

Gifts, benefits and hospitality

Policy framework

October 2016

VPSC

Victorian Public Sector Commission

The Victorian Government has vested the Victorian Public Sector Commission with functions designed to enhance the performance of the public sector – fostering the development of an efficient, integrated and responsive public sector which is highly ethical, accountable and professional in the ways it delivers services to the Victorian community.

The key functions of the Commission are to:

- strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services; and
- maintain and advocate for public sector professionalism and integrity.

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1. Foreword

As public officials, we all have a duty to conduct ourselves in accordance with the highest standards of integrity, impartiality and accountability. The way we respond to offers of gifts, benefits and hospitality is critical to earning and sustaining the trust of those we serve. Government, customers, clients, business associates and the Victorian community need to be confident that we perform our public duties without favouritism, bias or for personal gain. Similarly, we need to be confident that we are using public resources responsibly when we provide gifts or hospitality in the course of our work.

The minimum accountabilities for managing gifts, benefits and hospitality set out in this guide apply to all public officials and all public sector organisations. Each public sector organisation is required to develop and implement a gifts, benefits and hospitality policy that applies these minimum accountabilities. Gifts, benefits and hospitality policies assist us to differentiate modest tokens of appreciation, or hospitality that is a basic courtesy, from inducements, conflicts of interest or non-token offers without a legitimate business benefit.

When facing a decision about gifts, benefits and hospitality, I encourage all public officials to reflect on the overarching objective of these minimum accountabilities. Ultimately, we are seeking to earn and sustain trust in our people and our organisations so that we are best equipped to serve the Victorian community.

Belinda Clark QSO
Commissioner

2. Purpose

This guide sets out the Victorian Public Sector Commissioner's minimum accountabilities for managing gifts, benefits and hospitality. The overarching objective of the minimum accountabilities is to encourage behaviours that will earn and sustain community and government trust. In particular, they seek to equip you and your organisation to:

- distinguish and appropriately manage modest tokens of appreciation, or hospitality that is a basic courtesy, from inducements, conflicts of interest or non-token offers without a legitimate business benefit; and
- identify appropriate boundaries for the provision of gifts, benefits and hospitality in a way that is considered reasonable in terms of community expectations.

In addition, this guide provides information to assist Victorian public officials (including public sector employees, statutory office holders and directors of public entities) to apply the minimum accountabilities. The guide provides information about key considerations for designing and implementing gifts, benefits and hospitality policies and processes in Victorian public sector organisations. It will help public officials to fulfil the minimum accountabilities and to make decisions about gifts, benefits and hospitality.

3. Definitions

Term	Definition
Business associate	an external individual or entity which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
Benefits	include 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 individual, they may be used to influence the individual's behaviour.
Conflict of interest	<p><i>Actual</i> there is a <u>real conflict</u> between an employee's public duties and private interests.</p> <p><i>Potential</i> an employee has private interests that <u>could conflict</u> 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.</p> <p><i>Perceived</i> the public or a third party could <u>form the view</u> that an employee's private interests could improperly influence their decisions or actions, now or in the future.</p>
Gifts	are 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, or expensive pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.
Hospitality	is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Legitimate business benefit	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.
Public official	has the same meaning as under section 4 of the <i>Public Administration Act 2004</i> . This includes: <ul style="list-style-type: none"> • public sector employees; • statutory office holders; and • directors of public entities.

Term	Definition
Register	is a record, preferably electronic, of all declarable gifts, benefits and hospitality . It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.
Token offer	is 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 individual. Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual 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). This does not apply to a person employed under the <i>Education and Training Reform Act 2006</i> in a Victorian Government school, who receives an offer from or on behalf of a parent, guardian, carer or student intended to express appreciation of the person’s contribution to the education of a student or students, in which case it cannot be worth more than \$100.
Non-token offer	is 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 and must be recorded on a gift, benefit and hospitality register (except for specific offers received by a person employed in a Victorian Government school, as defined under ‘token offer’). [Public sector organisations may set lower thresholds for non-token offers.]

