

## Policy

### Gifts, Benefits and Hospitality Policy

**This policy states the commission’s position on responding to offers of gifts, benefits and hospitality and the provision of gifts, benefits and hospitality to others.**

#### What you need to know

This policy is intended to support you to avoid conflicts of interest and maintain high levels of integrity and public trust. Creating a perception that we can be influenced by the giving of gifts, benefits or hospitality is just as damaging to our reputation as actually being influenced in this way.

This policy has been issued to support behaviour consistent with the Code of Conduct for Victorian Public Sector Employees and Code of Conduct for Directors of Victorian Public Sector Entities.

#### **This policy applies across the Essential Services Commission**

This policy applies to all workplace participants, including executives, commissioners, employees, and any contractors, consultants or individuals undertaking activity on behalf of the commission that are advised it applies to them. In this policy the term “individuals” is used to describe all workplace participants.

Any exceptions to this policy must have the prior written approval of the Chief Executive Officer.

#### **Individuals are expected to uphold high standards of integrity and impartiality**

1. This policy has been developed in accordance with requirements outlined in the [Minimum Accountabilities for Managing Gifts, Benefits and Hospitality](#) issued by the Victorian Public Sector Commission.
2. Maintaining the good reputation of the commission is essential if we are to promote community confidence in us and properly carry out our functions. The general public and public entities must be secure in the knowledge that employees are not influenced by gifts, benefits, or hospitality and uphold the Victorian public sector values of impartiality, integrity and accountability. It is therefore essential that we try to avoid any attempts to improperly influence us in the performance of our functions.

3. The commission is committed to upholding the following principles in applying this policy:

- **Thanks is enough:** managers should build a culture that encourages employees to uphold particularly high levels of integrity, politely decline offers where practical, and proactively advise suppliers and entities we regulate that we prefer offers not be made.
- **Public interest:** individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a perception of, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.
- **Accountability:** individuals are accountable for declaring all non-token offers of gifts, benefits and hospitality, declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer, and the responsible provision of gifts, benefits and hospitality.

Directors are accountable for overseeing management of their division's acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

- **Risk-based approach:** the commission, through its policies, processes and audit committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

### **Management of gifts, benefits and hospitality offers received**

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. An overview can be found at Appendix A.

4. Individuals must not, for themselves or others, seek or solicit gifts, benefits or hospitality. They should politely decline gifts, benefits and hospitality where practical. In maintaining the high standards of integrity expected of the commission, we strive to ensure transparency in decision making and act openly and honestly. The acceptance of offers from suppliers or organisations we make decisions about can undermine the impartiality of the commission's role.

### **Token offers may be accepted in certain situations**

5. A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual, and could not be perceived as creating a conflict of interest. It may include promotional items such as pens and note pads, a token gift to thank a conference speaker, or modest hospitality such as light refreshments offered during a meeting. The primary determinant of a token offer is that it would not be reasonably perceived as having the ability to influence an employee's decision-making. However, a token offer

cannot exceed \$50 in estimated value. This rule would apply to bottled alcoholic beverages which are sometimes customary gifts at year-end.

6. Individuals are to refuse all offers (excluding modest hospitality such as tea, coffee or modest catering at a meeting):
  - made by a current or prospective supplier
  - made during a procurement process by a person or organisation involved in the process
  - made by a person or organisation about which they will likely make a decision involving enforcement, licensing, regulation, sponsorship or grants.
7. You may accept token offers of gifts, benefits and hospitality without approval or declaring the offer on the commission's gifts, benefits and hospitality register.
8. If token offers are made often by the same person or organisation, the cumulative value of the offers, or the perception that they may influence the recipient, should be considered and the offer reported if conflict of interest or reputational risks arise.

#### **Some non-token offers must always be declined**

9. Non-token offers are those of higher value or where there is a possibility of perception it could influence an individual in the course of their business. For example, non-token offers include offer of a Christmas hamper, lucky door prize at events sponsored by a regulated entity or supplier, promise of a new job, attendance at a sporting event or fine dining at a working lunch or business function.
10. Modest hospitality provided during a business meeting or work function is generally considered to be a token offer and does not need to be reported.
11. Individuals must refuse any non-token offer:
  - made by a current or prospective supplier
  - that is likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest
  - made by a person or organisation about which the individual will likely, or be perceived to, make a decision (also applies to processes involving procurement, grants, sponsorship, regulation, enforcement or licensing)
  - that may adversely affect their standing as a public official, or which may bring the commission or the public sector into disrepute
  - likely to be a bribe or inducement to influence a decision or act in a particular way
  - that extend to their relatives or friends
  - with no legitimate business benefit

- of money, or used in a similar way to money, or something easily converted to money, including gift cards with a monetary value
- where, in relation to hospitality and events, the commission will already be sufficiently represented to meet its business needs
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions
- made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector agencies
- made in secret.

