

## Gifts, benefits and hospitality – board policy

### 1. Scope

This policy sets out the organisation’s procedures for responding to gift offers, providing gifts, travel and hospitality, and incurring travel and out-of-pocket expenses. The policy applies to all **board members** and **employees** (including senior executives and contractors) at all times in the performance of their duties.

### 2. Key principles

- a) **Obligations and good practice:** the board acts in accordance with its obligations and with good governance practice (for details, see item 13 of this policy).
- b) **Public interest:** conflicts of interest are avoided where possible. Where a conflict exists, it is declared and managed in the public interest.
- c) **Real, potential or perceived:** a conflict of interest exists whether it is real, potential, or perceived.
- d) **Transparent and accountable:** the process for declaring and managing conflicts of interest is transparent, accountable, and consistent with the [Directors’ Code of Conduct](#).
- e) **Culture of integrity:** the board fosters a culture of integrity. Board members are supported to raise their own conflicts of interest and to speak up if they believe another board member may have an undeclared conflict.

### 3. Obligations and good practice

Board members and employees will respond to gift offers and incur expenses (if any) in accordance with their respective obligations and with good public sector governance practice, including:

- the public sector values in section 7 of the *Public Administration Act* 2004 (**‘PAA’**);<sup>1</sup>
- the [Directors’ Code of Conduct](#);<sup>2</sup>
- section 79 of the PAA;
- the [Code of Conduct for Victorian Public Sector Employees](#);<sup>3</sup>
- the [Gifts, Benefits and Hospitality Framework](#) (**‘the Framework’**);<sup>4</sup>
- government policy;
- any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- the requirement in 81(1)(g) of the PAA that an adequate gifts policy be in place for board members; and
- all other laws and obligations that bind the organisation.

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<sup>1</sup> The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership.

<sup>2</sup> Issued by Victoria’s Public Sector Standards Commissioner pursuant to section 63 of the PAA.

<sup>3</sup> As above.

<sup>4</sup> As above.

## 4. Definitions

### 4.1 Gift

A **gift** is a free or heavily discounted item or service. It includes hospitality or benefits that exceed common courtesy. A gift may be enduring (e.g. a work of art) or consumable (e.g. a box of chocolates) and may be offered for a range of reasons.

- **hospitality** is the friendly reception and treatment of guests. It ranges from an offer of light refreshment at a business meeting to restaurant meals, sponsored travel, and accommodation.
- **benefits** include preferential treatment, privileged access, favours and other advantages and intangible benefits (e.g. an invitation to a sporting, cultural, or social event; access to a discount or loyalty program; the promise of a new job).<sup>5</sup>

#### *Direct or indirect*

A gift may be offered directly or indirectly. It may be offered directly to a board member or employee or offered indirectly via an offer to his/her relative or close associate, including:

- a member of his/her **immediate family** (e.g. spouse, partner, parent, sibling, child);
- a regular member of his/her **household**; or
- another **close associate** (e.g. friend, relative, business partner).

#### *Nominal' or 'reportable'*

A gift that is offered to a board member or an employee by an external source is **nominal** or **reportable**:

- A gift offer is **nominal** if it totals less than **\$100** of gift offers from the same source (individual or organisation) in the last 12 months.
- A gift offer is **reportable** if it exceeds the nominal value (or regardless of its monetary value is of cultural, historic or other significance).

### 4.2 Bribe

A **bribe** is an offer of money or other inducement that is made with an intention to **corruptly influence** a board member or employee in the performance of his/her duties. Bribery or attempted bribery of a public official is a criminal offence.<sup>6</sup>

### 4.3 Responsible person

The **responsible person** is the person who the board member or employee:

- notifies of any attempted bribes;
- notifies of gift offers and lodges his/her gift declaration form with; and
- seeks advice from in relation to gifts, benefits and hospitality, and incurring travel and out-of-pocket expenses.

The responsible person ensures that the required information is entered into the *Gifts Register* and, where appropriate, the *Assets Register*.

