



**Victorian  
Public Sector  
Commission**

# **Gifts, Benefits and Hospitality Policy Guide**

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# 1. Purpose

This guide sets out the minimum accountabilities for managing gifts, benefits and hospitality within the Victorian public sector. The accountabilities are binding under the *Instructions supporting the Standing Directions of the Minister for Finance 2016*.

The minimum accountabilities are *minimum* requirements. Your organisation may choose to adopt higher standards or processes that take into account your organisation's role and functions.

This guide assists Victorian public officials (including public sector employees, statutory office holders and directors of public entities) to apply the minimum accountabilities. It outlines key considerations for designing and implementing gifts, benefits and hospitality policies and procedures in Victorian public sector organisations. In particular, such policies and procedures must:

- apply the minimum accountabilities (or a higher standard); and
- reinforce the Victorian public sector values of impartiality, integrity and accountability set out in section 7 of the *Public Administration Act 2004*.

Transparent and accountable practices are vital to maintaining the Victorian community's trust in the public sector, and its confidence that public resources are being used responsibly and appropriately.

As public officials, our management of any offers of gifts, benefits and hospitality is a practical demonstration of our integrity, impartiality and accountability. It allows the community, business associates and Government to be confident that we make decisions and provide advice free of favouritism, influence and conflicts of interest.



## 2. Minimum accountabilities

### 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 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 more<sup>[1]</sup>) 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).

### 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.

## 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 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.

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[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 \$100.②

# 3. Definitions

## Business associate

An individual or body that the public sector organisation has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

## Benefits

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.

## Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.

Ceremonial gifts are the property of the public sector organisation, irrespective of value, and should be accepted by individuals on behalf of the public sector organisation. The receipt of ceremonial gifts should be recorded on the register but does not need to be published online.

## Conflict of interest

Conflicts may be:

**Actual:** There is a **real conflict** between an employee's public duties and private interests.

**Potential:** An employee 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 reasonably **form the view** that an employee's private interests could improperly influence their decisions or actions, now or in the future.

## Gifts

Gifts are free or discounted items or services and any item or service 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), consumables (e.g. chocolates) and services (e.g. painting and repairs). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.

## Hospitality

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

A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of the public sector organisation, the public sector or the State.

## Public official

Public official has the same meaning as section 4 of the *Public Administration Act 2004* and includes, public sector employees, statutory office holders and directors of public entities.

## Public register

A public register is a record, preferably digital, of a subset of the information contained in a register, for publication as required by the minimum accountabilities. Guidance regarding the information that should be published is provided in the Policy Guide.



## Register

A register is a record, preferably digital, of all declarable gifts, benefits and hospitality. Guidance regarding the information that should be recorded is provided in the Policy Guide.

## Token offer

A token offer is a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). The minimum accountabilities state that token offers cannot be worth more than \$50.

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.

## Non-token offer

A non-token offer is 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 also choose to set their threshold for non-token offers at a value lower than \$50.

# 4. Developing and implementing your organisation's policy

## 4.1 Developing your policy

In every public sector organisation there are potential risks associated with gifts, benefits and hospitality. Embedding a policy within your organisation's culture gives employees and business associates certainty about what your organisation requires of them. It is also an effective way to mitigate potential risks.

Organisations may adopt and build on the Victorian Public Sector Commission's (VPSC's) model policy for gifts, benefits and hospitality (available on the VPSC website at [www.vpsc.vic.gov.au/resources/gifts-benefits-and-hospitality-resource-suite/](http://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.

Key steps for developing your organisation's gifts, benefits and hospitality policy:

- Consider using the VPSC's model gifts, benefits and hospitality policy as the basis of your policy.
- Undertake background research including:
  - examining your organisation's regulatory frameworks;
  - environmental scanning for good practice and common shortfalls in managing gifts, benefits and hospitality;
  - consulting with employees and stakeholders;
  - identifying 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.
- Decide on your organisation's policy position.
- Define the policy's aims, objectives and key audiences.
- Develop the key principles and policy content.
- 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 policy and publish it on your organisation's intranet and website.

Public sector organisations should consider who needs to be involved in the policy development process. Consulting with employees and business associates encourages them to begin thinking about how gifts, benefits and hospitality risks may arise within your organisation. This will improve their understanding of the issue and engagement with the final policy.