4. Minimum accountabilities

Your organisation's gifts, benefits and hospitality policy and procedures must apply the minimum accountabilities (or a higher standard) shown in **Figures 1, 2 and 3** and reinforce the Victorian public sector values of impartiality, integrity and accountability set out under section 7 of the *Public Administration Act 2004*.

Figure 1. Minimum accountabilities for public officials offered gifts, benefits and hospitality

Public officials offered gifts, benefits and hospitality:

1. Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
2. Refuse all offers of gifts, benefits and hospitality that:
 - are money, items used in a similar way to money, or items easily converted to money;
 - give rise to an actual, potential or perceived conflict of interest;
 - may adversely affect their standing as a public official or which may bring their public sector employer or of the public sector into disrepute; or
 - are non-token offers without a legitimate business benefit.
3. Declare all non-token offers (valued at \$50 or more¹) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

Figure 2. Minimum accountabilities for public officials providing gifts, benefits and hospitality

Public officials providing gifts, benefits and hospitality:

5. Ensure that any gift, benefit and hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities.
6. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
7. Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

¹ Except where a person employed under the *Education and Training Reform Act 2006* in a Victorian Government school receives an offer from or on behalf of a parent, guardian, carer or student intended to express appreciation of the person's contribution to the education of a student or students, in which case non-token includes any offer worth more than \$100.

Figure 3. Minimum accountabilities for heads of public sector organisations

Heads of public sector organisations:

8. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum requirements and accountabilities.
9. Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
10. Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
11. Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for a business associate acting contrary to the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
12. Report at least annually to the organisation's audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
13. Publish the organisation's gifts, benefits and hospitality policy and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.

5. Developing and implementing organisational policies

5.1 Developing your policy

In every public sector organisation there are potential risks regarding the offering and provision of gifts, benefits and hospitality. Embedding a policy within an organisation's culture provides certainty to employees and business associates on the organisation's requirements and expectations and is an effective way to mitigate against the potential risks of gifts, benefits and hospitality offers.

Organisations may adopt and build on the model policy for gifts, benefits and hospitality (available on the VPSC's website at www.vpsc.vic.gov.au/resources/gifts-benefits-and-hospitality-resource-suite/). The model policy provides robust and consistent standards for applying the minimum accountabilities. This section provides guidance and sets out the key steps to develop a new gifts, benefits and hospitality policy.

Figure 4. Key steps for developing your organisation's policy

- Consider using the VPSC's model gifts, benefits and hospitality policy as the basis of your organisation's policy. (The model policy is available on the VPSC's website.)
- Undertake background research including: examining your organisation's regulatory frameworks; environmental scanning for good practice and common shortfalls in relation to gifts, benefits and hospitality management; employee and stakeholder consultations; identifying other related policy areas; understanding relevant cultural practices; and considering the topics set out in the model policy.
- Assess your organisation's gifts, benefits and hospitality risks (see **Assessing your risks** at 5.1.1).
- Decide on the type of policy - whether you permit or ban acceptance of gifts, benefits and hospitality (see **Deciding on the type of policy** at 5.1.2).
- Define the policy aims, objectives and key audiences.
- Develop the key principles and policy content (see **Principles and policy content** at 5.1.3).
- Discuss the principles and policy content at the executive level.
- Draft the policy and consult managers, employees and key stakeholders about the draft policy, including the relevant union.
- Implement the final policy and publish it on your organisation's intranet and website (see **Implementing your policy** at 5.2)

Organisations should consider who else may need to be brought into the policy development process. Conducting a thorough consultation process will encourage employees and business associates to begin thinking about the ways that gifts, benefits and hospitality risks arise within your organisation. This will improve understanding of the issue and engagement with the final policy.

5.1.1 Assessing your risks

Risks to impartiality and integrity associated with gifts, benefits and hospitality may arise in any part of an organisation, some activities will have a higher risk than others. Policies for the provision and receipt of offers of gifts, benefits and hospitality should be informed by the organisation's functions, the types of roles employees perform and the likely contact with customers, clients, members of the public and business associates.

Figure 5 sets out questions for consideration, to better understand gifts, benefits and hospitality risks and how best to manage them.

