

Gifts, Benefits and Hospitality Policy

Department of Health and Human Services

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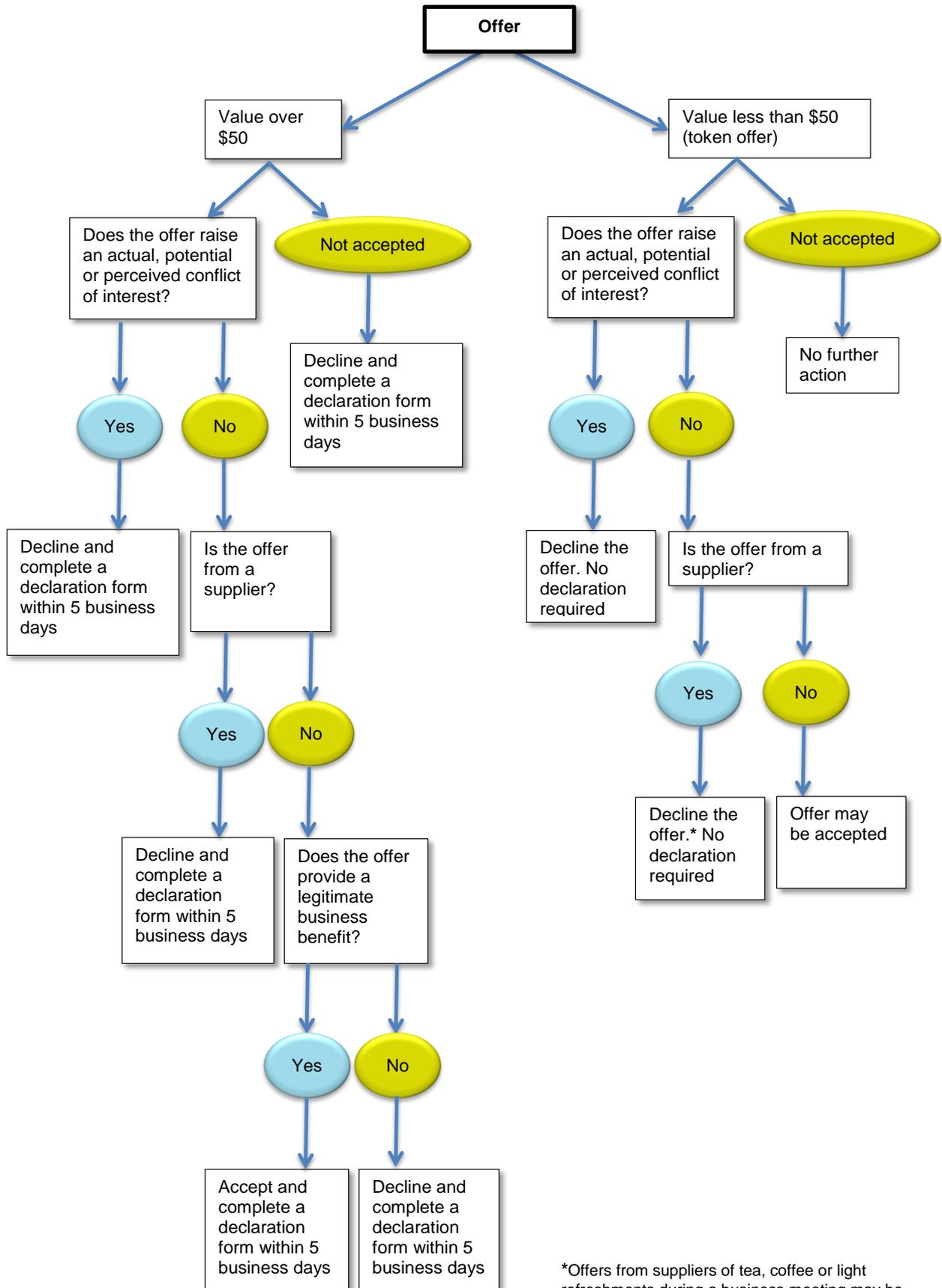
1 Quick guide

