



Conflict of Interest

Employees will disclose and take reasonable steps to avoid any possible conflict of interest (real or perceived) in connection with their employment with the ACTPS. Acting with integrity and professionalism means that employees must not place themselves in any situation that could be seen to interfere with the proper performance of their duties, particularly their objectivity and independence.

A 'conflict of interest' occurs when an employee's private interests improperly influence the performance of the employee's official duties and responsibilities.

A conflict of interest can be *real* in that the improper influence is occurring, or has happened in the past. This is, at the very least, a breach of Section 9 of the PSM Act and should be treated as a disciplinary matter and could be considered as corruption under the *Criminal Code 2002*.

By contrast, a *perceived* conflict of interest can be said to exist where it appears, to an outsider, that an employee's private interests could improperly influence the performance of their duties although this may not in fact be the case. Failure to avoid or disclose this situation is also a breach of Section 9 of the PSM Act and should be treated as a disciplinary matter. In determining if an apparent conflict of interest exists, the test is whether a neutral observer would regard the officer's actions as reasonable. It is essential that someone other than the officer make this judgement.

A *potential* conflict of interest arises where a public official has private interests that are of such a nature that a conflict of interest would arise if the employee were to become involved in official responsibilities in the future related to those interests.

Private interests are not limited to financial or pecuniary interests, or those interests that generate a direct personal benefit to the employee. A conflict of interest may involve otherwise legitimate private activity, personal affiliations and associations, and family interests, if those interests could reasonably be considered likely to improperly influence the employee's performance of their duties. A particular case of conflict of interest occurs when the negotiation of future employment by an employee prior to leaving public office involves the use of official information or contacts to give that person an unfair advantage.

Conflicts of interest can occur quite frequently and are not necessarily unethical or wrong. However, it is how they are identified and managed that is important. If conflict of interest situations are not properly identified, declared and managed, they can jeopardize the integrity of the Directorate and the ACTPS. As mentioned above, Section 9 of the PSM Act requires employees to avoid or disclose conflict of interest situations.

In circumstances where a conflict of interest does arise, the conflict should be declared in writing to an appropriate person. All disclosed conflicts, real or perceived are placed on the ESDD Conflicts of Interest Register and are reviewed accordingly by ESDD HR. These disclosures will include sufficient detail to enable informed decision-making, and will include recommendations regarding measures to avoid or manage the possible conflict.

Some practical tips for managing conflicts of interest are outlined in the following examples.

Meeting and Decision making

In the instances of decision making forums, employees are required to declare their potential conflict of interest and the nature and extent of that conflict of interest before discussions commence. The employee is not entitled to contribute to the decision. When the Chair of the meeting determines the conflict of interest is of the nature that they consider it is not appropriate for the employee to engage in the discussion and/or the decision, the Chair of the meeting may ask the employee to absent themselves from the meeting for the period of the discussion and decision.

Gifts

A particular example of conflict of interest is the acceptance of gifts. A gift offered to an employee that is related in any way to the performance of official duties has the potential to damage the employee's reputation or affect the public's trust in the Directorate's independence and integrity. Because of this, there are strict rules about accepting gifts or other benefits through official duties.

The basic rule is that gifts or benefits cannot be accepted without the specific approval of the delegate, although some discretion may apply to gifts of little financial value and where there is no reasonable possibility that it could cause a real or perceived conflict of interest.

If placed in a position where it would be inappropriate to refuse a gift of more than a nominal value (approximately \$50) the gift should be declared to the employee's supervisor within seven days of receipt and given to the supervisor or Director within 14 days of receipt. The gift will become official property.

Second Job

Working in a second job is a situation where a conflict of interest may arise. A second job means employment other than a person's ACT Public Service position and includes paid employment, voluntary work, business involvement, community and company positions.

An officer may not work in a second job without the delegate's approval. Section 244 of the *Public Sector Management Act 1994* sets out conditions applying to second jobs. Whilst this applies only to officers, temporary and casual employees are also expected to meet the same standards and seek approval for a second job.

The Approval for a Second Job form is located on the [Shared Services Portal](#), also accessible from the ESDD Intranet > HR > Useful Information tab.