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<sup>5</sup> The definition of a 'gift' is based on chapter 2 of the Framework.

<sup>6</sup> *Crimes Act 1958* (Vic).

	Responsible Person
Employee	Executive Officer
Board member or EO	Chair
Chair	Deputy chair [or if none exists then ‘the board member(s) nominated by the board’]. The chair may also seek advice from the Minister or DELWP.

#### 4.4 Reasonable business expense

A reasonable business expense is:

- incurred for a **business purpose**;<sup>7</sup>
- **proportionate** to the benefits obtained for the State and would be considered reasonable in terms of **community expectations**;<sup>8</sup>
- consistent with the organisation’s **legal, policy and other obligations** and its procedures for business expenses; and
- not a compromise (real or perceived) to the **integrity** of the giver or the recipient.

### 5. Ban on soliciting gifts

Board members and employees must not seek (i.e. solicit) gifts for themselves or anyone else, in any form, in their role as a board member or employee.<sup>9</sup>

### 6. When a gift offer must be refused

To avoid any **conflict of interest** (real, potential or perceived), a board member or employee must refuse any gift that:

- a) is offered by a person or organisation about whom he/she is likely to **make or influence a decision**, including in relation to:
  - tender processes;
  - procurement;
  - enforcement;
  - licensing; or
  - regulation.
- b) is **money** or items that can be easily converted into money (e.g. **shares**);
- c) could create a **reasonable perception** that it is offered to influence, and/or could influence, the judgement of the board member or employee (i.e. how he/she acts, or fails to act, now or in the future); or
- d) could otherwise reasonably be perceived as undermining the his/her **integrity** and **impartiality**, or that of the organisation.<sup>10</sup>

### 7. Attempts to bribe

A board member or employee who is offered a gift that he/she believes is, or may be, an attempted bribe will:

<sup>7</sup> This requirement is consistent with **minimum requirement 1 (figure 2)** of the Framework. A business purpose is one that ‘furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities’.

<sup>8</sup> This requirement is consistent with **minimum requirement 2 (figure 2)** of the Framework. There should be a clear line of sight between the hospitality or gift provided and the benefit to the organisation, the government and, ultimately, the community - Framework (para 1.1).

<sup>9</sup> This requirement is consistent with **minimum requirement 1 (Figure 1)** of the Framework.

<sup>10</sup> The requirement to refuse compromising gifts is consistent with **minimum requirements 2 to 4 (figure 1)** of the Framework.

- refuse the offer;
- report the offer immediately to the ‘responsible person’; and
- complete a gifts declaration form, so that his/her refusal can be recorded in the *Gifts Register* (see item 10).

The chair (for board members and the EO) and the EO (for employees) will actively support the reporting to police of any attempted bribe.

### 7.1 Other board members or employees

A board member or employee who believes that another board member or employee **solicited** a bribe or **was offered** a bribe but did not report it will report the matter immediately to the ‘responsible person’.

The chair (for board members and the EO) and the EO (for employees) will actively support the reporting to police of any attempted/actual bribe or the solicitation of a bribe.<sup>11</sup>

## 8. Nominal gift offers

A board member or employee who is offered a gift of **nominal value** that he/she believes, on reasonable grounds, is not a bribe or a conflict of interest can choose whether to accept it.

If the board member or employee **refuses** the gift, no further action is required.

If the board member or employee **accepts** the gift, he/she will disclose it as soon as practicable to the ‘responsible person’, either verbally or by email. Disclosure by email is preferable if the board member or employee may receive further gift offers from the source within a 12 months period. A gifts declaration form does not need to be completed. The board member or employee may retain the gift as their own.

## 9. Reportable gift offers

A board member or employee who is offered a **reportable** gift that he/she believes, on reasonable grounds, is not a bribe or a conflict of interest can choose whether to accept it.

**Regardless of whether the board member or employee accepts or refuses the gift offer**, he/she will:

- disclose the offer to the ‘responsible person’ as soon as practicable; and
- within 14 days of the offer, sign and lodge a properly completed gifts declaration form.