1.1 Key features of this policy

- The nominal value threshold for accepting a gift, benefit or hospitality has been reduced from \$100 down to \$50.
- Any offer with a value over \$50, **whether accepted or not, must be declared** and recorded on the department's internal register.
- The department's internal register will be publically published on the department's website annually.
- To **accept** an offer of gifts, benefits or hospitality where the value is over \$50 employees must:
 - seek their managers' approval before accepting (where possible)
 - demonstrate that there is no actual, perceived or potential conflict of interest;
 - demonstrate that there is a legitimate business benefit to the department; and
 - complete and submit a declaration form with their managers endorsement within five business days.
- Where the employee is unable to seek their manager's approval prior to acceptance, approval must be sought within five business days.
- Employees **must refuse all offers** of gifts, benefits or hospitality from people or organisations about whom they are likely to make decisions involving:
 - tender processes, including managing a contract once the tender process has ceased
 - procurement
 - enforcement
 - licensing, or regulation
 - awarding of grants, sponsorship or funding allocations to agencies or organisations.
- Employees must refuse offers that:
 - are 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
 - are likely to be a bribe or inducement to make a decision or act in a particular way
 - have no legitimate business benefit
 - extend to their relatives or friends
 - constitute money or can be used in a similar way to money, or something easily converted to money
 - involve events and hospitality the department will already be sufficiently represented at to meet its business needs
 - could be perceived as endorsement for a product or service, or where acceptance would unfairly advantage the sponsor in future procurement decisions.

If you are unsure about how to respond to an offer of a gift, benefit or hospitality, seek advice from a senior manager or the Corporate Integrity Unit.

1.2 Quick guide flowchart



*Offers from suppliers of tea, coffee or light refreshments during a business meeting may be accepted.

2 Context

2.1 Purpose

This policy states the Department of Health and Human Services (the department) position on:

- responding to offers of gifts, benefits and hospitality; and
- providing gifts, benefits and hospitality.

2.2 Application

This policy supports individuals and the department to avoid conflicts of interest and maintain high levels of integrity and public trust; reinforcing the Victorian public sector values of impartiality, integrity and accountability set out under section 7 of the *Public Administration Act 2004* (Vic).

The department has issued this policy to support behavior consistent with the *Code of conduct for Victorian public sector employees* (the Code). All employees are required under clause 1.2 of the Code to comply with this policy.

This policy applies to all workplace participants. For the purpose of this policy, this includes: executives, board members, individuals, contractors, consultants and any individuals or groups directly undertaking activity for or on behalf of the department.

2.3 Policy principles

This policy has been developed in accordance with requirements outlined in the *Minimum accountabilities for managing gifts, benefits and hospitality* issued by the Victorian Public Sector Commission (see Schedule A).

The department is committed to and will uphold the following principles in applying this policy:

Public interest: individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a perception of, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.

Accountability: individuals are accountable for:

- declaring all non-token offers of gifts, benefits and hospitality;
- declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer; and
- the responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

Risk-based approach: the department, through its policies, processes and Audit and Risk Management Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

2.4 Definitions

Business associate	An external individual or entity which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
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<p>Benefits</p>	<p>Preferential treatment, privileged access, favours or other advantage offered to an individual. This may include invitations to sporting, cultural or social events, access to discounts and loyalty programs, and promises of a new job.</p> <p>The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.</p>
<p>Conflicts of interest</p>	
<p><i>Actual conflict of interest:</i></p> <p><i>Potential conflict of interest:</i></p> <p><i>Perceived conflict of interest:</i></p>	<p>There is a <u>real conflict</u> between an employee's public duties and private interests.</p> <p>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.</p> <p>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.</p> <p><i>For further information and examples of conflicts of interest see the Conflicts of Interest Policy which is available on the department's internal website.</i></p>
<p>Gifts</p>	<p>Free or discounted items and any item that would generally be seen by the public as a gift. These include but are not limited to items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.</p>
<p>Hospitality</p>	<p>The friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.</p>
<p>Legitimate business benefit</p>	<p>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 department.</p>
<p>Public official</p>	<p>As defined in section 4 of the <i>Public Administration Act 2004</i>. This includes:</p> <ul style="list-style-type: none"> • public sector employees; • statutory office holders; and

	<ul style="list-style-type: none"> • directors of public entities.
Register	A record, preferably electronic, of all declarable gifts, benefits and hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.
Token offer	<p>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> <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).</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.

3 Management of offers of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have prior written approval at deputy secretary level.