## 4.1.1 Assess your risks

Risks to impartiality and integrity arising from providing or receiving gifts, benefits and hospitality may occur in any part of an organisation; although some activities have a higher risk than others. Your organisation's policy should be informed by your organisation's functions, the types of roles employees perform and their level of contact with customers, clients, members of the public and business associates.

Questions to assess your gifts, benefits and hospitality risks and how to manage them:

- In what circumstances might an offer be made to an employee and when, if at all, can they accept it? Issues to consider include why the offer was made and whether a conflict of interest could arise, the legitimate business benefit the offer provides and the public perception of acceptance.
- Are there particular roles or activities that are at greater risk of being compromised than others?
- Is there legislation, or government policy, prohibiting or impacting upon providing or receiving gifts, benefits and hospitality in certain situations (including the minimum accountabilities)?
- Do complaints or disciplinary cases involving the provision or acceptance 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?
- 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?

### 4.1.1.1 Conflict of interest risk

Addressing conflict of interest (actual, potential or perceived) is fundamental to ensuring high levels of integrity in the Victorian public sector. Activities that have a higher risk of conflict of interest, which your organisation should consider when developing its policy include:

#### **Procurement and recruitment**

- procuring goods or services;
- tendering for and managing contracts; and
- making appointments to positions.

#### **Regulating individual or business activities**

- inspecting, regulating, or monitoring standards, businesses, equipment or premises;
- issuing qualifications or licences; and
- issuing or reviewing fines or penalties.

#### **Distributing goods, services or funds**

- providing a service;
- allocating grants of public funds; and
- allocating subsidies, financial assistance, concessions, or other relief.

#### **Making binding decisions**

- issuing determinations on matters;
- passing binding judgments; and
- exercising powers over planning and land development.

## 4.1.2 Decide on the type of policy

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

### **4.1.2.1 Policy that bans the acceptance of any gift, benefit or hospitality**

A policy of refusing all offers of gifts, benefits and hospitality is simple to administer and understand, and avoids risks to impartiality, integrity and accountability. This approach is appropriate for organisations with a high-risk profile or a low likelihood of receiving offers; for example, organisations that do not liaise with external business associates, or who have integrity, regulatory or quasi-judicial functions.

If adopting this approach, the policy should include strategies for declining gifts, benefits and hospitality without causing offence or embarrassment.

### **4.1.2.2 Policy that allows the acceptance of some gifts, benefits and hospitality**

A total ban on accepting offers of gifts, benefits and hospitality may be impractical for some organisations. For example, where staff often receive offers through frequent contact with clients, foreign dignitaries and members of the public; or if the organisation has low risk functions. Liaising with external stakeholders may be intrinsic to fulfilling your organisation's roles and functions. For example, providing hospitality or facilitating external stakeholder groups may be part of doing business.

Policies that allow individuals to accept some offers of gifts, benefits or hospitality need to establish clear processes for acceptance. In particular, your organisation's policy should provide guidance on:

- when there is (or is not) a legitimate business reason for accepting an offer; and
- identifying and managing actual, potential or perceived conflicts of interest.

### **4.1.2.3 Ceremonial gifts**

Your organisation's policy can direct individuals to accept ceremonial gifts on behalf of your organisation, even if your policy bans the acceptance of other types of gifts. Ceremonial gifts need to be recorded on your organisation's internal register but do not need to be published.

Ceremonial gifts are treated separately to other types of gifts because:

- they are the property of your organisation, irrespective of value, and are less likely to create a conflict of interest; and
- refusing ceremonial gifts may cause offence or embarrassment to the organisation,

community or government who offered the gift.

### 4.1.3 Principles and policy content

Gifts, benefits and hospitality policies should encourage behaviours that earn and sustain community and government trust. Key high level principles for applying a gifts, benefits and hospitality policy are:

- Impartiality – individuals place the public interest above their private interests when carrying out their duties. They refuse offers of gifts, benefits and hospitality that could reasonably be perceived as influencing them or undermining the integrity of their organisation.
- Accountability – individuals are accountable for appropriately responding to and providing gifts, benefits and hospitality. Managers are accountable for modelling good practice, promoting awareness and overseeing their direct reports' management of gifts, benefits and hospitality.
- Integrity – individuals strive to earn and sustain public trust and avoid any real or apparent conflicts of interest when offering or responding to gifts, benefits and hospitality.
- Risk-based approach – organisations ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports communicate the risks inherent in their team's work and monitor the risks to which their direct reports are exposed.

