GIFTS, BENEFITS AND HOSPITALITY POLICY

The Gifts, Benefits and Hospitality Policy provides guidance on when and how to make decisions in relation to giving and accepting gifts, benefits or hospitability.

The policy supports staff to avoid conflicts of interest and helps maintain high levels of integrity and public trust in Wage Inspectorate Victoria (Wage Inspectorate).

# Forms and resources

[Gifts, benefits and hospitability declaration form](https://vicgov.sharepoint.com/:w:/r/sites/VG001694/Shared%20Documents/Policies%20and%20procedures/Gifts%20benefits%20and%20hospitality%20declaration%20form.docx?d=wab5201497f0046c196ee2b98c533aa97&csf=1&web=1&e=6TaMtZ)

[Gifts, benefits and hospitability flowchart – Victorian Public Sector Commissioner](https://vicgov.sharepoint.com/:b:/r/sites/VG001694/Shared%20Documents/Policies%20and%20procedures/VPSC%20Gifts%20benefit%20and%20hospitality%20flow%20chart.pdf?csf=1&web=1&e=0ugFNN)

[Gifts, benefits and hospitability decision tree](https://vicgov.sharepoint.com/:w:/r/sites/VG001694/Shared%20Documents/Policies%20and%20procedures/Gifts%20benefits%20and%20hospitality%20decision%20tree.docx?d=w26ba3225406944dd998e2516e241d8d3&csf=1&web=1&e=jfbG5x)

Gifts, benefits and hospitality register.

# Purpose

This policy states the Wage Inspectorate’s position on:

responding to offers of gifts, benefits and hospitality; and

providing gifts, benefits and hospitality.

This policy is intended to guide employees and the Wage Inspectorate to avoid conflicts of interest and maintain high levels of integrity and public trust.

The Wage Inspectorate has issued this policy to support behavior consistent with the *Code of Conduct for Victorian Public Sector Employees* (Code), which is binding upon all employees of the Wage Inspectorate under section 61 of the *Public Administration Act 2004* (PA Act).

All employees are required under clause 1.2 of the Code to comply with this policy.

# Application

This policy applies to all workplace participants.

For the purpose of this policy, this includes: executives, employees, contractors[[1]](#footnote-2), consultants and any individuals or groups undertaking activity for or on behalf of the Wage Inspectorate.

For the purpose of this policy, all workplace participants will be referred to as ‘employees’.

# Policy principles

This policy has been developed in accordance with requirements outlined in the minimum accountabilities for the management of gifts, benefits and hospitality issued by the Victorian Public Sector Commission (VPSC) (see section 4 below).

This policy is underpinned by the following principles, which the Wage Inspectorate is committed to and will uphold.

## Public interest

All employees have a duty to place the public interest above their private interests when carrying out their official functions and have a duty to:

comply with legislation and policies that apply in common to all Victorian Public Sector employees

perform their roles fairly and reasonably and adhering to the principles of natural justice

apply the public sector values (Respect, Accountability, Integrity, Impartiality, Responsiveness, Leadership and Human Rights) set out in section 7 of the PA Act

adhere to the Code of Conduct for Victorian Public Sector Employees.

## Impartiality

All employees will not accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Employees do not accept offers from those about whom they are likely to make business decisions.

## Accountability

All employees are accountable for:

not engaging in the soliciting of gifts, benefits and hospitality for themselves or others

declaring all non-token offers of gifts, benefits and hospitality

declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer

the responsible provision of gifts, benefits and hospitality.

Employees with direct reports are accountable for:

overseeing management of their direct reports’ acceptance or refusal of non-token gifts, benefits and hospitality

modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

## Integrity

All employees strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Individuals will refuse any offer that may lead to an actual, perceived or potential conflict of interest.

## Risk-based approach

The Wage Inspectorate, through its policies, processes and audit committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed.

