

GIFTS, BENEFITS & HOSPITALITY POLICY

PURPOSE

From time to time ACT Public Sector (ACTPS) employees and/or members of their families will be offered by people outside of Government employment gifts, benefits or opportunities to accept hospitality to either reward their good service or to build and strengthen working relationships. Those offers may be made during or outside of normal working hours.

A gift, benefit or hospitality offered and accepted regardless of its value has the potential to place an employee in a conflict of interest situation and/or to damage the reputation of the employee or of the ACTPS.

This policy articulates the correct procedure ACTPS staff should adopt in reporting, accepting or rejecting offers made by third parties and the approval process that must be followed in respect to those offers. The policy also covers when gifts, benefits or hospitality should be given by public sector employees to others.

APPLICATION AND SCOPE

This policy contains a set of whole-of-government instructions issued by the Head of Service under the *Public Sector Management Act 1994* which binds all employees and officers engaged under that Act.

Directorates and public sector statutory authorities may put in place their own policy and procedural documents which adopt different gift value thresholds and/or approving authority/delegate arrangements. Those variances recognise and allow for different operating environments and organisational structures within which employees work. However, all directorates and public sector authorities are expected to adhere to the overall tenet of this policy.

Similarly, directorates place the responsibility for the management of these matters in various areas. For example some directorates have a Corporate Governance area tasked with this function while others include it as part of Corporate Finance, Human Resources or a nominated Executive or their Senior Executive Responsible for Business Integrity and Risk (SERBIR). For the purposes of simplicity this policy refers to the 'Corporate Governance' area, but where this is administered from will depend on the directorate concerned.

WHAT CONSTITUTES A GIFT, A BENEFIT AND AN OFFER OF HOSPITALITY

A gift, benefit or offer of hospitality is any good or service of value or personal benefit that is over and above employment or engagement entitlements, in the form of free or highly discounted goods or services to or from members of the public. A gift is also considered to be any property that is transferred voluntarily and without compensation.

A gift, benefit or offer of hospitality may include, but is not limited to, the following:

- prizes, including lucky door prizes;
- promotional materials, including clothing, books, CDs;
- bottles of wine, manufacturers' samples or personal items;
- benefits under loyalty schemes;
- discounts on commercial items;
- tickets to entertainment such as sporting or theatre events, taking into account the functions and role of the Directorate and the individual;
- invitations to participate in golf days;
- equipment or facilities, including laptops, cameras;
- free or discounted places on training and development courses (other than contra-deals; associated with the presentation of papers, membership arrangements etc);
- fees to individuals for presentations, training or facilitation;
- offers of cash or shares;
- preferential treatment;
- job promotion;
- access to confidential information;
- accommodation and hire car discounts;
- sponsored travel; and
- invitations to hosted events and provision of meals or other like hospitality.

Generally gifts of low value from colleagues to celebrate a special occasion such as a birthday, baby shower, Christmas or retirement are not covered by this policy, however thought needs to be given to the motivation for providing the gift and if there are any apparent conflicts of interest. Similarly, gifts from other Governments, Non-Government Organisations or clients may be accepted if they are given as mementos or are of a symbolic nature (for example, a small box of chocolates given as a thank you for speaking at an event).

INTEGRITY, HONESTY AND MEETING COMMUNITY EXPECTATIONS

Public sector employees are expected to:

- earn and maintain public trust;
- be honest and transparent in all of their dealings;
- avoid situations which may lead to real or perceived conflict of interest;
- provide advice without bias;
- make balanced and fair decisions;
- use any power invested in them responsibly;
- use the resources given to them to achieve the best outcomes for the community; and
- submit themselves and their dealings with other employees and the public to scrutiny.

Public sector employees should generally not accept or provide gifts, benefits or offers of hospitality if in doing so they give the appearance of a conflict of interest. Examples include:

- the person or organisation is in a current or potential contractual relationship with the Directorate or statutory authority;

- the employee has the power to make a decision, especially financial, concerning the person or organisation receiving assistance or services from the directorate or statutory authority;
- the person or organisation 's primary purpose is to lobby Ministers, Members of the Legislative Assembly, the ACT Government or the Directorate; or
- an entity within the Directorate is in a regulatory relationship with the person or organisation.

Directorates should advise all employees that should they have any doubt about whether they should accept or provide a gift, benefit or offer of hospitality they should first discuss the matter with their manager or Corporate Governance area.

FAMILY MEMBERS

Directorates should remind all employees that in some circumstances gifts, benefits or hospitality offered to family members of an employee can be viewed and used as an attempt to influence the public employee. It is the responsibility of each employee to take all reasonable steps to ensure that family members are not the recipients of gifts and benefits and hospitality that can be perceived as an attempt to influence.

Once an employee is aware that an attempt has been made to influence them through a family member in this way, they should immediately bring it to the attention of their manager or Corporate Governance area.