Topics your gifts, benefits and hospitality policy should cover:

- Policy purpose (why have the policy).
- Application (who the policy applies to).
- Policy principles.
- Minimum accountabilities.
- Key definitions (e.g. definitions of token offer; business benefit; gifts, benefits and hospitality).
- Considerations for staff when offered or offering gifts, benefits and hospitality (particularly conflict of interest and legitimate business benefit).
- Processes including:

- declaring, recording and managing offers of gifts, benefits and hospitality;
  - determining which gifts, benefits and hospitality can be accepted and which must be declined;
  - determining the scale, cost and nature of the gifts, benefits or hospitality that can be provided; and
  - 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 employees can report suspected breaches of the policy.
  - How the organisation will respond to breaches of the policy.
  - Advice or further information.

## 4.1.4 Breaches of the policy

Your organisation’s gifts, benefits and hospitality policy should articulate a clear process for employees to report suspected inducements or attempted bribery, either to the head of the organisation or a senior delegate. Employees who observe corrupt conduct in their colleagues (e.g. accepting a bribe) can also make a protected disclosure directly to the Independent Broad-based Anti-corruption Commission (IBAC).

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

## 4.2 Implementing your policy

Development of a policy is the first step to managing gifts, benefits and hospitality. However, even the most comprehensive policy is ineffective if it is not implemented properly. Organisational culture has a much greater effect on how employees behave than policies and procedures. Research conducted by the VPSC indicates that an employee’s belief that their manager acts ethically has more impact on their perceptions of integrity than does their knowledge of organisational policies and procedures.

Your organisation’s gifts, benefits and hospitality policy should also be embedded in other relevant organisational policies and procedures, including those related to conflict of interest and procurement.

## 4.2.1 Education and training

Education, training, leadership and communication are critical to implementing a policy. 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 public 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 feasible. However it may be possible to provide newsletters, items on your organisation's intranet or other electronic communications at key times to maximise awareness.

Managing gifts, benefits and hospitality appropriately is likely to require employees to use their judgment when applying their organisation's policy and adhering to the minimum accountabilities. To support employees in exercising their judgment, it is important to provide education and training in:

- identifying if there is a legitimate business benefit or a conflict of interest in accepting an offer; and
- understanding when accepting a gift, benefit or hospitality will bring themselves, their organisation or the public sector into disrepute.

## 4.2.2 Leadership

Research indicates that leadership is fundamental to embedding the appropriate values and behaviours in an organisation's culture. Leadership is also central to successfully implementing 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 and comply with 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. Designating a senior manager as a contact person for

discussing issues relating to gifts, benefits and hospitality may assist with reinforcing the importance of your organisation's policy.

## 4.2.3 Communication

An effective communication strategy is critical to implementing your organisation's policy. It should target internal and external audiences, including general employees, employees in high-risk roles or with high-risk responsibilities, and managers who need 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 clients, customers or current or prospective suppliers. At a minimum, your organisation should:

- **Communicate to business associates** your organisation's position on the offering of gifts, benefits and hospitality to its employees, and that acting contrary to this position may result in contract re-negotiation or termination.
- **Communicate to employees** your organisation's 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.
- Publish the policy and register on your website.

If the policy allows employees to accept some offers, your organisation should communicate to business associates (including prospective and current suppliers) that an offer should **not be made** and will **be refused** if it conflicts with the minimum accountabilities.

Communicating the policy directly to business associates and more broadly on the organisation's website sets clear expectations about 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 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 will have identified key activities and functions and this should be used to tailor communications.

Other ways to communicate your 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;
- suggesting alternative means for clients to express their appreciation to front line employees such as a clearly sign-posted feedback box; or
- explaining the policy to conference organisers at the time of accepting a speaking engagement so the host knows not to offer non-token gifts in appreciation for the presentation.



# 5. 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 are generally considered a basic courtesy and do not require declaration. However, there may be offers that if accepted:

- would not align with community expectations;
- may be an actual, potential or perceived conflict of interest; or
- may be perceived as an inducement or bribe for favourable treatment or decisions.

This chapter provides guidance to help declare and manage these risks.