### 9.1 Ownership of reportable gifts

A board member or employee who accepts a reportable gift is doing so *on behalf of the organisation*. Ownership will remain with the organisation unless:

- the board member or employee applies for it to be transferred to himself/herself; and
- the board (for applications by board members or the EO) or the EO (for applications by employees) determines that it is in the **public interest** to grant the application.

If a gift is of **cultural, historic, or other significance** it will be offered to an appropriate public institution, such as the Melbourne Museum or the National Gallery of Victoria. Consideration will be given to donating other reportable gifts, or the proceeds from their sale, to a non-profit organisation or public institution.

## 10. Gifts declaration form

The gifts declaration form for use by board members and employees is set out in **Appendix 1** of this policy.

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<sup>11</sup> The requirements in relation to refusing and reporting bribery are consistent with **minimum requirement 5 (figure 1)** and para 5.3.4 of the Framework.

When a properly completed and signed gifts declaration form is lodged with the responsible person, he/she will:

- sign the form as the authorising delegate; and
- initiate procedures for dealing with the matter, including an entry into the *Gifts Register* and, where appropriate, the *Assets Register*.

## 11. Gifts Register

An up-to-date *Gifts Register* will be maintained by the employee who occupies the position title/number nominated by the board [or if the board prefers substitute 'nominated by the EO']. The register will include the information in **Appendix 2** of this policy.

### 11.1 Scrutiny of Gifts Register

The *Gifts Register* and related records (e.g. gift declaration forms) will be:

- protected from unauthorised changes; and
- subject to regular scrutiny, including a review by the audit committee at least annually.

### 11.2 Detection of non-compliance

In addition to regular scrutiny of the *Gifts Register*, a regular review will be undertaken to detect and reduce **non-compliance** with this policy, in particular, failure to lodge gift declaration forms.

## 12. Accepting travel or hospitality

Board members and employees will be cautious about accepting offers of travel or hospitality. A board member or employee will only accept an offer of travel or hospitality if it is clearly in the **public interest** to do so. In addition to the other requirements in this policy, when responding to offers of travel or hospitality:

- The [Victorian Public Sector Travel Principles](#) issued by the Department of Premier and Cabinet will be complied with (e.g. 'non-state government funded travel should only be approved where there is **no conflict of interest** or perception of improper influence' - Principle 21).
- An invitation to attend a private (i.e. non business-related) function in an official capacity will usually be declined, especially if attendance could be perceived as an endorsement of a company or product ([Framework 5.3.3](#)).
- Offers of sponsored travel and accommodation to attend a conference or participate in an industry familiarisation tour will usually be declined ([Framework 5.3.2](#)).
- Consistent with the Victorian Government Purchasing Board's policy on [conduct of commercial engagements](#), unusual or exceptional invitations from any party with a declared or known interest in a project will be declined.
- Unless the offer of travel or hospitality is consistent with all other legal and policy obligations and with community expectations, the offer will be declined.

A board member or employee who is the recipient of travel or hospitality will demonstrate professional conduct at all times and will uphold his/her obligation to extend a duty of care to other participants.

## 13. Providing gifts, travel or hospitality

A board member or employee will only provide gifts, travel or hospitality on behalf of the organisation if it is clearly in the **public interest** to do so – i.e. a reasonable business expense (as defined in item 4 of this policy). All expenditure will be recorded and reported in accordance with whole of government financial management, accounting and reporting requirements.

Further to these requirements:

## Providing gifts

- Gifts to external individuals or organisations will normally be symbolic, rather than financial, in value.
- Gifts to board members or employees (e.g. to recognise significant work achievements or service milestones) will be token. Personal celebrations (e.g. birthdays, marriages, birth of a child) will not be funded using public monies.

