

## Policy

### Gifts, Benefits and Hospitality

This policy states the commission's position on the giving and receiving of gifts, benefits, and hospitality.

#### What you need to know

This policy outlines the commission's expectations around the receipt and provision of gifts, benefits and hospitality and supports you to avoid conflict of interest and maintain high levels of integrity and public trust.

This policy has been developed in accordance with the requirements outlined in the [minimum accountabilities for managing gifts, benefits and hospitality](#) issued by the Victorian Public Sector Commission and supports behaviour consistent with the Code of Conduct for Victorian Public Sector Employees and the Code of Conduct for Directors of Victorian Public Sector Entities.

A [glossary](#) of terms is provided for reference when reading this policy.

#### Applicability

This policy applies to all workplace participants, including executives, commissioners, employees, and any contractors, consultants or individuals undertaking activity on behalf of the commission that are advised it applies to them. In this policy the term "individuals" is used to describe all workplace participants.

Any exceptions to this policy must have the prior written approval of the Chief Executive Officer.

#### Policy principles

Maintaining the good reputation of the commission is essential if we are to ensure continued community and public sector confidence in us. It is therefore essential that we try to avoid any attempts to improperly influence us in the performance of our functions.

The following principles apply to the management of gifts, benefits, and hospitality at the commission:

- Individuals will act with integrity and impartiality and place public interest above their private interests and will not, for themselves or others, seek or solicit gifts, benefits, or hospitality (also referred to as offers).

- Individuals will actively seek to limit offers being made and are to politely decline offers where practical,<sup>1</sup> and proactively advise suppliers and entities we regulate that we prefer offers not be made.
- The commission adopts a risk-based approach to ensure all offers and the provision of gifts, benefits and hospitality are appropriately assessed and managed. Managers with direct reports will ensure they are aware of the risks inherent in their team's work and functions and will monitor the risks to which their direct reports are exposed.
- Individuals will declare all non-token offers (whether accepted or declined) and will seek approval to accept a non-token offer or manage the offer in line with this policy.
- Individuals will refuse and declare all offers regardless of value that:
  - are likely to influence or be perceived to influence them or raise an actual, potential, or perceived conflict of interest
  - could raise a perception of, or actual, bias, or preferential treatment. This includes offers from those about whom they are likely to make business decisions (e.g., a current or prospective supplier and also applies to processes involving grants, sponsorship, regulation, enforcement, or licencing)
  - may adversely affect their standing as a public official or that may bring the commission or the public sector into disrepute
  - is money or something used in a similar way to money or easily converted to money including gift cards with a monetary value
  - could be perceived as endorsement of a product or service that would unfairly advance the offeror in future procurement decisions
  - is made by a person or organisation with the primary purpose to lobby Ministers, Members of Parliament, or public sector agencies
  - is made in secret
  - extends to their relative or friends
  - is likely to be a bribe or inducement to influence a decision or act in a particular way
  - has no legitimate business benefit.

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<sup>1</sup> The commission recognises that there will be instances where initially refusing the offer may not be possible or will cause offence.



- Individuals will be vigilant in the management of repeated token offers and declare token offers that are made repeatedly by the same person or organisation. The cumulative value of the offers, or the perception that they may influence the recipient, should be considered and the offers reported.
- The commission will publish this policy and will maintain and will publish a register for gifts, benefits, and hospitality on annual basis.
- Individuals may responsibly provide gifts, benefits, and hospitality if:
  - It is provided for a business reason that furthers the conduct of commission business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities
  - the costs are contained and proportionate to the benefits obtained for commission or the State and would be considered reasonable in terms of community expectations.
- As outlined in the Public Interest Disclosures Procedure individuals are to report any bribes or inducement attempts or any criminal or corrupt conduct to the Independent Broad-based Anti-corruption Commission.

### **Identification, assessment, and management of offers received**

Offers are varied and nuanced to the specific context or circumstances. As a result, there is no 'one size fits all' approach and individuals are required to exercise critical judgement in identifying the type of offer made and ensure that their assessment of the offer aligns with this policy, the [minimum accountabilities](#), and the [GIFT test](#).