PROVIDING HOSPITALITY AND GIFTS TO EXTERNAL GUESTS

Directorates may provide hospitality to others for the purposes of:

- receiving guests (examples representatives from Non-Government Organisations, visiting delegations from overseas or other State or Territory jurisdictions);
- launching of a new Government endorsed community program, service or initiative;
- celebrating the opening of a Government sponsored or run event or exhibition;
- fostering co-operation, the development of working partnerships and future collaboration for matters that are in the community interests.

Gifts may be provided for the purpose of making the guests feel welcome and to provide a reminder of the visit. However, normally the gift should be symbolic in nature rather than financial in value.

In general, should the gift be estimated to exceed \$40 in value the approval of the SERBIR or authorised Senior Executive Officer must be obtained. However, Directorates may adopt different thresholds dependent on the nature of their core business. Directorates in setting thresholds should consider what is appropriate in their different operating environments but also ensuring that levels are kept well within what can be deemed reasonable by community expectations.

DETERMINING THE TYPE OF HOSPITALITY TO BE OFFERED

When deciding on the type of hospitality to provide, Directorates should make a balanced judgement between the costs to be incurred and the benefits to the Territory. The hospitality should always be in line with community expectations i.e. it is prudent, money well spent, not seen as overly lavish and a benefit to the community.

Directorates should consider the following questions when considering the provision of hospitality:

- What is its primary purpose?
- Who will benefit from it?
- How will the community benefit?
- How much will it cost?
- Would the cost be proportionate to the benefit derived?
- Who will participate in it?
- Is there a conflict of interest – real or perceived?
- What would be the consequences if hospitality is refused e.g. would it adversely affect stakeholder relationships?
- Can the organisation of the event etc be improved to provide greater benefit or cost efficiency to the outcome sought?

USE OF GOVERNMENT FACILITIES FOR HOSPITALITY

When using ACT government facilities (either for free or when hiring) organisers of all functions and events must comply with the following requirements of appropriate use by ensuring that:

- any hospitality is provided for a business purpose that furthers the conduct of official business or other legitimate organisational goals; or promotes and supports government policy and objectives;
- any costs are proportionate to the benefits obtained for the ACT Government and would be considered reasonable in terms of community expectations; and
- when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to all participants.

The following are examples of conduct likely to constitute inappropriate use and a failure to comply with the obligations and standard of conduct expected of a public sector employee:

- use of the venue/hospitality for personal gain or for the gain of persons or organisations with which they are associated personally;
- use of the venue/hospitality to conduct anything other than official business;
- use of the venue without prior approval from the appropriate delegate; or
- provisions of hospitality where it may be construed as inappropriately influencing decision making.

FUNCTIONS FOR EMPLOYEES

On occasion directorates or statutory authorities may provide catered functions for employees. Such functions should be able to pass public scrutiny tests and be limited to important and large events such as training courses, award ceremonies, workshops, planning days, seminars and conferences. Farewell functions or gifts for public officials cannot be funded by government funds, nor can funeral donations.

Catered meals should generally not be provided for functions that do not traverse normal lunch or after normal working hours eating times.

In considering catered employee functions, directorates should be mindful of their respective budgets and the community expectation that public officials should always keep costs to a minimum.

There is no requirement for such functions to be placed on the Gift and Hospitality Registers.

SPONSORSHIPS/FUNDING/GRANTS

There are times when it will be appropriate to seek sponsorships. It should be made clear to the sponsor that any sponsorship will in no way afford the sponsor more favourable treatment in their other dealings with the Directorate. Care should be taken in accepting sponsorships ensuring that the public cannot perceive the sponsor is receiving preferential treatment, for example where sponsorships are accepted from organisations currently competing in a tender process.

Where the Directorate receives a benefits such as a gift, tickets to events or hospitality due to the provision of a sponsorship, funding or grant, the treatment of the benefit needs to be considered in the same way as any other gift or hospitality provided to employees. Where it is deemed appropriate to attend an event, the delegate should consider sending the minimum number of staff - generally there should not be a need for more than one or two staff to attend an event.

Where substantial numbers of tickets are provided, for example to sporting events, the preference would be to provide most if not all tickets to charitable or community organisations.

DONATIONS

Generally requests for donations should only be considered when received from philanthropic organisations and such approaches must be made in writing. After registration by Corporate Governance all requests to provide donations should be referred to the SERBIR or the authorised Senior Executive for consideration. Chief finance officers should also be notified where requests for or grants of money are made in the guise of donations.

GIFTS, BENEFIT OR HOSPITALITY VALUE THRESHOLDS

Gifts and benefits that are deemed to have a value of under \$40 generally do not have to be notified to Corporate Governance areas. However, Directorates may adopt different thresholds dependent on the nature of their core business. As an example it is common for staff employed in front-line service delivery areas to receive from community clients gifts of appreciation for performing their duties. In setting thresholds, directorates should consider what is appropriate in their different operating environments but also ensuring that levels are kept well within what can be deemed reasonable by community expectations.