## Providing hospitality (hosting)

- It will not usually be in the public interest for **alcohol** to be consumed at board meetings or at meetings between employees and/or board members.
- A board member or employee who extends or receives hospitality will demonstrate **professional conduct** at all times and will uphold his/her obligation to extend a duty of care to other participants.<sup>12</sup>
- The requirements apply to both:
  - **official hospitality** - hosting official guests (e.g. community representatives, people from the private or academic sector);<sup>13</sup> and
  - **internal (general) hospitality** - hosting functions, often in the workplace, for members of the Victorian public sector, (e.g. board meetings, staff meetings, lunch at a workshop, a retirement function for a long standing staff member, a celebration to mark a major work milestone).<sup>14</sup>

## 14. Incurring travel and out-of-pocket expenses

A board member or employee will only incur travel or out-of-pocket expenses if it is clearly in the **public interest** to do so – i.e. a reasonable business expense (as defined in item 4 of this policy) that is consistent with:

- for board members, the [Appointment and Remuneration Guidelines for Victorian Government Boards, Statutory Bodies and Advisory Committees](#) and related obligations; and
- for employees, their contract of employment and related obligations.<sup>15</sup>

## 15. Assistance with making decisions

A board member or employee who is uncertain how to comply with this policy will seek advice from the ‘responsible person’.<sup>16</sup> This does not abrogate his/her responsibility to make the right decision.

Where appropriate, DELWP will be contacted by the organisation for advice.

## 16. Possible breach of this policy

A board member or employee who believes that he/she may have breached this policy will immediately notify the ‘responsible person’ and remedy any breach.

A board member or employee who believes that another board member or employee may have breached this policy will immediately notify the ‘responsible person’ (unless he/she first approaches the other board member or employee, who then notifies the responsible person). The main objective is to reduce non-compliance.

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<sup>12</sup> This requirement is consistent with **minimum requirement 3 (figure 2)** of the Framework. See also paras 6.2, 6.3, 6.4.

<sup>13</sup> Attendees are not usually from Victorian public sector organisations.

<sup>14</sup> Sometimes, external attendees such as stakeholders and business partners will also be present.

<sup>15</sup> For example, [Standing Direction 3.4.6](#) of the *Financial Management Act*; the [Victorian Public Sector Travel Principles](#); and all applicable DELWP policies.

<sup>16</sup> This requirement is consistent with **minimum requirement 6 (figure 1)** of the Framework.

## 17. Accountabilities of the Executive Officer

The EO has a duty, which will be monitored by the board, to:

- promote awareness and compliance with this policy (e.g. induction and refresher training);
- reinforce that a breach of this policy could constitute a breach of a binding code of conduct and may result in disciplinary action;
- support the board in the regular review of this policy; and
- establish and regularly review processes (e.g. business rules) that facilitate the implementation of this policy and provide practical guidance on how to comply with it, for example:
  - set out where a gifts declaration form can be obtained;
  - provide guidance on refusing gifts without causing offence;
  - specify work areas where employees are at high risk of being offered compromising gifts due to the nature of their duties, and how this is to be addressed.<sup>17</sup>

Overall, the EO will act consistently with the minimum accountabilities (Figure 3) in **Appendix 3**.

## 18. Regular review of this policy

The board will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc. Any changes to this policy will meet or exceed the minimum requirements and accountabilities (Figures 1 to 3) in **Appendix 3**.

## 19. Related policies

- Conflict of Interest
- Code of Conduct.

## 20. Further information

**On Board** ([www.delwp.vic.gov.au/onboard](http://www.delwp.vic.gov.au/onboard)), in particular, the [Gifts, Benefits and Hospitality](#) support module, which has a range of resources, including guidance notes and direct links to this topic on the Victorian Public Sector Commission website.

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<sup>17</sup> The EO's accountabilities are consistent with the **minimum accountabilities 1 to 6 (figure 3)** of the Framework.

## Appendix 1: Gifts Declaration Form

### Declaration made by recipient of a reportable gift offer

Date offered: *[insert]*

Offered to: *[insert name and position title/number]*

Offered by: *[insert name, title and organisation]*

Reason gift was offered:

Description of gift:

Estimated value of gift: \$

**First time offer**  OR **previous offer(s)** received from this source (individual or organisation) in the last 12 months

Estimated cumulative value of gifts offered by this source (individual or organisation) in the last 12 months: \$ .....