Employees with direct reports will ensure they are aware of the risks inherent in their team’s work and functions and monitor the risks to which their direct reports are exposed.

# Minimum accountabilities

Under the [Instructions supporting the Standing Directions of the Minister for Finance](https://www.dtf.vic.gov.au/financial-management-government/standing-directions-2018-under-financial-management-act-1994) the VPSC has set binding minimum accountabilities for the appropriate management of gifts, benefits and hospitality. These can be found at **Schedule A**.

# Definitions

|  |  |
| --- | --- |
| Conflict of interest: |  |
| *Actual conflict of interest* | There is a real conflict between an employee’s public duties and private interests. |
| *Potential conflict of interest* | 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 conflict of interest* | 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. |
| Benefits | Preferential treatment, privileged access, favours or other advantage offered to an individual. This 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 | 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. |
| Gifts | 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 | 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 accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the organisation, the public sector or the State. |
| Public official | Public official has the same meaning as section 4 of the PA Act and include:  public sector employees  statutory office holders  directors of public entities. |
| Public register | A public register is a record, preferably electronic, of a subset of the information contained in a register, for publication as required by the minimum accountabilities. |
| Register | A 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 conflict of interest or reputational risks and how the offer was managed.  For accepted offers, it details the business reason for acceptance and the offer approving the acceptance. |
| Token offer | The offer of a gift, benefit or hospitality that is offered as a courtesy or is inconsequential or of trivial value to both the person making the offer and the recipient.  While 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, the minimum accountabilities state that token offers cannot be worth more than $50 (including cumulative offers from the same source over a 12 month period). |
| Non-token offer | The 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. |
| 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. |
| Supplier | Company or individual that supplies goods or services to the public sector organisation or could reasonably be expected to seek to supply goods or services to the public sector organisation. This is consistent with the definition adopted by the Victorian Government Purchasing Board in its Supplier Code of Conduct. |

# Management of offers of gifts, benefits and hospitality

This section sets out the process for **accepting, declining and recording** offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the Commissioner.

The following documents have been created to assist you to step through and understand the process:

[Gifts, Benefits and Hospital flowchart](https://vicgov.sharepoint.com/:b:/r/sites/VG001694/Shared%20Documents/Policies%20and%20procedures/VPSC%20Gifts%20benefit%20and%20hospitality%20flow%20chart.pdf?csf=1&web=1&e=llS441) created by the Victorian Public Service Commissioner

[Gifts, Benefits and Hospitality Decision tree](https://vicgov.sharepoint.com/:w:/r/sites/VG001694/Shared%20Documents/Policies%20and%20procedures/Gifts%20benefits%20and%20hospitality%20decision%20tree.docx?d=w26ba3225406944dd998e2516e241d8d3&csf=1&web=1&e=0GYFmz).

## Conflict of interest and reputational risks

When deciding whether to accept an offer, employees should first consider if the offer could be perceived as influencing them in performing their duties, or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

If you are offered a gift, benefit or hospitality at work, take the GIFT test (**Table 1**) to guide your decision making.

Table 1. GIFT test

|  |  |  |
| --- | --- | --- |
| G | Giver | Who is providing the gift, benefit or hospitality and what is their relationship to me?  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? |
| I | Influence | Are they seeking to gain an advantage or influence my decisions or actions?  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? |
| F | Favour | Are they seeking a favour in return for the gift, benefit or hospitality?  Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?  Would accepting it create an obligation to return a favour? |
| T | Trust | Would accepting the gift, benefit or hospitality diminish public trust?  How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think? |

## Requirement for refusing offers

Employees should consider the GIFT test at **Table 1** and the requirements below to help decide whether to refuse an offer. Employees **must** refuse offers:

likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest;

that could bring them, the Wage Inspectorate or the public sector into disrepute;

made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:

* + made by a current or prospective supplier;
  + made during a procurement or tender process by a person or organisation involved in the process; or

likely to be a bribe or inducement to make a decision or act in a particular way;

that extend to their relatives or friends;

of money, or used in a similar way to money, or something easily converted to money;

where, in relation to hospitality and events, the organisation will already be sufficiently represented to meet its business needs

where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;

made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector organisations; or

made in secret.

