

DOCUMENT REFERENCE:	PPP026
RESPONSIBLE MANAGER:	Audit, Risk and Compliance Committee
CATEGORY:	Financial Services
APPROVED DATE:	20 th February 2018
DATE OF NEXT REVIEW:	FEBRUARY 2020
RELATED DOCUMENTS:	PPP083 Code of Conduct PPP040 Sponsorship Policy PPP034 Purchasing of Goods and Services Policy PPP049 Disposal of Assets Policy Gifts Benefits and Hospitality Policy Framework Reportable Gifts Register HR018 Gifts, Benefits & Hospitality Form Public Administration Act 2004 Fringe Benefits Tax Assessment Act 1986

1. INTRODUCTION

In the course of their work, SWTAFE staff may be offered gifts, benefits or hospitality. There may also be occasions where SWTAFE staff members wish to offer gifts or hospitality to others to show appreciation or gratitude for a professional relationship.

The purpose of this policy is to define the circumstances under which this is appropriate and meets acceptable standards of integrity, probity and transparency.

This policy is in accordance with the requirements under the Victorian Public Sector Commission's Gifts, Benefits and Hospitality Policy Framework.

2. SCOPE

This policy is applicable to all staff of the organisation whilst they are engaged in an official capacity of representing the organisation or private activity where others are seeking to influence their decision unfairly.

3. MINIMUM REQUIREMENTS AND ACCOUNTABILITIES

A gifts, benefits and hospitality policy must reinforce the Victorian public sector values of impartiality and integrity. The policy of every public sector organisation must reflect the minimum requirements shown in *Table 1* for receiving gifts and *Table 2* for providing gifts, benefits and hospitality

The heads of public sector organisations must adopt the minimum set of accountabilities shown in *Table 3*.

TABLE 1: Minimum Requirements for all Public Officials Offered Gifts, Benefits & 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) of gifts, benefits and hospitality (whether accepted or declined) on their organisations 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).

TABLE 2: Minimum Accountabilities for Public Officials Providing Gifts, Benefits & Hospitality:

1. 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.
2. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
3. 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.

TABLE 3: Minimum Accountabilities for Heads of Public Sector Organisations

Heads of public sector organisations:

1. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

4. DEFINITION OF TERMS

Asset register	is the register of assets held or managed by a department or public body under the <i>Financial Management Act 1994</i> . Significant gifts accepted on behalf of the public sector organisation or the State of Victoria should be recorded on the asset register.
Audit, Risk & Compliance Committee	responsibilities usually include assuring the adequacy of the organisation's risk management framework, operational performance of business units, and integrity of management reporting.
Bribes	are money or other inducements given or promised to employees to corruptly influence the performance of their role. Bribery of a public official is an offence punishable by a maximum of ten years imprisonment.
Conflicts of Interest	
<u>Actual conflict of interest</u>	There is a <u>real conflict</u> between an employee's public duties and private interests.
<u>Potential conflict of interest</u>	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.
<u>Perceived conflict of interest</u>	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.

Employees	are the directors, chief executive and all other employees of a public sector organisation.
Gifts	are the free or heavily discounted items, intangible benefits or hospitality exceeding common courtesy that are offered to employees in association with their work. They may be enduring such as a work of art or consumables such as a box of chocolates. They range in value from nominal to significant and may be given for different reasons.
Benefits	are the preferential treatment, privileged access, favours or other advantage offered to an employee. They include invitations to sporting, cultural or social events, access to discounts and loyalty programs, and promises of a new job. While their value may sometimes be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence their behaviour.
Hospitality	is the friendly reception and treatment of guests. It is hospitable to offer light refreshments in the course of a business meeting or as part of a conference program. Hospitality can range from offers of light refreshment at a business meeting to 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.
Reportable gifts	are those that must be recorded, typically on a gifts declaration form and/or a gifts register. At a minimum, reportable gifts include accepted gifts, benefits and hospitality that exceed a nominal value. They could also include gift offers of any value, whether they are accepted or not. The gifts may have been offered to an employee directly or extended to them as a guest of their partner or other close relation.
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. <p>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.</p>
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').

5. CODE OF CONDUCT

This policy shall be read in conjunction with **PPP-083 Code of Conduct Policy**, which sets general standards for SWTAFE employees concerning professional behaviour requirements, including acceptance of gifts or favours.

6. RECEIVING OF TOKEN AND NON-TOKEN OFFERS

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 which would be considered a basic courtesy.

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 worth more than \$50. If token offers are made often by the same person or organisation, the cumulative value of the offers, or the perception that they may influence the recipient, may result in the offers becoming non-token.