## 5.1 Conflict of interest and reputational risks

Conflict of interest considerations are essential in determining how to respond to an offer of a gift, benefit or hospitality. You need to ensure that your personal interests do not influence and could not reasonably be perceived to influence you in your role. It is also important to consider whether an offer could affect your standing as a public official; or bring you, your organisation or the public sector into disrepute. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

The relationship between you and the person or organisation making the offer is crucial to determining whether a conflict of interest exists. You should decline offers from those about whom you are likely to make or influence business decisions if a conflict of interest potentially exists (even if there is a legitimate business benefit to accepting the offer). The following examples describe situations where a public official should consider carefully whether accepting an offer would create a conflict of interest:

- members of an Accredited Purchasing Unit or those involved in purchasing goods and services who receive offers from business associates, including current or potential suppliers, particularly when a tender has been advertised;
- inspectors who receive offers from people seeking licenses;
- those who award grants who receive offers from applicants; and
- policy makers who receive 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. They could be influenced by the offer, or create a perception that the offer is an inducement for a favourable decision.

Similarly, the relationship with those to whom your organisation provides gifts, benefits and hospitality must be considered to ensure it does not give rise to an actual, potential or perceived conflict of interest.

### **Scenario 1. Lunching with potential suppliers**

Judy is responsible for awarding a training contract to improve the computer literacy skills of her staff. She meets with most potential providers in her office. However one provider asks if she would like to meet at their training centre in a beautiful tourist location to talk about the project over a light lunch.

#### **What should Judy do?**

The offered hospitality is likely of minimal monetary value. However it would not be appropriate for Judy to accept this offer, as it could be seen as an inducement that could influence her decision to award the contract. Judy should politely decline the offer and arrange to meet the potential provider in her office.

## **5.1.1 Refusing prohibited gifts, benefits and hospitality**

Your organisation's policy should set out its position regarding acceptable offers. At a minimum, you must decline offers that:

- are money, items used in a similar way to money, or items easily converted to money (this type of offer has a high risk of influencing you or being perceived as an inducement for favourable treatment);
- if accepted may give rise to an actual, potential or perceived conflict of interest;
- would bring yourself, your public sector employer or the public sector into disrepute; or
- be perceived as an inducement

The 'GIFT' test at **Figure 1** is a good reminder of what to think about when making this assessment.

### **Figure 1. 'GIFT' test**

<b>G</b>	<b>Giver</b>	<p><b>Who is making the offer 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>	<b>Influence</b>	<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 a valuable non-token offer? 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 over the last 12 months?</p> <p>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 the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

## 5.2 Token offers

Token offers are of inconsequential or trivial value to both you and the person making the offer and may generally be accepted, as long as they do not create a conflict of interest or lead to reputational damage. 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 during a meeting. The minimum accountabilities

state that token offers cannot be worth more than \$50.<sup>[2]</sup>

## Scenario 2. 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, so Matthew could accept the chocolates and would not need to record them on the gifts, benefits and hospitality register.

In future, when accepting a speaking engagement Matthew should speak to the event organisers about his organisation's gifts, benefits and hospitality policy to avoid potential conflicts of interest.

## 5.3 Non-token offers

Non-token offers (offers that are more than trivial or inconsequential) can only be accepted if they have a legitimate business benefit. That is, when the offer furthers the conduct of official business or other legitimate goals of your organisation, the public sector or the State. If it does not, you must decline the offer. Examples of non-token offers that must be declined include:

- tickets to entertainment events that do not relate to your official duties; or
- non-token hospitality provided while introducing you to a product or service (e.g. 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 3. 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 her 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.

Some non-token offers may hold a business benefit but 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.

You may be offered a gift or hospitality without an opportunity to seek written approval from your manager prior to accepting. For example, you may be offered a wrapped gift after presenting at a conference that you later identify as being a non-token gift. In such cases, you should seek approval from your manager within five business days.

Where the gift would likely bring you or the organisation into disrepute, the organisation should return the gift. If it represents a conflict of interest for you, the organisation should return the gift or transfer ownership to the organisation to mitigate this risk. The overarching consideration should always be whether accepting an offer would create a conflict of interest or bring the recipient, the organisation or the public sector into disrepute.

## **5.4 Declaring and recording offers of 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, a subset of which will be published on its website and kept up to date.

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

Where an offer of hospitality is part of a generic, bulk event invitation that is declined, it does not need to be declared or recorded on a gift, benefit and hospitality register. For example, 'spam' email offers.