#### **We must pro-actively manage stakeholder intentions regarding offers**

[The Code of Conduct for Directors of Victorian Public Sector Entities](#) (part 3.6) obligates commissioners to decline gifts or favours that may cast doubt on their ability to apply independent judgement. Individuals will actively seek to limit offers being made by:

- Advising that thanks is enough and pre-empting any potential offers by advising the individual/organisation of the commission's gifts benefits and hospitality policy.
- Where a gift has been received, advising the offeror of this policy, and returning it to the sender as soon as practicable. If returning the gift is considered burdensome, offensive, or impossible, the gift may be accepted, and the ownership of the gift then determined by the commission.

Ownership of a non-token gift is ultimately decided by the commission and can take the form of retention by the individual, transfer to the commission, donation to the staff social club or a charity, disposal or another suitable alternative.

## Identification and assessment – token offers

### Definition

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 and could not be perceived as creating a conflict of interest or as having the ability to influence an individual's decision-making.

The offer cannot exceed \$50 in estimated value.

### Where no conflict of interest exists, the following token offers may be accepted without a declaration

- Promotional items such as pens and note pads.
- A low value gift to thank a conference speaker.
- Modest hospitality such as light refreshments offered during a meeting.
- Confectionary and bottled alcoholic beverages which are sometimes customary gifts at year-end<sup>2</sup> provided that the offer meets the [policy principles](#), and it is not a repeated offer.
- Free training course, seminar or other educational activity that is under 1 hour in length or provided as part of contractual arrangements with the commission. The training should be relevant to an individual's assigned duties or professional discipline and not incur additional costs (e.g., travel etc) to the commission. Individuals should obtain their managers approval prior to attending the training.

### Token offers that require a declaration

- **Hospitality invitations offered by vendors.**

An individual's attendance at a vendor event (e.g., end of financial year or Christmas function) is discouraged. However, where there is benefit to the commission in terms of stakeholder management, individuals may attend with the prior approval of their manager provided the following criteria is met:

  - it is a token offer (the individual should check with the offeror that is the case)
  - the event is open to all of the vendor's clients, not just the commission

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<sup>2</sup> The above examples largely occur during or after an event/occasion and do not require prior management approval



- the vendor is not currently, or likely to be in the immediate future, in a procurement process or regulatory review with the commission.

If any of the above three tests cannot be met, then the invitation must be declined, and a declaration form completed regardless of the value.

- **Repeated offers.**

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 must be considered and the offers reported.

### Identification and assessment – non-token offers

#### Definition

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) and where it could be perceived that the offer could influence an individual in the course of their duties.

#### Examples of non-token offers that must be declared and declined:

- offer of a Christmas hamper
- lucky door prize at events sponsored by a regulated entity or supplier
- promise of a new job by an existing or prospective vendor or an organisation associated with the commission
- attendance at a sporting event
- fine dining at a working lunch or business function.

#### Non-token offers that must be declared and may be accepted in limited situations

There will be some situations where there is a legitimate business reason for accepting a non-token offer. In the instance where acceptance is prior to receipt of the offer (e.g., hospitality and/or a planned event), consideration must be given to if the commission will already be sufficiently represented to meet business needs before approval is sought. Refer to the [approval and governance of declared offers](#) section for more information.

Examples include:

- **Ceremonial gifts** offered by visiting delegations may be accepted and become the property of the commission.

- **Professional development** provided free of charge by firms on the government legal services panel. This is consistent with a requirement that these legal firms provide free professional development as a condition of panel membership. Free professional development offered by other organisations should be considered as with any offer of gift, benefit or hospitality and may be accepted if it meets the policy requirements.
- **Free training course, seminar or other educational activity that is over 1 hour in length**  
Individual may be offered complimentary attendance at a training or professional development opportunity. This includes from current suppliers. In order to meet reasonable community expectations, any free training opportunity must be assessed by the individual's manager prior to attendance and meet the following criteria:
  - It is relevant to the individual's assigned duties or professional discipline.
  - It is not provided solely to commission individuals unless the training is provided as part of contractual arrangements with the commission.
  - It only includes modest hospitality such as a light breakfast or sandwich lunch.
  - The provider is not an individual or entity involved in a current procurement process.
  - No additional costs to the commission are required e.g., it does not include travel, accommodation or non-modest entertainment or other benefits.
- **Hospitality** offered prior to, at or after a board meeting of a regulated entity which has been deemed appropriate stakeholder management activity.
- **Hospitality offered by Victorian public sector organisations** (other than businesses we regulate) where it is offered as part of official business and where the reason for attendance is consistent with the organisation's functions and objectives, and within the individual's role.
- **Hospitality offered via networks and stakeholders.** The commission acknowledges that networking is a valuable way to make relevant business connections and stakeholder relationships are important. However, the hospitality must be limited to events such as presentations, industry forums, lunches, and dinners and the like where there is a presentation, keynote speech or the general forum content is relevant to the individual's official duties and/or has a legitimate business purpose.