Figure 5. Questions to assess your gifts, benefits and hospitality risks

- In what circumstances might gifts, benefits or hospitality be offered to an employee and when, if at all, can they be accepted?
- Are there particular roles or activities that are at greater risk of being compromised than others? (see **Table 1** for examples of high risk activities)
- Is there legislation, or government policy, prohibiting or impacting upon the giving or acceptance of gifts, benefits and hospitality in certain situations (including the minimum accountabilities)?
- Do complaints or disciplinary cases involving the offer or provision of gifts, benefits and hospitality identify opportunities to implement increased risk mitigation measures?
- Does your organisation's gifts, benefits and hospitality register identify any trends or key risks that should be managed?
- In what circumstances might the organisation provide gifts, benefits or hospitality? Under what circumstances would this be appropriate? When would it be inappropriate?
- How would you explain your decision about the provision of the gift, benefit or hospitality publicly, or to those to whom you are accountable?
- Would case studies and scenarios help explain the type of situations employees may face during the course of their duties?

5.1.1.1 Conflicts of interest

Considering any actual or perceived conflict of interest is central to determining how to respond to an offer of a gift, benefit or hospitality. The relationship between an employee and the person or organisation offering the gift, benefit or hospitality is crucial in determining whether an actual, potential or perceived conflict of interest may arise. The organisation's policy should state that employees must not accept gifts, benefits or hospitality from those about whom the employee is likely to make business decisions.

Similarly, the relationship with those being provided with gifts, benefits and hospitality must be considered to ensure it does not give rise to an actual, potential or perceived conflict of interest. An organisation's gifts, benefits and hospitality policy should be linked to its conflict of interest policy and processes to provide employees with assistance in managing these situations if they arise.

Table 1 highlights some of the activities that give rise to higher risk of conflict of interest resulting from the acceptance or provision of gifts, benefits and hospitality.

Table 1. Activities and functions with increased risk of conflict of interest

Activities	Examples of functions/activities that may increase risk of conflict of interest
Procurement and recruitment	<ul style="list-style-type: none"> • procuring goods or services • tendering for and managing contracts • making appointments to positions
Regulating individual or business activities	<ul style="list-style-type: none"> • inspecting, regulating, or monitoring standards, businesses, equipment or premises • issuing qualifications or licences • issuing or reviewing fines or penalties
Distributing goods, services or funds	<ul style="list-style-type: none"> • providing a service • allocating grants of public funds • allocating subsidies, financial assistance, concessions, or other relief
Making binding decisions	<ul style="list-style-type: none"> • issuing determinations on matters • passing binding judgments • exercising powers over planning and land development

5.1.2 Deciding on the type of policy

Policies can require a total ban on the acceptance of gifts, benefits and hospitality or may allow acceptance in some circumstances. Organisations should adopt the policy position that best suits the organisation’s operating environment and risk profile.

5.1.2.1 Policy that bans the acceptance of gifts, benefits and hospitality

A policy of not accepting offers of gifts, benefits and hospitality avoids the risks to impartiality, integrity and accountability and is simple to administer and understand. This approach is appropriate for an organisation with a high-risk profile or very little likelihood of receiving offers. For example, this may be appropriate in an organisation that has no requirement to liaise with external business associates, or has integrity, regulatory or quasi-judicial functions.

If adopting this policy approach, the policy needs to be well communicated and should include strategies for declining gifts, benefits and hospitality without causing offence or embarrassment (see **Communication** at 5.2.3).

5.1.2.2 Policy that allows the acceptance of some gifts, benefits and hospitality

A total ban on accepting gifts, benefits and hospitality may be impractical or unrealistic in some organisations, particularly where staff have frequent contact with clients, foreign dignitaries and members of the public, or where the organisation has a low risk profile and a high probability of receiving such offers.

Liaison with external business partners or stakeholders may also be intrinsic to the fulfilment of the organisation’s roles and functions. For example, the provision of hospitality may be part of doing business, or facilitating other stakeholder groups to work together to achieve outcomes for the benefit of the community.