A declaration of gifts, benefits and hospitality form template is available on the VPSC website.

## **5.5 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. Repeated offers (token and non-token) must be managed appropriately.

The total value of the offers over a year may be quite high, and receiving multiple offers from the same person or organisation can generate a stronger perception that they will influence you. When accepting offers becomes a habit or even an expectation, you are likely to be in breach of the Code of Conduct.

## Scenario 4. Coffee connoisseur

Tom regulates the activities of various organisations. He gets along well with some of the owners of the organisations he regulates and often has coffee with them, for which the owner usually pays.

### What should Tom do?

Accepting one coffee is unlikely to cause a conflict of interest in how Tom carries out his duties. However receiving regular coffees can quickly amount to considerable monetary value, which may be perceived as influencing how Tom regulates these organisations. Tom should ensure that he pays for his own coffee, and ideally, ensure he spends equitable time with all the organisations he regulates.

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 to IBAC). Your organisation's gift, benefits and hospitality policy should also explicitly encourage employees to report any colleague who tries to solicit a bribe. Employees who observe corrupt conduct in their colleagues may also make a protected disclosure directly to IBAC.

## 5.6 Hospitality from Victorian public sector organisations

As part of their functions, Victorian public sector organisations may provide hospitality to stakeholders, including their own employees and to other Victorian public sector officials. When you are offered such hospitality you should consider the minimum accountabilities. In particular, you should consider whether accepting the offer would create a conflict of interest, or bring yourself, your organisation or the public sector into disrepute.

You do not need to declare or record hospitality accepted from Victorian public sector organisations if:

- it is offered as part of official business; and
- your reason for attending is consistent with your organisation's functions, objectives and your role.

Hospitality provided by private organisations on behalf of a Victorian public sector

organisation still requires declaration and registration.

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[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 \$100.②



# 6. Providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided when welcoming guests, to 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 comply with the financial probity and efficient use of work resources guidance outlined in the relevant Code of Conduct.<sup>[3]</sup> In particular, you should ensure that:

- it is provided for a business reason;
- any costs are proportionate to the benefits obtained for the State; and
- it would not give rise to an actual, potential or perceived conflict of interest.

The 'HOST' test at **Figure 2** is a good reminder of what to think about in making this assessment.

**Figure 2. 'HOST' test**

<b>H</b>	Hospitality	<b>To whom is the gift or hospitality being provided?</b> Will recipients be external business associates, or individuals of the host organisation?
<b>O</b>	Objectives	<b>For what purpose will hospitality be provided?</b> 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?

**S** Spend

**Will public funds be spent?**

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?

**T** Trust

**Will public trust be enhanced or diminished?**

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?

## 6.1 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. Your organisation 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.

### 6.1.1 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 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?

## 6.1.2 Employees

Your organisation may provide hospitality to employees for a range of reasons, including catering as part of a large employee-related event, for example a training course.

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; 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. While an organisation 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. The provision of this type of employee incentives should comply with the financial probity guidelines outlined in the Code of Conduct.

## 6.2 Costs proportionate to the benefits

When deciding on the type of gift, benefit or hospitality to provide, a judgment 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 ensure 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?
- Could 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.

## 6.2.1 Catering events and meetings

If an event or meeting extends over 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 and should be consistent 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. Where possible meetings should not be scheduled to conflict with meal times.

## 6.2.2 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 while in the workplace or while representing your organisation.

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[3]. The *Code of Conduct for Victorian Public Sector Employees* or the *Code of Conduct for Victorian Public Sector Employees of Special Bodies*.<sup>②</sup>

# 7. Monitoring and reporting

Effective monitoring and reporting is crucial to understanding your 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 – it 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.

## 7.1 Recording gifts, benefits and hospitality offers

An organisation's register is a record of all declarable gifts, benefits and hospitality offered to public officials. The register records sufficient information for identifying trends and key risks and forms the basis of risk-based monitoring and reporting. It also forms the basis of reporting to your organisation's audit committee.

Information recorded on the register includes:

- the date an offer was made;
- the employee being made the offer;
- the individual or organisation making the offer and whether they are a business associate;
- the nature of the offer and its estimated or actual value;
- the reason given for making the offer;
- any legitimate business reason for accepting the offer;
- whether the offer is a ceremonial gift;
- any actual, potential or perceived conflicts of interest or reputational risks (to the individual, the public sector organisation or the public sector) that the offer raises;
- if the offer was accepted or declined;
- the decision on ownership of the offer; and
- details of the manager or delegate who reviewed the offer and approved the offer if



accepted.