Information

Employees often have access to documentation the Government holds, both in electronic and paper form. That documentation can include sensitive information about the internal workings of Government, commercial-in-confidence information and personal information about ACT citizens. Much of this information has been provided involuntarily, through legislative requirements. Disclosing official information for personal gain is a serious matter.

Employees have ethical responsibilities to safeguard this information and to ensure it is used only for official purposes. These responsibilities also take the form of legal obligations under the *Public Sector Management Act and Standards, Section 10 of the Crimes (Offences against the Government) Act 1989, the Privacy Act 1988 (Commonwealth)* and the *Health Records (Privacy and Access) Act 1997*.

Further Information

For further information please contact ESDD HR via email to ESDD.HR@act.gov.au

Johnston, HeatherG

From: Jolley, Elizabeth
Sent: Friday, 18 January 2013 3:56 PM
To: ESDD HR
Subject: FW: Declaration of gift - Alex

This should be kept somewhere..... we need some sort of gift register if we don't have one already.

Thanks

Liz

Elizabeth Jolley | Senior Manager, Strategic HR

Corporate Branch | Environment and Sustainable Development | ACT Government
Level 3, Dame Pattie Menzies House | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Chin, Rachel
Sent: Friday, 18 January 2013 2:31 PM
To: Cassie, Alexandra
Cc: Jolley, Elizabeth
Subject: RE: Declaration of gift - Alex

No problems Alex. Enjoy.
Rachel

From: Cassie, Alexandra
Sent: Friday, 18 January 2013 12:27 PM
To: Chin, Rachel
Cc: Jolley, Elizabeth
Subject: Declaration of gift - Alex

Hi Rachel,

I have spoken to Liz Jolley who has advised that I should email you regarding the below gift I have received from Val Morgan.

The invitation has been sent to me from Val Morgan as we have used them for advertising in the past. The invitation is not specific to the ACT Government and has no obligations for myself or the Directorate associated with it.

The value of the gift would be approximately \$35.00 (2 Adult passes to the movie) and is outside of work hours. Details are below.

If you are happy for me to attend (I would be bringing [REDACTED] also) then please let me know. Otherwise happy to discuss further.

Thanks
Alex

Alexandra Cassie | A/g Media Manager
[REDACTED]

Communications | Environment and Sustainable Development | **ACT Government**
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FROM THE ACADEMY AWARD-WINNING WRITER AND DIRECTOR OF
THE HURT LOCKER

TUESDAY 29 JAN

6PM Arrival, pre-screening drinks & nibbles

7PM Film commences

Dendy Cinemas Canberra

North Qtr Canberra Centre



Please RSVP by 23 January to jemmaj@dendy.com.au

Please note this invite is strictly non-transferrable.



www.dendy.com.au

Sales Manager | Val Morgan Cinema Network

Level 50, 680 George Street SYDNEY NSW 2000 | PO BOX 20038, World Square NSW 2002

23 MILLION MOVIE TICKETS WILL BE
PURCHASED THIS SUMMER
MAKE SURE IT'S YOUR BRAND THEY SEE

Source: Exhibitor admissions / Val Morgan

Johnston, HeatherG

From: Lacey, Natalie
Sent: Friday, 7 June 2013 1:07 PM
To: Brown, Teagan
Cc: Corrigan, Jim; Saad, Monica
Subject: RE: Gifts

Thanks Teagan,

Jim Corrigan is aware, same with Monica Saad and Roger Gibson.

The Customer – [REDACTED] was extremely generous and grateful, I was unaware of this surprise. I processed [REDACTED] Land Rent Payout application which ended up taking a few months to complete. My customer service was rewarded with some flowers and cupcakes. I've setup the cupcakes for everyone down here to share and enjoy.

From: Brown, Teagan
Sent: Friday, 7 June 2013 12:56 PM
To: Lacey, Natalie
Subject: Gifts

Hey Chick,

This is an extract from the ACTPS Code of Ethics [see below.] As it is a small gift holding considerably small value, it is not a big deal - however – to cover your butt I would suggest sending an email to your supervisor cc HR briefly detailing the sequence of events and stating that you are sharing these with your team. (There may be some people internally who may see this as going against the code of ethics, so I think I would rather place something on record in the event we had to re-visit for an unforeseen reason.)