Where this approach is adopted, the organisation needs to establish clear processes for accepting, providing and monitoring gifts, benefits and hospitality to safeguard impartiality, integrity and accountability. In particular, the organisation needs clear guidelines about when there is (and is not) a legitimate business reason to accept a gift, benefit or hospitality.

5.1.3 Principles and policy content

All gifts, benefits and hospitality policies need to apply the minimum accountabilities and encourage behaviours that will earn and sustain community and government trust. In particular, the policy should cover the topics set out at **Figure 6** and should seek to equip employees to:

- distinguish and appropriately manage modest tokens of appreciation, or hospitality that is a basic courtesy, from inducements, conflicts of interest or non-token offers without a legitimate business benefit; and
- identify appropriate boundaries for the provision of gifts, benefits and hospitality in a way that is considered reasonable in terms of community expectations.

Figure 6. Key topics your gifts, benefits and hospitality policy should cover

- Policy purpose (why have the policy).
- Application (who the policy applies to).
- Minimum accountabilities.
- Key definitions (e.g. definitions of token offer, business benefit, gift, benefit and hospitality).
- Processes for managing offers, provision and declaring of gifts, benefits and hospitality, including:
 - the process for declaring, recording and managing offers of gifts, benefits and hospitality;
 - which gifts, benefits and hospitality can be accepted and which must be declined;
 - the scale, cost and nature of the gifts, benefits or hospitality that can be provided; and
 - a transparent process for monitoring and reporting on the acceptance and provision of gifts, benefits and hospitality.
- Links to related policies (e.g. the organisation's conflict of interest policy).
- How the organisation will respond to breaches of the policy.
- How employees can report suspected breaches of the policy.
- Advice or further information.
- Tools and guidance.

5.1.4 Breaches of the policy

Organisations should establish a clear process for employees to report inducements or attempted bribery, either to the head of the organisation or a senior delegate. This process should be clearly articulated in the gifts, benefits and hospitality policy.

Organisations must also have a clear and well communicated policy on managing breaches of its gifts, benefits and hospitality policy. This should outline any disciplinary action that may be taken, including dismissal, where employees fail to adhere to its policy. This includes where an employee fails to avoid, wherever possible, or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality.

Organisations must communicate their policy on the offering and provision of gifts, benefits and hospitality to suppliers, including contractors, consultants and other business associates. They should clearly articulate to business associates that acting inconsistently with their policy may result in contract re-negotiation, including termination.

5.2 Implementing your policy

Developing and adopting a gifts, benefit and hospitality policy is the first step in effectively managing gifts, benefits and hospitality. Even the most comprehensive policy is ineffective if it is not implemented properly. Organisational culture has a much greater effect on the behaviour of individual employees than policies and procedures. Research conducted by the Victorian Public Sector Commission suggests that employees' belief that their manager acts ethically plays a more important role in perceptions of integrity than does their knowledge of the organisation's policies and procedures.

When implementing the policy, education and training, leadership and communication will be critical. In addition, the organisation's gifts, benefits and hospitality policy should also be embedded into other relevant organisational policies and procedures, including those related to conflicts of interest and procurement.

5.2.1 Education and training

When an organisation adopts a participatory approach to policy development, the education process will begin during this engagement. Having employees, managers and stakeholders involved in the development process encourages understanding and a sense of ownership of the policy.

Ongoing training and education about the policy and associated procedures are essential for embedding it within an organisation. This should form part of the induction process for officials when discussing the public sector values of integrity, impartiality and accountability and how these values apply to their role. Face-to-face training or short videos featuring senior leaders may also be considered for employees undertaking higher risk activities.

Specific training for all employees is desirable but is not always practical or feasible. However it may be possible to provide newsletters, items on your organisation's intranet or other electronic communications at key times to maximise your audience's awareness (see **Communication** at 5.2.3).

5.2.2 Leadership

Research indicates that leadership is fundamental to embedding the appropriate values and behaviours in an organisation's culture. Leadership is also central to the success of implementation of a gifts, benefits and hospitality policy. It must be clear to all within the organisation that the head of the organisation and senior leaders sponsor the policy and will enforce adherence to it, including taking decisive action in response to breaches.