Do you believe that the gift may be of cultural, historic or other significance? Yes  No

The gift offer was: **declined**  OR **accepted on behalf of organisation**

If the gift was accepted, are you applying for **transfer** of ownership to yourself in the public interest? Yes  No

### Signature of board member or employee:

Date:

### Noted by 'responsible person' (as authorised delegate):

**Noted**

Signature:

Name:

Role:

Date:

### Gifts Register updated:

**Updated**

Signature:

Name:

Role:

Date:

### Assets Register updated (if applicable):

**Not applicable**  OR **Updated**

Signature:

Name:

Role:

Date:

## Appendix 2: Gifts Register

Date offered:	Offered to:	Offered by:	Reason offered:	Description of gift:	Estimated value:	Estimated cumulative value:	Decision regarding gift:	Decision authorised by:
	<ul style="list-style-type: none"> <li>•name</li> <li>•position</li> <li>title/no.</li> </ul>	<ul style="list-style-type: none"> <li>•name</li> <li>•title</li> <li>•organisation</li> </ul>			<p>Estimated value of this gift offer</p> <p>(Note: if the gift may be of cultural, historic or other significance, indicate this here.)</p>	<p>Estimated cumulative value of gift offers from this source in the previous 12 months</p>	<p>(1) gift declined</p> <p>(2) gift accepted on behalf of organisation *</p> <p>OR</p> <p>If an application was made for transfer of ownership, in the public interest:</p> <p>(3) Transfer granted</p> <p>(4) Transfer not granted*</p> <p><i>* Include whether the gift will be entered into the Assets Register or if not what will happen to it- e.g. to be donated to Melbourne Museum.</i></p>	<ul style="list-style-type: none"> <li>•name</li> <li>•title</li> <li>•date</li> </ul>

## Appendix 3: Changes to the board's policy

Any changes to this policy will meet or exceed the minimum requirements and accountabilities issued by the Public Sector Standards Commissioner in Figures 1 to 3 (Chapter 3) of the Gifts, Benefits and Hospitality Framework:

### Figure 1: minimum requirements – accepting gifts, benefits and hospitality

#### Individuals:

1. Do not solicit gifts, benefits or hospitality.
2. Refuse all offers of gifts, benefits or hospitality that could be reasonably perceived as undermining the integrity and impartiality of their organisation or themselves.
3. Refuse all offers of gifts, benefits or hospitality from people or organisations about whom they are likely to make decisions involving:
  - tender processes;
  - procurement;
  - enforcement;
  - licensing; or
  - regulation.
4. Refuse all offers of money or items easily converted to money such as shares.
5. Refuse bribes and report bribery attempts to the head of the public sector organisation or their delegate and to Victoria Police.
6. If unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value, seek advice from a manager or other appropriate organisational delegate.

### Figure 2: minimum requirements – providing gifts and hospitality

#### Individuals:

1. Ensure that any gift or 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 benefit 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.

### Figure 3: minimum accountabilities for heads of public sector organisations

#### Heads of public sector organisations:

1. Establish and regularly review policies and processes to respond to offers of gifts, benefits and hospitality, including multiple offers from the same source.
2. Establish and regularly review policies and processes to provide guidance on the provision of gifts or hospitality, both internally to staff and externally to business partners and other stakeholders.
3. Promulgate and establish awareness and compliance with gifts, benefits and hospitality policies from all members of the organisation – from front line employees to board directors and chief executives.
4. Reinforce to all members of the organisation that a breach of gifts, benefits and hospitality policies could constitute a breach of binding codes of conduct and result in disciplinary action.

5. Ensure that records are kept of accepted gifts, benefits and hospitality of more than nominal value and that such records are subject to regular scrutiny, including review by the organisation’s audit committee.
6. Ensure that hospitality expenditure is recorded and reported in accordance with whole of government financial management, accountability and reporting requirements.