Expenditure on the provision of hospitality requires authorisation prior to the event. Provision of Hospitality Approval forms are available to guide and facilitate approval processes. Generally hospitality is provided in accordance with Director General Financial Instructions.

REPORTING AND REGISTRATION PROCESS

When employees are offered or given a gift, benefit or an offer of hospitality equal to or above the allowed value threshold it is their responsibility to make a Gifts Declaration. Gift Declaration forms are to be used exclusively for this purpose. An example of an appropriate Gift Declaration form is included at **Annex A**. Directorates may utilise their own versions as long as they are consistent with the provided example.

Gift Declarations must be completed within fourteen (14) days of the gift, benefit or offer of hospitality being given or made and forwarded to the Corporate Governance area. Failure by

employees to appropriately notify the receipt or offer of the gift or benefit within the allocated reporting timeframe may lead to misconduct and disciplinary action being taken against the employee. This would certainly be the case if it was found that the employee was in a conflict of interest situation and the employee knowingly concealed the receipt of the gift.

The directorate must maintain Gift and Hospitality Registers for gifts, benefits and hospitality offered and/or received that are at or over their value threshold levels. An example of an appropriate Gift and Hospitality Register is at **Annex B**. As with Gift Declarations, directorates may utilise their own versions of a Register just as long as it is consistent with the provided example.

If there is any doubt about a gift, benefit or hospitality matter, particularly if it concerns conflict of interest, Corporate Governance should seek guidance from an authorised Senior Executive within the directorate or statutory authority. Ideally that executive would be authorised as a SERBIR. However, where this is not possible directorates or statutory authorities must authorise appropriate Executive guidance arrangements.

Directorates should inform their employees that any repeated offers of gifts or of hospitality from a single source should be reported to the Governance Area. Similarly, any obvious advances in the form of bribes should immediately be reported.

APPROVAL PROCESS

Following Corporate Governance areas registration, the Gift Declaration will be forwarded to a Delegate for decision. If the gift or benefit does not constitute a conflict of interest but its acceptance could give the appearance of undue influence, the delegate should use their discretion to protect the directorate's reputation. The delegate could decide to:

- return the item to the giver;
- let the recipient retain the gift;
- retain the gift within the Directorate for display or use;
- donate the gift to charity;
- donate the gift to a gallery or museum; or
- donate the gift to the Directorate's social club to use or give as a prize.

Any gift or benefit of cultural significance becomes the property of the Territory.

When entering their decision on the Gift Declaration form the delegate should also include any special criteria in dealing with the gift and may also include reasons for the decision. This is particularly important where the decision may be unusual or contentious, for example allowing a recipient to keep an expensive gift or specifying that an item must be displayed in a particular location.

Once the delegate has made a decision they should notify the recipient of the decision and ensure that the decision is carried out. The signed declaration form should be forwarded to the Corporate Governance area to record the decision on the Gifts and Hospitality Register.

GIFTS AND HOSPITALITY REGISTER REVIEW

SERBIRs or similarly authorised Senior Executive staff should periodically review (at least once annually) Gift and Hospitality Register content and provide the relevant Director-General a report on compliance, highlighting any matters of concern.

APPEALS AGAINST DECISIONS

If a delegate rules that a recipient is unable to retain the gift or benefit the recipient may refer the matter to the SERBIR or a designated authorised senior executive for review of the decision. If the SERBIR was the delegate it should be sent to the Director General or Chief Executive. Any reviewed decision is final.

LEGISLATIVE REFERENCE

Public Sector Management Act 1994



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Workforce Capability and Governance Division
Chief Minister Treasury and Economic development Division
on behalf of
Kathy Leigh
Head of Service

26 October 2016

Gifts, Benefits and Hospitality

SAMPLE DECLARATION FORM

To be completed within 14 days of the offer or proposal to offer being made

Date of offer:

Offered or proposed to be offered to:

Name:

Role:

Directorate/ Instrumentality:

Offered or proposed to be offered by:

Name:

Role:

Organisation:

Details of Gift/Benefit/Hospitality

Description:

Reason for offer:

Estimated value:

First time offer?:

Previous offer(s) within last 12 months by this individual/organisation?:

Cumulative value of offers by this individual/organisation within the last 12 months: \$

Date given/proposed to be given:

Signature of recipient or prospective provider:

Date:

Delegate Decision:

Name of delegate:

Signature of delegate:

Gift Register Updated:

Name:

Signature:

Date:

ANNEX B

Gifts, Benefits and Hospitality policy

Sample Incoming Gifts Declaration Register

Date offered	Offered to (name, role, organisation)	Offered by (name, role, organisation)	Reason offered	Description of gift	Est. value	Decision regarding gift	Authorised by (name, role, Directorate)

Sample Outgoing Gifts Declaration Register

Date offered	Offered to (name, role, organisation)	Offered by (name, role, organisation)	Reason offered	Description of gift	Est. value	Decision regarding gift	Authorised by (name, role, Directorate)