12. The Code of Conduct for Directors of Public Sector Entities (part 3.6) obligates commissioners to decline gifts or favours that may cast doubt on their ability to apply independent judgement.

13. If an individual considers they have been offered a bribe or inducement, the offer must be reported to the CEO and their Director, who should report any criminal or corrupt conduct to the Independent Broad-based Anti-corruption Commission.

#### **What do I need to do if a non-token offer cannot be accepted?**

14. If an individual is precluded from accepting a non-token offer:

- the offeror must be advised that the offer is refused as it does not conform with the commission's policy
- a declaration form must be completed.

#### **Return of gifts that should be refused**

15. Any gifts that should be refused but that have actually been received by mail or courier are to be returned to the sender as soon as practicable. Where returning the gift is considered burdensome, offensive or impossible, the gift may be accepted but must be donated to the staff social club, or disposed of as directed by the CEO, and included in the declaration form.

#### **Non-token offers may be accepted in limited situations**

16. Individuals should consider ways to avoid receiving offers, such as notifying suppliers that offers will not be accepted, not entering or accepting lucky door prizes at events sponsored by a regulated entity or supplier, and informing stakeholders about this policy.

17. There will be some situations where there is a legitimate business reason for accepting a non-token offer. An example is attendance at a board meeting of a regulated entity which has been deemed appropriate stakeholder management activity (see paragraph 30 below). Refer also to Table 1: GIFT test on page 13 for more information.

18. Any accepted offers must be offered in the course of the employee's official duties, relate to the employee's responsibilities and have a benefit to the commission, public sector or the State.
19. Ceremonial gifts offered by visiting delegations may be accepted. They should be recorded on the commission's gifts, benefits and hospitality register, but do not need to be published on the website.
20. Hospitality offered by Victorian public sector organisations (other than businesses we regulate) do not need to be recorded where it is offered as part of official business and where the reason for attendance is consistent with the organisation's functions and objectives, and within the employee's role.
21. Professional development provided free of charge by firms on the government legal services panel may be accepted, and recorded on the gifts, benefits and hospitality register using the declaration form if non-token in value. This is consistent with a requirement that these legal firms provide free professional development as a condition of panel membership. Free professional development offered by other organisations should be considered as with any offer of gift, benefit or hospitality and may be accepted if it meets the policy requirements (see also paragraph 32 below).
22. Ownership should not be a consideration when deciding whether to accept or decline an offer. In deciding ownership of the gift, consideration may be given to retention by the individual, transfer to the commission, staff social club, disposal, donation to charity or other suitable alternatives.

**Non-token offers, whether accepted or declined, must be recorded**

23. All non-token offers, even if declined, must be recorded in the commission's gifts, benefits and hospitality register by completing the declaration form and submitting it to the Senior Manager Governance & Risk within 5 days of the offer.
24. Approval to accept or retain non-token offers should be sought from the delegated officer as relevant:

Individual type	Approver
Chairperson or Commissioner	Approved at weekly commission meeting
Chief Executive Officer	Chairperson
Director	Chief Executive Officer
Employee or contractor	Director

25. Offers to commissioners will be identified and approved in commission meetings as soon as practical, and reported to the Senior Manager Governance & Risk for inclusion on the register as necessary, without the need for a declaration form.

26. The commission's Audit and Risk Committee will receive a report annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of the commission's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
27. As per the minimum accountabilities for management of gifts, benefits and hospitality, this policy and a de-identified version of the commission's gifts, benefits and hospitality register will be published annually on the commission's website.

### **Networking and stakeholder relationship management**

28. Networking is a valuable way to make relevant business connections and stakeholder relationship management is important. However, networking and relationship management opportunities should be limited to events such as presentations, industry forums, lunches and dinners and the like, where there is a presentation, keynote speech or the like or the general forum content is relevant to the individual's official duties or responsibilities and/or has a legitimate business purpose. Refer also to Table 1: GIFT test on page 13 for more information.
29. Therefore, 'networking' or 'stakeholder relationship management' is not the benefit that is recorded on the declaration form but rather how (a) the event is relevant to the individual's official duties or responsibilities and (b) has a legitimate business purpose.