## Approval and governance of declared offers

Individuals (other than commissioners) must complete a gifts, benefits, and hospitality declaration form within 5 days of a non-token and specific token offer being made (even if declined). Refer to the [Identification and Assessment](#) sections for more information.



If the individual is seeking approval to accept the offer, its benefit stated in the declaration must detail how the offer:

- is relevant to the individual’s official duties or responsibilities
- has a legitimate business purpose.

Offers to commissioners will be identified and approved in commission meetings as soon as practicable and reported to the Senior Manager, Governance and Risk for inclusion in the register without the need for a declaration form.

An individual’s declaration is approved via their manager as relevant below:

Individual role	Approver
Chairperson or Commissioner	Approved at weekly commission meeting
Chief Executive Officer	Chairperson
Executive Director or Director	Chief Executive Officer
Employee	Relevant member of the Executive team

The commission’s Audit and Risk Committee will receive a report annually on the administration and effectiveness of this policy and will include analysis of the commission’s gifts, benefits and hospitality risks, any mitigation measures, and proposed improvements. The commission’s compliance with the minimum accountabilities will be reported in accordance with the Standing Directions 2018 under the *Financial Management Act 2004*.

As per the minimum accountabilities for the management of gifts, benefits and hospitality, this policy and a de-identified version of the commission’s gifts, benefits and hospitality register will be published annually on the commission’s website.

**Provision of gifts, benefits, and hospitality by the commission**

Gifts, benefits, and hospitality may be provided to welcome external guests, facilitate the development of business relationships, further public sector business outcomes or launch an initiative. The commission may also provide gifts, benefits, and hospitality to celebrate internal achievements.

**Criteria for providing gifts, benefits, and hospitality to external recipients**

When deciding whether to provide gifts, benefits or hospitality individuals must ensure:

- it is provided for a business reason in that it furthers the conduct of official business or other legitimate organisational or government goals, 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
- it does not raise an actual, potential, or perceived conflict of interest.

Refer to [Appendix A, Table 2: HOST](#) test for more information.

### **Provision and approval of external gifts, benefits and hospitality**

When hospitality is provided, costs involved in the provision of gifts, benefits, and hospitality must be contained and arrangements demonstrate the following:

- gifts are of symbolic value, rather than financially valuable.
- If possible, that the event is held at a time of day least likely to attract expectations of hospitality and events should only exceed two hours where unavoidable.
- Preference given to public sector venues over private venues with external venues only used where value for money can be demonstrated.
- The size of the event is aligned with intended outcomes. Any catering should be proportionate to the number of attendees and be procured at competitive rates and avoid inclusion of expensive menu options. The provision of alcohol should be incidental to the overall level of hospitality.

In addition, individuals must demonstrate professionalism in their conduct and uphold their obligation to extend a duty of care to other participants. Individuals must not be impaired by alcohol whilst in the workplace or whilst representing the commission.

The provision of alcohol must have prior written approval from the Chief Executive Officer using the hospitality expense form and approval from a relevant financial delegate must be sought prior to incurring expenses related to the provision of hospitality.

### **Provision of gifts and hospitality at the commission**

The commission may occasionally provide catered activities for all or some of its workforce participants as a means of celebrating achievements or promoting particular behaviours as is consistent with common business practice. This occurs in the following circumstances:

- delivery of a training course, workshop, planning day, seminar, or conference
- recognition of an organisational or individual achievement e.g., the successful completion of a project or the retirement of a long-standing staff member
- celebration of a significant cultural or community event.





Where Individuals are contributing to the cost of one of the above events, the extra funding provided may be used at the discretion of the organising committee to enhance the event. Events such as birthdays, marriages or births of children will not be funded using public money.