This sponsorship and support must be expressed in what is said as well as in the way that leaders and managers behave. Having a senior manager as a contact person for discussion of issues relating to gifts, benefits and hospitality may assist with reinforcing the importance of the organisation's policy.

5.2.3 Communication

An effective communication strategy is necessary to support the implementation of the organisation's policy and should target both internal and external audiences. This should include general employees, employees in high-risk roles or with high-risk responsibilities, and managers who need to be able to manage their own risks as well as assist employees with managing gifts, benefits and hospitality issues.

It is also important to communicate the policy to business associates, including key stakeholders such as clients, customers, and current or prospective suppliers including contractors or service providers. These groups need to be aware of the organisation's policy and processes for managing gifts, benefits and hospitality. At a minimum, the organisation must:

- communicate its policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for business associates acting contrary to this position;

- communicate to employees its gifts, benefits and hospitality policy and processes and that a breach of the policy or the minimum accountabilities may constitute a breach of binding Codes of Conduct, or constitute criminal or corrupt conduct, and result in disciplinary action; and
- publish its policy and register on its website.

Communicating the policy directly to business associates and more broadly on the organisation's website sets clear expectations for how the organisation expects people to conduct themselves with respect to gifts, benefits and hospitality. It will also assist in building an ethical reputation. It demonstrates to employees that senior leadership are committed to the policy and to encouraging the types of behaviours that earn and sustain community and government trust.

Organisations can also consider targeted communication designed to remind people of their responsibilities at critical times (such as during holiday periods like Christmas, during industry association trade fairs and events, or before a procurement or recruitment process). The risk assessment (see **Assessing your risk** at 5.1.1) will have identified key activities and functions and this should be used to tailor communications.

Other ways to communicate the organisation's policy position include:

- broadcasting the policy in brochures, posters and other publicity;
- referring to the policy in contracts and other corporate documents;
- suggesting a way of declining the gift, benefit or hospitality in person and explaining the policy;
- suggested wording for letters returning a gift that has been delivered to the office or workplace;
- alternative means for clients to express their appreciation to front line employee such as a clearly sign-posted feedback box; or
- explaining the policy to conference organisers at the time of accepting a speaking engagement so that the host knows not to offer a gift in appreciation for the presentation on the day.

5.3 Monitoring and reporting

Effective monitoring and reporting is crucial to understand an organisation's gifts, benefits and hospitality activities as well as its risks and how best to treat them. This should be more than just monitoring individual offers or provision of gifts, benefits or hospitality, as it also involves risk-based monitoring of the policy, processes and register.

At a minimum, an organisation must report at least annually to its audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register. This must include analysis of your organisation'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.

5.3.1 Maintaining your register

The organisation's gifts, benefits and hospitality register is a record of declarable offers of gifts, benefits and hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the existence of any conflicts of interest and how the offer was managed. For accepted offers, it details the business reason for acceptance.

Each organisation should have a designated person responsible for maintaining the register and ensuring it is regularly updated and published on the organisation's website. Organisations are expected to take into consideration their requirements under relevant privacy legislation when publishing their register online. For example, it may be appropriate to remove employees' names and use only their position title. The register forms the basis of risk-based monitoring and reporting, and should record sufficient

information for identifying trends and key risks. It also forms the basis of reporting to the organisation's audit committee.

A template for a gifts, benefits and hospitality register is available on the VPSC website at www.vpsc.vic.gov.au/resources/gifts-benefits-and-hospitality-resource-suite/.

6. Responding to offers of gifts, benefits and hospitality

As a public official, you may be offered gifts, benefits and hospitality during the course of your duties. These will often be in the form of token offers, such as tea or coffee, which would be considered a basic courtesy and do not require declaration. However, there may be offers that if accepted:

- would not be considered reasonable in terms of community expectations;
- may be an actual, potential or perceived conflict of interest; or
- may be perceived as an inducement for favourable treatment or decisions.

This section will provide guidance to help you to distinguish between and manage these risks.