### **Vendor celebratory events**

30. Where the offeror is a regulated entity, or vendor of goods or services to the commission, attendance at a celebratory function (such as end of year or Christmas function) is generally discouraged. However, individuals may participate, with approval by the individual's delegated manager provided the following three tests are met:
- it is a token offer (the individual should check with the offeror that is the case) and
  - the event is open to all of the offeror's clients, not just the commission and
  - the offeror is not currently, or likely to be in the immediate future, in a procurement process or regulatory review with the commission.

These tests serve to demonstrate that there is a benefit to the commission in terms of stakeholder management.

31. If all the above three tests cannot be met, then the invitation must be declined and recorded on the declaration form completed regardless of the value.

### **Training course, seminar or other educational activity**

32. From time to time, individuals may be offered the benefit of complimentary attendance at a training or professional development opportunity. This may also include an element of

hospitality. A training opportunity may be accepted even if the provider is a current supplier. However, in order to meet reasonable community expectations, any training opportunity:

- must provide training relevant to an individual's assigned duties or professional discipline
- is not provided solely to commission employees (it is also offered to other clients of the provider and / or other industry participants), unless the training is provided as part of a contractual arrangement with the commission
- only includes modest hospitality such as a light breakfast or sandwich lunch
- is not provided by an individual or entity involved in a current procurement process
- does not include travel, accommodation or non-modest entertainment or other benefits (these must be paid for by the commission).

33. The GIFT test at Appendix B should also be considered before any training opportunity is accepted.

34. For the purposes of reporting non-token offer that is a training opportunity in the declaration form, if the cost of the training opportunity cannot be ascertained from the provider, the training opportunity is to be recorded at \$50 per hour.

35. A training opportunity does not need to be recorded on the declaration form:

- where the actual cost is \$50 or less (i.e. is a token offer in nature), or if the cost cannot be determined but is one hour or less in duration; or
- is provided as part of a contractual arrangement with the commission.

36. All other instances must be considered as non-token and the declaration form must be completed.

### **Management of the provision of gifts, benefits and hospitality made by the commission**

37. Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes, celebrate achievements or launch an initiative.

38. When deciding whether to provide gifts, benefits or hospitality individuals must ensure:

- it is provided for a business reason in that it furthers the conduct of official business or other legitimate organisational or government goals, policy objectives and priorities
- that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations
- it does not raise an actual, potential or perceived conflict of interest.

Refer to Appendix B, Table 2: HOST test on page 13 for more information.

39. Approval from a relevant financial delegate should be sought prior to incurring expenses related to the provision of hospitality.
40. Individuals should contain costs involved in the provision of gifts, benefits and hospitality wherever possible, including the following considerations:
- Gifts provided should be symbolic in value, rather than financially valuable.
  - If possible, events should be held at a time of day least likely to attract expectations of hospitality, and events should only exceed two hours where unavoidable.
  - Public sector venues should be selected in preference to private venues with external venues only being used where value for money can be demonstrated.
  - The size of the event and number of attendees should be aligned with intended outcomes. Any catering should be proportionate to the number of attendees, be procured at competitive rates and avoid inclusion of expensive menu options.
41. When hospitality is provided, individuals must demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.
42. The supply of alcohol at any event can lead to increased risks, including the risk of anti-social behaviour and risks to the reputation of both individuals and the commission. The provision of alcohol should be incidental to the overall level of hospitality and individuals must not be impaired by alcohol whilst in the workplace or whilst representing the organisation. The provision of alcohol must have prior approval from the Chief Executive Officer, using the Hospitality Expense Form.

### **Provision of gifts and hospitality to commission employees**

43. The commission may occasionally provide catered activities for its employees, including as part of a larger employee-related event (for example a training course, workshop, planning day seminar or conference), to recognise an organisational or individual achievement (for example the successful completion of a project or the retirement of a long-standing staff member), or in celebration of a significant cultural or community event.
44. Celebrations of personal events such as birthdays, marriages or birth of children must not be funded using public money.
45. Catering an event for employees can be an effective means of celebrating achievements or promoting particular behaviours and is consistent with common business practice.
46. Where individuals are contributing to the cost of the event the above overarching considerations apply, however, the extra funding provided by contributions may be used at the discretion of the organising committee to enhance the event.