If an employee considers they have been offered a bribe or inducement, the offer must be reported to the Commissioner of the Wage Inspectorate or their delegate immediately. The Commissioner or delegate has an obligation to report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission.

## Token offers

A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and 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 more than $50 in value.

Employees may generally accept token offers without approval or declaring the offer on the Wage Inspectorate’s register, as long as the offer does not create a conflict of interest or lead to reputational damage.

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 raising an actual, potential or perceived conflict of interest, it cannot be more than $50 in value. If token offers are made often by the same person or organisation, the cumulative value of the offers over 12 months, or the perception that they may influence the recipient, may result in the offers becoming non-token.

## Non-token offers

A 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. The Wage Inspectorate’s threshold for token offers is $50. All offers valued over $50 are considered as non-token offers.

All non-token offers should be declined (see section 6.2 above), however, an employee can accept a non-token offer if there is a legitimate business benefit or reason.

All accepted non-token offers must:

be approved in writing by the employee’s manager or organisational delegate (via the Gifts, Benefits and Hospitality Declaration Form) (see section 6.5 below);

be recorded in the gifts, benefits and hospitality register; and

be consistent with the following requirements:

* + it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the employee, their Wage Inspectorate or the public sector into disrepute; and
  + there is a legitimate business reason for acceptance. It is offered in the course of the employee’s official duties, relates to the employee’s responsibilities and has a benefit to the Wage Inspectorate, public sector or the State.

## Declaring and recording non-token offers of gifts, benefits and hospitality

All employees must declare all non-token offers, whether accepted or declined by completing and providing a Gifts, Benefits and Hospitality Declaration Form to the Business Manager. The Business Manager will maintain and update the Gifts, Benefits and Hospitality register accordingly.

The business reason for accepting the non-token offer must be recorded on the Gifts, Benefits and Hospitality Declaration Form and provide sufficient detail to link the acceptance to the employee’s work function and benefit to the Wage Inspectorate, public sector or State. This information will also be recorded in the Wage Inspectorate’s Gift, Benefits and Hospitality Register, which is required to be published and updated annually.

Employees may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the employee must seek approval from their manager within five business days.

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

Employee should consider the following examples of acceptable and unacceptable levels of detail to be included in the Wage Inspectorate’s register when recording the business reason:

|  |  |
| --- | --- |
| Unacceptable | “Networking”  “Maintaining stakeholder relationships” |
| Acceptable | “Individual is responsible for evaluating and reporting on the outcomes of the Wage Inspectorates’ sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the Wage Inspectorate on the event.”  “Individual presented to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated $200. Declining the gift would have caused offence. The gift was accepted on behalf of the Wage Inspectorate.” |

## Reporting

The information provided in the Gifts, Benefits, Hospitality Declaration form will also be recorded on the Wage Inspectorate’s Gift, Benefits and Hospitality Register, which is required to be publicly published annually.

Access to the register is restricted to relevant persons within the Wage Inspectorate.

The Wage Inspectorate’s Audit and Risk Management Committee will receive a report at least annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of Wage Inspectorate’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.

The public register will contain a subset of the information detailed in the Wage Inspectorate’s internal register. To provide public transparency, the register will make public all offers whether accepted or declined valued over $50.

## Ownership of gifts offered to individuals

Non-token gifts with a legitimate business benefit that have been accepted by an employee for their work or contribution may be retained by the employee where the gift is not likely to bring them or the Wage Inspectorate into disrepute, and where their manager or organisational delegate has provided written approval. Employees must transfer to the Wage Inspectorate official gifts or any gift of cultural significance or significant value.

## Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Employees should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

## 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 the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of the Wage Inspectorate. The receipt of ceremonial gifts should be recorded on the Wage Inspectorate’s register but this information does not need to be published online.

## Hospitality provided by Victorian public sector organisations

Victorian public sector organisations may provide hospitality to stakeholders, as part of their functions. When offered hospitality by a Victorian public sector organisation, employees should consider the requirements of the minimum accountabilities.

Accepted hospitality offered by a Victorian public sector organisation as part of official business does not need to be declared or reported, where the reason for the employee’s attendance is consistent with the Wage Inspectorate’s functions and objectives and with the employee’s role.

# Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for **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.

## Requirements for providing gifts, benefits and hospitality

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, employees must ensure:

any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;

that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations (the ‘HOST’ test at Table 2 below is a good reminder of the factors to consider in making this assessment); and

it does not raise an actual, potential or perceived conflict of interest.

The HOST test is a good reminder of what to consider in deciding whether or not to offer a gift, benefit or hospitality to staff or stakeholders.

Table 2. HOST test

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

## Containing costs

Employees should contain costs involved with providing gifts, benefits and hospitality wherever possible, and should comply with the financial probity and efficient use of resources guidance outlined in the Code.

The following questions may be useful to assist individuals to decide on the type of gift, benefit or hospitality to provide:

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?

Records and reporting on the provision of gifts, benefits and hospitality, such as approval forms, must be retained in accordance with their requirements under the *Financial Management Act 1994*.

# Related policy, legislation and other documents

This policy should be read in conjunction with other policies and guidance of the Wage Inspectorate including:

Conflict of Interest Policy

Fraud, Corruption and Other Loss Prevention and Management Policy

Making and Handling Protected Public Interest Disclosure Policy

Misconduct Conduct Policy

Other related documents include:

Code of Conduct for Victorian Public Sector Employees

Financial Code of Practice

Procurement and Contract Management Toolkit

Risk Management and Policy Framework

VPSC Gifts, Benefits And Hospitality Policy Guide

VPSC Managing Conflicts of Interest: A Guide to Policy Development and Implementation

Standing Directions of the Assistant Treasurer 2018 (under the Financial Management Act 1994)

Relevant legislation:

Independent Broad-based Anti-Corruption Commission Act 2011

Financial Management Act 1994

Public Administration Act 2004.

# Breaches

Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, may be taken where an employee fails to adhere to this 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 in accordance with the Wage Inspectorate’s Conflict of Interest Policy.

Actions inconsistent with this policy may constitute misconduct under the *Public Administration* Act *2004,* which includes:

breaches of the binding Code, such as sections of the Code covering conflict of interest, public trust and gifts and benefits; and

individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Business Manager, Wage Inspectorate Victoria.

The Wage Inspectorate will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

# Speak up

Employees who consider that gifts, benefits and hospitality or conflict of interest within the Wage Inspectorate may not have been declared or is not being appropriately managed should speak up and notify their manager, Team Leader or Assistant Director. Individuals who believe they have observed corrupt conduct in their colleagues may also make a protected disclosure directly to the Independent Based-based Anti-corruption Commission (IBAC).

The Wage Inspectorate will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

# Contacts for further information

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Individuals who are unsure about accepting a gift, benefit or hospitality, or the application of this policy, should ask their manager, Team Leader or Assistant Director for advice.

**Policy approval and review details**

|  |  |
| --- | --- |
| Commencement date | 1 July 2021 |
| Date approved | 1 July 2021 |
| Approved by | Robert Hotel, Commissioner |
| Document owner | Tien Tran, Special Counsel |
| Review schedule | Every 5 years |
| Last reviewed by | Tien Tran |

1. Note the application of clause 1.4 of the Code of conduct for Victorian public sector employees to the engagement of contractors and consultants. Contractors and consultants are only bound by the code if explicitly required by their contract for services. [↑](#footnote-ref-2)