6.1 Token offers

Token offers are of inconsequential or trivial value to both you and the person making the offer and may generally be accepted. They may include promotional items, such as pens and note pads provided to you at a conference, or modest hospitality that would be considered a basic courtesy, such as light refreshments offered during a meeting.

Whilst the primary determinant of a token offer is that it would not be reasonably perceived as influencing you or creating a conflict of interest, it cannot be worth more than \$50.² Where you receive multiple token offers from the same person or organisation, the cumulative value of the offers, or the perception that they may influence you, may result in them becoming non-token and must be managed accordingly (see **Repeat offers, inducements and attempted bribery** at 6.2.1).

Scenario 1. Conference presentation

Matthew had spent the past week composing and then rehearsing his presentation for the international conference on sustainable development. As Matthew makes his closing remarks, the audience applauds and the MC steps forward to thank him for an engaging presentation, and presents him with a modest box of chocolates.

What should Matthew do?

The MC is presenting Matthew with chocolates to say thanks for his presentation. Matthew's organisation categorises such gifts as token offers and does not require them to be recorded on the gifts, benefits and hospitality register. Matthew could accept the chocolates.

6.2 Non-token offers

Your organisation's gifts, benefits and hospitality policy should set out its position regarding the acceptance of non-token offers. At a minimum, you must decline non-token offers that if accepted would:

- be perceived as an inducement (see **Repeat offers, inducements and attempted bribery** at 6.2.1);
- have no legitimate business benefit to your organisation or the State (see **Non-token offers without a legitimate business benefit** at 6.2.2); or
- give rise to an actual, potential or perceived conflict of interest (see **Conflicts of interest** at 6.2.3).

² This does not apply to a person employed under the *Education and Training Reform Act 2006* in a Victorian Government school, who receives an offer from or on behalf of a parent, guardian, carer or student intended to express appreciation of the person's contribution to the education of a student or students, in which case it cannot be worth more than \$100.

The 'GIFT' test at **Figure 7** is a good reminder of what to think about in making this assessment.

Figure 7. 'GIFT' test

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</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>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</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?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</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>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

You may be offered a gift or hospitality where there is no opportunity to seek written approval from your manager prior to accepting. For example, if you are offered a wrapped gift after presenting at a conference that you later identify as being a non-token gift. In these cases, you must seek approval from your manager within five business days.

Where the gift would likely bring you or the organisation into disrepute, the organisation should consider returning the gift. If it represents a conflict of interest for you, the organisation should either return the gift or transfer the ownership to the organisation to mitigate this risk.

6.2.1 Repeat offers, inducements and attempted bribery

You should be alert to repeated offers of gifts, benefits and hospitality from a single source and your organisation must report to its audit committee on the risks associated with such offers. The cumulative value of the offers over a year may be quite high. In addition, when accepting offers becomes a habit or even an expectation, you are likely to be in breach of the relevant Code of Conduct.

You must refuse bribes or inducements and report inducements and bribery attempts to the head of your organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission). Your organisation's gift, benefits and hospitality policy should also explicitly encourage employees to report any colleague who tries to solicit a bribe.

The acceptance of money, items used in a similar way to money, or items easily converted to money is prohibited, as accepting this type of offer has a high risk of influencing you or being perceived as an inducement for favourable treatment.

6.2.2 Non-token offers without a legitimate business benefit

Non-token gifts, benefits and hospitality can only be accepted where it is for a business purpose, in that it furthers the conduct of official business or other legitimate goals of your organisation, the public sector or State. Where it would not, you must decline the offer.

Examples of non-token offers without a legitimate business benefit may include:

- tickets to entertainment events that do not relate to your official duties;
- non-token hospitality provided while introducing you to a product or service – your role requires you to impartially assess new products and services, which may be undermined if you accept or are seen to accept such hospitality.

Scenario 2. A day at the tennis

Pam is responsible for her organisation's marketing and promotions team, including for approving sponsorship funding for local events. While attending an event that her organisation sponsored, Pam was invited by the event organiser to attend the upcoming Australian Open tennis tournament.