## A breach of this policy may be a serious matter

47. Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, suspension or removal from office, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the commission's Conflict of interest policy.
48. Actions inconsistent with this policy may constitute misconduct under the Public Administration Act 2004, which includes:
- breaches of the binding Code of conduct for Victorian public sector employees and Code of conduct for directors of public sector entities, such as sections of the Codes covering conflict of interest, public trust, and gifts and benefits
  - individuals making improper use of their position.
49. The commission will communicate this policy to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

## You can report behaviour inconsistent with this policy

50. Individuals who consider that gifts, benefits and hospitality or conflict of interest within the commission may not have been declared or is not being appropriately managed should notify their manager, Director or Legal Counsel.
51. The commission will take action, including possible disciplinary action, against individuals who discriminate against or victimise those who report behaviour that breaches our policies.
52. For serious corruption matters, including suspected unethical, illegal or improper behaviour, reports should be made using the commission's Protected Disclosures Procedure to IBAC, the CEO or Legal Counsel.

## Governance

53. The commission's Audit & Risk Committee will be provided with a report at least annually on the administration and effectiveness of this policy and related processes.
54. Attestations and reports shall be provided in accordance with Standing Directions issued by the Assistant Treasurer under the Financial Management Act 1994.

## Review and approval

55. This policy shall be reviewed at least every two years or earlier if there are substantial changes recommended by the Victorian Public Sector Commission.

56. Amendments to this policy shall be approved by the Chief Executive Officer<sup>1</sup>.

### Supporting documents are available

In addition to this policy, the following may be consulted to further your understanding:

<b>Legislation or Victorian government policies mandating compliance</b>	<a href="#">VPSC Gifts, Benefits &amp; Hospitality Policy Guidelines</a> <a href="#">Code of Conduct for Victorian Public Sector Employees</a> <a href="#">Code of Conduct for Directors of Victorian Public Entities</a> <a href="#">Public Administration Act 2004</a>
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<b>Related policies</b>	<a href="#">Conflict of Interest Policy</a>
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<b>Related documents</b>	<a href="#">Declaration Form</a> Gifts, Benefits & Hospitality Register (published version)
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### Glossary

**Benefits** Includes preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs, and promises of a new job.

The value of benefits may be difficult to define in dollars, but as they are valued by the employee, they may be used to influence the employee's behaviour.

**Commission** The Essential Services Commission

**Conflicts of interest** Actual: There is a real conflict between the individual's public duties and private interests.

Potential: An individual has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.

Perceived: The public or a third party could form the view that an individual's private interests could improperly influence their decisions or actions, now or in the future.

**Individuals** All employees, executives, commissioners, contractors and consultants or other persons representing the commission in a business capacity

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<sup>1</sup> Standing Directions of the Assistant Treasurer – Instruction 11.1 – requires that the Accountable Officer ensure that the Agency develops policies and procedures that apply the minimum accountabilities set out in the Victorian Public Sector Commission's *Gifts, Benefits and Hospitality Policy Framework*.