## Breach management

Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, suspension or removal from office, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the commission'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 of conduct for Victorian public sector employees and Code of conduct for directors of public sector entities, such as sections of the Codes covering conflict of interest, public trust, and gifts and benefits
- Individuals making improper use of their position.

The commission will communicate this policy to contractors, consultants, and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

## You can report behaviour inconsistent with this policy

Individuals who consider that gifts, benefits and hospitality or conflict of interest within the commission may not have been declared or is not being appropriately managed should notify their manager, Director or Office of the General Counsel.

The commission will take action, including possible disciplinary action, against individuals who discriminate against or victimise those who report behaviour that breaches our policies.

For serious corruption matters, including suspected unethical, illegal or improper behaviour, reports should be made using the commission's Public Interest Disclosures procedure to IBAC.

## Supporting documents

In addition to this policy, the following may be consulted to further your understanding:

Legislation or Victorian government policies mandating compliance	VPSC Gifts, Benefits and Hospitality Policy Guidelines Code of Conduct for Victorian Public Sector Employees Code of conduct for Directors of Victorian Public Entities <i>Public Administration Act 2004</i>
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	Standing Directions 2018
Related policies/procedure	Conflict of interest policy Fraud, corruption and other losses policy Public Interest Disclosures procedure
Related documents	Gifts, benefits, and hospitality declaration form Gifts, benefits, and hospitality register Hospitality expense form

## Summary of responsibilities

Audit and Risk Committee	Annual review of the gifts, benefits and hospitality register and policy and consideration of any risks, mitigation measures and proposed improvements relating to the management and administration of gifts, benefits and hospitality.
Chief Executive Officer	Accountable for responding to and if required, reporting any reports of bribes or inducement.
Commission employees including contractors and consultants	Responsible for acting in compliance with this policy.
Directors	Accountable for overseeing the management of their division's acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness and understanding of the gifts, benefits and hospitality policy
Senior Manager, Governance and Risk	Maintaining the currency of the gifts benefits and hospitality policy and the publication of this policy and annual register.

## Glossary

Benefits	Includes 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 a benefit may be difficult to determine but as they are valued by the individual, they may be used to influence the individual's behaviour.
Commission	The Essential Services Commission
Conflict of interest	Actual: There is a real conflict between the individual's public duties and private interests.  Potential: An individual has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in the future and steps should be taken now to mitigate that future risk.

	Perceived: The public or a third party could form the view than an individual’s private interests could improperly influence their decisions or actions, not or in the future.
Gifts	Free or discounted items and any item that would generally be seen by the public as a gift. These include items of high value (e.g., artwork, jewellery), low value (e.g., small bunch of flowers), consumables (e.g., chocolates) or door prizes.
Hospitality	The friendly reception and entertainment of guests. Hospitality may include light refreshments at a business meeting, expensive restaurant meals, or 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.
Non-token offer	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.
Register	A record of all declared gifts, benefits and hospitality for the financial year. A de-identified version is published on the commission’s website.
Token offer	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. 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.

## Policy management

<b>Date effective</b>	Feb 2023	<b>Policy owner</b>	Director, Organisational Performance
<b>Next review date</b>	Dec 2024	<b>Content enquiries</b>	Claire Lane
<b>Approved by</b>	John Hamill CEO	<b>Scope</b>	Organisation
<b>RM reference</b>		<b>Category</b>	Operational

## Appendix A: Gift and Host Tests

**Table 1. Gift test**

<b>G</b> Giver	<p><b>Who is providing the gift, benefit, or hospitality 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> Influence	<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 valuable non-token offer? Does its timing coincide with a decision I am about to make or endorse a product or service?</p>
<b>F</b> Favour	<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> Trust	<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>

**Table 2: Host test**

<b>H</b> Hospitality	<p><b>To whom is the gift or hospitality being provided?</b></p> <p>Will recipients be external business partners, or individuals of the host organisation?</p>
<b>O</b> Objectives	<p><b>For what purpose will hospitality be provided?</b></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>
<b>S</b> Spend	<p><b>Will public funds be spent?</b></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>
<b>T</b> Trust	<p><b>Will public trust be enhanced or diminished?</b></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>