What should Pam do?

It was appropriate for Pam to attend the event her organisation sponsored so that she could report back to her employer on the outcome. However, it would not be appropriate for Pam to attend the Australian Open event, as there is no business benefit for organisation in her attending. It could also raise a perceived conflict of interest, as the person making the offer could be seeking to influence Pam's future sponsorship decisions. She should decline the invitation and record the non-token offer of Australian Open tickets on her organisation's gifts, benefits and hospitality register.

There may be non-token offers that hold a business benefit but may still be inappropriate to accept. For example, travel sponsored by private or commercial sources may have a business benefit to the organisation. However, this should generally be declined because there is a high risk that a conflict of interest will arise. The overarching consideration should always be whether acceptance of an offer would bring yourself, your organisation or the public sector into disrepute, including through the creation of a conflict of interest.

6.2.3 Conflict of interest

The relationship between you and the person or organisation offering the gift, benefit or hospitality is crucial to determining whether a possible conflict of interest exists. You must not accept gifts, benefits or hospitality from those about whom you are likely to make business decisions and should record any offers of this type in your organisation's register. For example:

- members of an Accredited Purchasing Unit or those involved in purchasing goods and services must not accept offers of gifts, benefits or hospitality from suppliers, particularly when a tender has been advertised;
- inspectors must not accept offers from people seeking licenses;
- those who award grants must not accept offers from applicants; and
- policy makers must not accept offers from lobbyists

In each of these cases the public official has the power to make a decision in favour of the person making the offer and could be influenced, or create a perception that the offer is an inducement for a favourable decision.

7. Providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes and to celebrate achievements. When deciding whether to provide gifts, benefits or hospitality or what type to provide, you must ensure that:

- it is provided for a business reason (see **Provided for a business reason** at 7.1);
- any costs are proportionate to the benefits obtained for the State (see **Costs proportionate to the benefits** at 7.2); and
- it would not give rise to an actual, potential or perceived conflict of interest.

The 'HOST' test at **Figure 8** is a good reminder of what to think about in making this assessment.

Figure 8. 'HOST' test

H	Hospitality	<p>To whom is the gift or hospitality being provided?</p> <p>Will recipients be external business partners, or individuals of the host organisation?</p>
O	Objectives	<p>For what purpose will hospitality be provided?</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>
S	Spend	<p>Will public funds be spent?</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>
T	Trust	<p>Will public trust be enhanced or diminished?</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>

7.1 Provided for a business reason

Your decisions regarding the provision of gifts, benefits and hospitality must consider the likely benefits to your organisation and the State and should seek to uphold, and where possible, enhance the reputation of the public sector. Gifts, benefits and hospitality may be provided to external guests, such as business associates and international delegations, as well as to employees.

7.1.1 External guests

Your organisation may provide gifts, benefits or hospitality for the purposes of:

- receiving guests (e.g. a visiting delegation from another jurisdiction);
- facilitating relationships between third party organisations that are in the interests of the State (e.g. an event where community sector and business organisations can meet to establish partnerships);
- celebrating the opening of an event, exhibition, or the establishment of a new public body; or

- launching an initiative (e.g. a new community awareness campaign).

The following questions may be helpful prompts to determine whether the gift, benefit or hospitality is provided for a business reason:

- Will the provision of the gift, benefit or hospitality foster the conduct of public sector business?
- Will the provision of the gift, benefit or hospitality help to promote or support the government's policy objectives?
- In providing the gift, benefit or hospitality, can you be confident that the reputations of both the public sector and the external guests are upheld?

7.1.2 Employees

Your organisation may provide hospitality for employees for a range of reasons, including catering as part of a large employee-related event, for example a training course, workshop, planning day, seminar or conference.

Catering an event for staff can be an effective means of celebrating achievements or promoting particular behaviours and is consistent with common business practice. In deciding whether your organisation should pay for all, some or none of the costs associated with the event, you should consider:

- the extent to which the event will contribute to organisational objectives by, for example, reinforcing particular values or motivating staff;
- whether there have been multiple recent events that would result in perceptions of excess should further events be funded; or
- the need to balance the positive benefits of public recognition with community expectations in relation to modest expenditure by public officials.