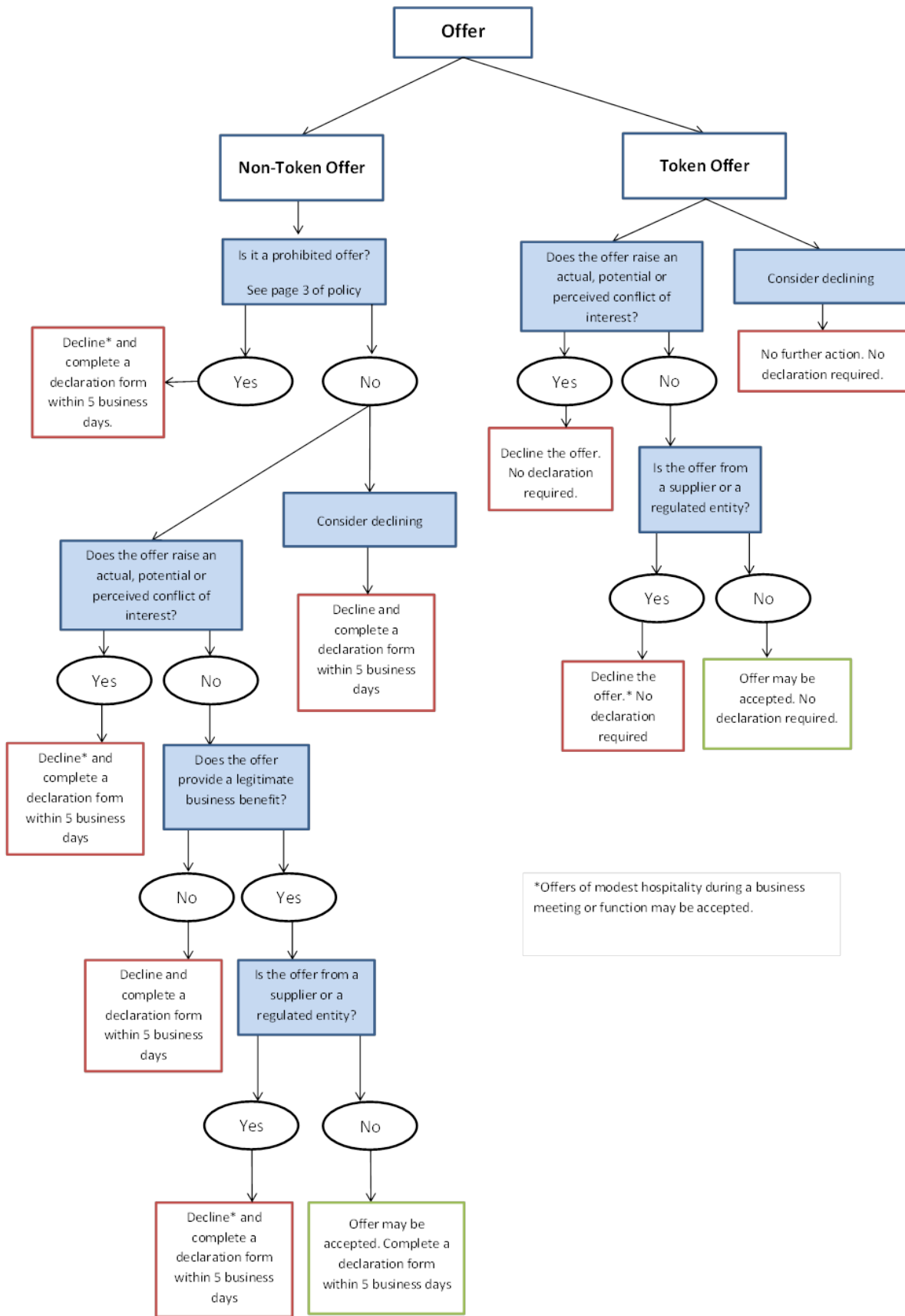
<b>Gifts</b>	Free or discounted items and any item that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery), low value (e.g. small bunch of flowers), consumables (e.g. chocolates) or door prizes.
<b>Hospitality</b>	The friendly reception and entertainment of guests. Hospitality may include light refreshments at a business meeting, expensive restaurant meals, or sponsored travel and accommodation.
<b>Legitimate business benefit</b>	Gifts, benefits and hospitality accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the organisation, public sector or State.
<b>Non-token offer</b>	An offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers.
<b>Token offer</b>	An offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the employee. Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an employee or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50 (including cumulative offers from the same source over a 12 month period).

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## Policy Management

<b>Date effective</b>	December 2020	<b>Policy owner</b>	Director Organisational Performance
<b>Next review date</b>	December 2022	<b>Content enquiries</b>	Robert Turnbull
<b>Approved by</b>	John Hamill, Chief Executive Officer	<b>Scope</b>	Organisation
<b>CM Reference</b>	F/05/748	<b>Category</b>	Operational

# Appendix A: Flowchart



## Appendix B: GIFT and HOST tests

Table 1. GIFT test

<b>G</b> Giver	<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 suppliers, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
<b>I</b> Influence	<p><b>Are they seeking to gain an advantage or 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 or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make or endorse a product or service?</p>
<b>F</b> Favour	<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 over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p>
<b>T</b> Trust	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

Table 2. HOST test

<b>H</b> Hospitality	<p><b>To whom is the gift or hospitality being provided?</b></p> <p>Will recipients be external business partners, or individuals of the host organisation?</p>
<b>O</b> Objectives	<p><b>For what purpose will hospitality be provided?</b></p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?</p>
<b>S</b> Spend	<p><b>Will public funds be spent?</b></p> <p>What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained?</p>
<b>T</b> Trust	<p><b>Will public trust be enhanced or diminished?</b></p> <p>Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?</p>