Gifts and Benefits

The reputation of ACTPS for integrity, impartiality and professionalism derives from the public's expectation that its public servants cannot be influenced by bribes. The Code of Ethics prohibits public servants from using their positions to obtaining benefits, and bribery is also covered by criminal legislation.

Accepting a gift from a person who could influence you therefore places you in a difficult position. Even the appearance of influence may damage your reputation or affect the public's trust in your agency's independence and integrity. Because of this, there are strict rules about accepting gifts or other benefits through official duties. This includes sponsored travel and hospitality, as well as receiving benefits through frequent flyer points accrued from work-related travel. These rules also apply to gifts to your immediate family.

The basic rule is not to accept gifts or benefits without the approval of your Chief Executive, unless the gift is of little financial value and there is no reasonable possibility that it could cause a real or apparent conflict of interest.



Examples of this are small thank you gifts given to teachers by their students or to hospital staff by patients.

In other circumstances, if it is not possible to politely decline a gift, you can accept a gift on behalf of the Territory, and then declare it to your Chief Executive.

Particular care needs to be taken where a gift or benefit is offered to you by a person or organisation which is involved in a tender process in your agency or which is subject to a decision making process in which you are involved. In these circumstances you should not accept any gift.

Johnston, HeatherG

From: Stannard, Geoff
Sent: Tuesday, 6 August 2013 11:15 AM
To: ESDD HR
Cc: Watkins, Christopher; Walsh, Adrian
Subject: FW: appreciaton

As discussed, could HR please record the gift below on the Directorate's Gift Register.

Thanks

Geoff

From: Walsh, Adrian
Sent: Monday, 5 August 2013 2:48 PM
To: Messer, Sue; Corrigan, Jim; Stannard, Geoff
Cc: Chapman, Maggie; Sare, Irma; Hurst, Jackie; Walker, Karen
Subject: RE: appreciaton

Hi Sue

First, well done to you and the team for what I know is a significant accomplishment! A major exercise, accomplished with flair, and the gift certificate is a nice touch.

Just to ensure that the record is straight, I note that the ACT Integrity Policy provides a basic rule that,

“...gifts or benefits cannot be accepted without the specific approval of the Chief Executive, although some discretion may apply to gifts of little financial value and where there is no reasonable possibility that it could cause a real or apparent conflict of interest”.

Similar requirements are expressed in the Director-General's Financial Instructions (DGFIs)

In the circumstances I agree that the subject gift has “little financial value” and given that it was provided after the exercise was completed, there is no reasonable possibility that it could cause a real or apparent conflict of interest.

On this basis I note and agree with your approach in presenting it to the social club to raffle.

In accordance with DGFIs, any gift of a value greater than \$25.00 accepted by an officer should be recorded on the Directorate's Gift Register. I have copied Geoff Stannard with the request that these details be suitably recorded in the Register.

Cheers

Adrian

From: Messer, Sue
Sent: Monday, 5 August 2013 8:53 AM
To: Walsh, Adrian; Corrigan, Jim
Cc: Chapman, Maggie; Sare, Irma; Hurst, Jackie; Walker, Karen
Subject: appreciaton

Good morning Adrian

On Friday afternoon on my way home, I registered the final lease variation for [REDACTED]. This is a very large development, which has had a number of amendments since its lodgement with the leasing components being complicated. The lessee has been anxious to continue work on the project. The lodging of the final

Instrument of Variation on Friday completed the leasing matters, and upon registration of the documents, the plans can be released.

As an expression of [redacted] appreciation, the lessee gave me a gift certificate (food and beverage voucher) for the value of \$150.00 at any Capital Hotel Group property. I advised [redacted] that I would give it to the social club to raffle. This 'gift' is for [redacted] appreciation to the DA Leasing team for managing the project and dealing with the problems as they arose.

My thanks to Irma, Karen and Jackie for their help with this. Great outcome.

Regards

Susan Messer | Manager

DA Leasing
[redacted]

Lease Administration | Environment and Sustainable Development | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au