Individuals may accept token offers of gifts, benefits and hospitality without approval or declaring the offer on the organisation's gift register.

Individuals are to refuse all offers (excluding token hospitality, such as sandwiches over a lunchtime meeting):

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

Requirement for refusing non-token offers

Individuals should consider the GIFT test at **Table 4** and the requirements below to help respond to a non-token offer.

Individuals are to refuse non-token offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest;
- by a person or organisation about which they will likely make a decision (also applies to processes involving grants, sponsorship, regulation, enforcement or licensing);
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- with no legitimate business benefit;
- of money, or used in a similar way to money, or something easily converted to money;
- 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 agencies; and
- made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to their relevant manager and the organisation's Executive Manager, Corporate Services and/or CEO (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

Requirements for accepting non-token offers

There will be some exceptions where there is a legitimate business reason for accepting a non-token offer. All accepted non-token offers **must** be approved in writing by the individual's manager or Executive Manager, Corporate Services, recorded in the gifts 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 individual, the organisation or the public sector into disrepute and
- there is a legitimate business reason for acceptance. It is offered in the course of the individual's official duties, relates to the individual's responsibilities and has a benefit to the organisation public sector or the State.

Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be recorded in the organisation's gifts register. The reason for accepting the non-token offer must be recorded in the register and provide sufficient detail to link the acceptance to the organisation's work functions and benefit to the organisation, public sector or State.

Token and Non-token offers deemed to have a retail value in excess of \$150 will be referred to the relevant

Executive Management for subsequent action.

Where a token or non-token offer has been received by the CEO and exceeds \$500 it will be referred to the Board Chair for authorisation.

Some non-token offers may incur FBT and this will be applied in accordance with the Fringe Benefits Tax Assessment Act 1986.

Gift Test

The GIFT test is a good reminder of what to think about when deciding whether to accept or decline a non-token gift, benefit or hospitality. Take the GIFT test and when in doubt, ask your manager.

Table 4. 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 contractors, 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 influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?</p>
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? 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 I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends or associates think?</p>

7. GIVING OF GIFTS

The giving of gifts or floral tributes is appropriate:

- for public relations or as a goodwill presentation to significant visitors
- as a substitute for payment for guest speakers, donors, etc
- on special occasions for staff (these are: retirement or resignation, weddings, death of a partner or child, serious illness)
- as sponsorship for events supported by the organisation
- In exceptional circumstances, floral tributes may also be requested for occasions or accidents outside of this policy.

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

- any gift, benefit or hospitality is provided for a business reason in that it 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 5** is a good reminder of what to think about in making this assessment); and
- it does not raise an actual, potential or perceived conflict of interest.

Table 5. 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>

The Marketing Department maintains a range of designated organisation gifts which can be made available to departments for use as above. The cost will be charged to the department concerned. All floral tributes being sent on behalf of the organisation, and funded by the organisation, must be arranged through the Office of the Chief Executive Officer.

8. STAFF ENTERTAINMENT EXPENDITURE

The provision of meals or other hospitality is appropriate when entertaining visitors or conducting organisation business including structured staff development activities. Other staff gatherings or social functions should not be funded by the organisation or department funds unless officially authorised in advance by the relevant Executive Manager

The costs of entertainment will be carried by the host department and will be subject to Fringe Benefits Tax (approximately 50% of costs). The staff component of entertainment may be subject to Fringe Benefits Tax in accordance with the Fringe Benefits Tax Assessment Act 1986.

9. ORGANISATION BRANDING OF SOCIAL EVENTS

The use of the organisation's name or logo at a social or entertainment activity (such as marquees at the Races or fundraising events) must be arranged through the Manager, Brand & Strategic Marketing and in accordance with the organisation's various marketing and sponsorship guidelines.

10. DONATIONS SPONSORSHIPS

The CEO can authorise the donation of organisation funds to another individual or organisation.

Sponsorship of an event or activity must be arranged through the Manager, Student Services and in accordance with the organisation's Sponsorship Policy.

11. REPORTING OF GIFTS AND ENTERTAINMENT

Any incoming reportable gifts, or outgoing donations, sponsorships or gifts will be reported to the organisation's Audit, Risk & Compliance Committee via Gifts/Sponsorship Register.

12. CLARIFICATION OF THIS POLICY

Any staff member who is in doubt about the application of this policy should seek clarification from the Executive Manager, Corporate Services.

FLOWCHART – Conflicts of Interest / Gifts, Benefits and Hospitality Process

DRAFT February 2018

