		Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
Sign-off as per policy:-			
Director Name:		CEO Approval if Applicable:	
Directorate:		Date:	
Signature:		Signature:	
		Mayor Approval for CEO:	
		Date:	
		Signature:	
If accepted, as per the policy and procedure, what was the decision regarding the gift:-			
* Please note: If the gift (token or notifiable) is in a form of an invite to attend a function, please insert the date of the function and invitation should only be accepted post approval by Director.			
An employee who accepts a <b>notifiable gift</b> from a person who; (a) is undertaking or seeking to undertake an activity involving a local government discretion; or (b) it is reasonable to believe is intending to undertake an activity involving a local government discretion, is to notify the CEO within 10 days of acceptance of the gift. These declarations will be entered into a register available for public scrutiny. Please indicate whether this declaration is subject to the above regulation. <b>Yes:</b> <input type="checkbox"/> <b>No:</b> <input type="checkbox"/>			
Received by Governance: / /		Assessed by and date:	
Handed to Admin Officer to record in Gift Register 10/4537 date:			

**Notes: See back of Form**

According to Local Government (Administration) Regulations 1996 regulation 34B states that if more than one gift has been received from the above person within a six-month period and the total of all these gifts is still less than \$300 then you are required to list all previous gifts for the proceeding six months:-

Date of Acceptance of Gift:	
Estimated Value of Gift:	
Description of Gift	
Date of Acceptance of Gift:	
Estimated Value of Gift:	
Description of Gift	

**\*What is fair market value of the gift or benefit?** An appropriate person (separate to you) must verify the estimated fair market value of a gift or benefit. Deliberately undervaluing a gift or benefit to avoid reporting it to fraudulently keep it may constitute official misconduct. **Fair market Value** is the assessed value of the gift or benefit based on its purchase price, market value, or estimated value by a reputable source.

**You cannot accept at public expense.** You must not be away from official duties at public expense. Gifts or benefits such as tickets to a sporting event, the theatre or other major recreation attraction can only be used outside your normal hours or on approved leave, unless the gift or benefit forms part of your official duties and appropriate approval is obtained according to the Conflict of Interest and Declaration of Gifts and Benefits Policy and Procedure.

Gifts and benefits do not include any gifts or benefits given or received under an approved *employee health and wellbeing program or reward and recognition program*. For further information please refer to the *City's Code of Conduct and Conflict of Interest and Gifts and Benefits Policy and Procedure or Contact Governance*.