Celebrations of events such as birthdays, marriages or the birth of a child should not be funded by your organisation. Whilst it may provide gifts to employees, for example as part of an organisational reward and recognition program, this should only occur in exceptional circumstances and any gifts should be token in nature.

7.2 Costs proportionate to the benefits

When deciding on the type of gift, benefit or hospitality to provide, a judgement should be made between the costs incurred and the potential benefits to the State. You should contain costs involved in the provision of gifts, benefits and hospitality wherever possible and consider whether the proposed gift, benefit or hospitality is in line with community expectations. The following questions may be useful in this regard:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Is the gift symbolic, rather than financial, in value?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

Your policy covering the provision of gifts, benefits and hospitality should reference the organisation's procurement policy and assist you to adhere to any internal approval procedures and financial delegations.

7.2.1 Catering events and meetings

If an event or meeting is significant in duration, and extends over usual meal times, it is generally considered a basic courtesy to provide token hospitality such as tea, coffee or a light meal. This type of hospitality usually has a low cost per head, is in line with community expectations. The employer should also ensure compliance with any obligations under the relevant industrial instrument in relation to meal breaks and any other employee entitlements, including occupational health and safety obligations.

Wherever possible, a sufficient break in proceedings should be encouraged to enable participants to seek their own refreshments if available within the vicinity. Where possible, internal meetings attended by employees should not be scheduled to conflict with meal times.

7.2.2 Providing alcohol

The supply of alcohol at any event can lead to increased risks, including the risk of anti-social behaviour and reputational damage. Your organisation's gifts, benefits and hospitality policy should include advice on whether it permits the provision of alcohol, and if so, consideration of its obligations under the *Occupational Health and Safety Act 2004*, the *Liquor Control Reform Act 1998* and the relevant Code of Conduct.

Decisions relating to the provision of alcohol should be made on a case-by-case basis. The following parameters may be useful in making these decisions and can be adapted to suit your organisation's operating environment:

- provision of alcohol would be relatively uncommon and be associated with a meal;
- any event where alcohol is served should be held at a time that minimises the risk of employees returning to work impaired by alcohol. (e.g. if standard office hours are worked, the event should be held in the late afternoon or early evening);
- events with alcohol service should not exceed two hours in duration;
- no more than two standard drinks per person should be provided; and
- the provision of alcohol should be incidental to the overall level of hospitality provided.

If your organisation allows the provision of alcohol, it should remind employees of their obligations under the relevant Code of Conduct and that employees must not be impaired by alcohol whilst in the workplace or whilst representing the organisation.

8. Declaring gifts, benefits and hospitality

You should refer to your organisation's gifts, benefits and hospitality policy for declaration processes and requirements. At a minimum, you are required to declare and record all non-token offers of gifts, benefits and hospitality (whether accepted or declined) on your organisation's register, which will be published on its website and kept up to date.

If you are a director, you declare any non-token offers of gifts, benefits or hospitality on the register of each public entity on which you serve. This would mean that each public entity has a complete record of the offers made to its directors.

A declaration of gifts, benefits and hospitality form template can be found on the VPSC website.

8.1 Recording and reporting the provision of gifts, benefits and hospitality

Public sector organisations have reporting and recording obligations that help to ensure transparency and accountability. These include record keeping obligations under the *Public Records Act 1973*, and obligations arising from the *Financial Management Act 1994* to ensure that public funds are appropriately authorised and incurred in accordance with business needs, and captured in the financial records. The public also has a right to access documents relating to the provision of gifts, benefits and hospitality under the *Freedom of Information Act 1982*.

At a minimum, your organisation should ensure that records relating to the provision of gifts, benefits and hospitality, such as approval forms and records relating to procurement and expenditure, are readily accessible. In addition, it is good practice to consider how any business intelligence gained through the provision of gifts, benefits and hospitality is documented and shared across the organisation.

Organisations are expected to take into consideration their requirements under relevant privacy legislation when publishing their register online.