Organisations are not required to declare or record declined offers of hospitality that are part of a generic, bulk event invitation (such as 'spam' email), or accepted hospitality provided by another Victorian public sector organisation. 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/](http://www.vpsc.vic.gov.au/resources/gifts-benefits-and-hospitality-resource-suite/).

Organisations are expected to take into consideration their requirements under relevant privacy legislation, including the *Information Privacy Principles* under the *Privacy and Data Protection Act 2014* (PDP Act), when recording items in their register and when publishing their register online. These requirements include:

- Reasonable steps to protect the personal information collected and held by the organisation. Access to registers should be restricted to relevant persons within the organisation.
- A publicly available privacy policy (e.g. published on the organisation's website).
- A publicly available collection notice to advise individuals when personal information will be collected. Organisations may wish to publish the collection notice alongside their gifts, benefits and hospitality policy, and provide a summary of the notice on their public register and declaration form. Organisations may also wish to communicate the collection notice to business associates, as part of their communications about the organisation's policy.

Collection notices should:

- ideally be provided to an individual before or at the time their personal information is collected;
- be specific to the particular collection and the purpose for which the collected information will be used; and
- be provided to both the individual offering the gift and the recipient, given the register will include personal information about both parties.

Organisations should also consider the long term retention of their registers using the guidance issued by the Public Record Office Victoria. For example, under *Retention and Disposal Authority 07/01*, registers could be considered as a function of information management and recordkeeping which should be retained permanently.

## 7.1.1 Public register

For transparency, and to comply with the minimum accountabilities, a subset of the information outlined in the register must be recorded on an organisation's public register. Public registers should be published at the end of the financial year, although organisations may choose to update the register more frequently. Public registers must cover both the most recent and the previous financial year. Each organisation should have a designated person responsible for maintaining and publishing the register.

An organisation's public register should include the following information:

- the date an offer was made;
- the employee being made the offer:
  - if the offer was accepted – record the individual's position title and branch (e.g. Director, Safety and Culture);
  - if the offer was declined – record only their position title (e.g. Director);
- the individual or organisation making the offer:
  - if the offer was accepted – record the organisation's name and the individual's position title (e.g. Director, Oz Sports);
  - if the offer was declined – use a generic description for the type of organisation/person who made the offer (e.g. Sports Association);
- the nature of the offer and its estimated or actual value;
- if the offer was accepted or declined; and
- the decision on ownership of the offer.

In public registers, it is sufficient to record position titles instead of individual names. In some cases a position title may still identify the person who made the offer or the recipient (e.g. Secretary), but this is not sufficient reason to not publish the title. Offers made by members of the public or clients of a public sector organisation, should not be individually identified other than as a member of one of these groups.

For declined offers, a generic description of the type of organisation that made the offer is sufficient (e.g. the generic term 'sport association' should be used instead of the specific name). Organisations are not required to record offers of ceremonial gifts on their public register, but this information should be recorded on the organisation's register.

Figures 3 and 4 provide examples of how accepted and declined offers should be recorded on the public register.

**Figure 3. Example of an accepted offer on the public register**

Date	Recipient	Donor	Offer	Estimated or actual value	Decision	Ownership
5/8/2018	Director, Safety and Culture	Director, Oz Sports	iPad	\$250 (est)	Accepted	Transferred to organisation

**Figure 4. Example of a declined offer on the public register**

Date	Recipient	Donor	Offer	Estimated or actual value	Decision	Ownership
5/8/2018	Director	Sport Association	iPad	\$250 (est)	Declined	Returned to organisation that provided the offer

## 7.2 Recording the provision of gifts, benefits and hospitality

The public has a right to access documents relating to the provision of gifts, benefits and hospitality under the *Freedom of Information Act 1982*. Public sector organisations have 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.

At a minimum, your organisation should ensure that records relating to the provision of gifts, benefits and hospitality (e.g. approval forms, expense records, procurement documentation) can readily be accessed to comply with reporting requests and

requirements. In addition, it is good practice to consider how any business intelligence gained through recording the provision of gifts, benefits and hospitality is documented and shared across the organisation.