3.1 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.

Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the department 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 department's register.

Examples of token offers are: tea, coffee, light refreshments at meeting, promotional items such as pens and notepads or chocolates or flowers offered in appreciation.

Accepting token offers

Example A: Jill is a Disability Development and Support Officer and has been offered a box of chocolates from a client's family at Christmas.

What should Jill do?

Jill may accept the gift as it is of nominal value (valued at less than \$50) and it presents no actual, perceived or potential conflict of interest. Jill does not need to complete a declaration for the departments Gifts, Benefits and Hospitality Register for the token gift.

Hospitality and demonstrating the genuine benefit to the department

Example B: Michelle works in Sport and Recreation and has been requested by her manager to be the departmental representative at a sporting event on invitation from the States Sport Centres Trust. The event is sponsored by the Trust, and the invitation is to enable Michelle to monitor performance and compliance with a number of terms within an agreement between the department and the Trust. The invitation indicates that refreshments and finger food will also be provided. The cost attendance at the event, including catering is approximately \$120. Michelle's manager has asked Michelle to confirm she will be able to attend as it will be important for the manager to allocate an alternative departmental representative if Michelle is not available to attend the weekend event.

What should Michelle do?

Michelle may attend the event. The invitation to the event has been extended to the department consistent with the requirements of an endorsed agreement which may include a performance monitoring requirement. Michelle is the department's nominated representative, and has not received the invitation on an individual basis. Michelle should otherwise follow all the other requirements of the Gifts, Benefits and Hospitality policy including declining any subsequent offer to bring her partner or a friend, or accepting non token memorabilia that may be offered during the event.

Individuals **must refuse** all offers (excluding token hospitality, such as tea, coffee, light refreshments 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;
- made by a person or organisation about which they will likely make a decision involving:
 - tender processes
 - procurement
 - enforcement
 - licensing or regulation
 - the awarding of grants, sponsorship or funding allocations to agencies or organisations.

Non-token offer of hospitality

Example C: Michael has received an invitation from a supplier to attend a Christmas luncheon celebration. The invitation states that the luncheon will be a three course meal and is being held at an expensive restaurant.

What should Michael do?

Michael should consider that the value of the meal will exceed \$50. The offer must be declined on the basis that it has been made by a supplier. Despite being declined the offer will need to be declared on the departments GBH register.

3.2 Requirement for refusing non-token offers

Individuals should consider the GIFT test at **Table 1** and the requirements below to help respond to a non-token offer.

Individuals must 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;
- 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 something used in a similar way to money or easily converted to money;
- where, in relation to hospitality and events, the department 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 the Manager, Corporate Integrity Unit who will report any criminal or corrupt conduct to Victoria Police and the Independent Broad-based Anti-corruption Commission.

Offer of a Benefit

Example D: Tony works in the Fleet Management Unit and has a good relationship with one of the suppliers that the department purchases vehicles from. When speaking with the supplier Tony mentioned that he is looking to buy a new car soon. The supplier invited Tony to come and see him when he is ready to buy and he will make sure he receives a significant discount.

What should Tony do?

Tony should decline the offer as it is a clear conflict of interest. The supplier is offering Tony a benefit in connection with his employment, which may be perceived to improperly influence Tony’s decisions or actions, now or in the future relating to the supplier.

3.3 Table 1. 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 gain an advantage or influence my decisions or actions?</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 my endorsement of a product or service?</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?</p> <p>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 the public view acceptance of this gift, benefit or hospitality?</p> <p>What would my colleagues, family, friends or associates think?</p>

3.4 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 and the authorised delegate, recorded in the gifts, benefits and hospitality 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 department or the public sector into disrepute (the ‘GIFT’ test at **Table 1** is a good reminder of what to think about in making this assessment); 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 department, public sector or the State.

The value of a gift or benefit is assessed according to the wholesale price in the country of origin. Any disputes as to the value of a gift must be resolved by independent valuation. Valuations are to be obtained by valuers who are competent to value in the field or selected from a list of accredited valuers issued by the Commissioner for Taxation Incentives in the Arts

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must seek approval from their manager within five business days, or transfer ownership to the department. For example if a gift is given by a visiting overseas delegation it may be more appropriate to transfer ownership to the department instead of trying to return the gift which may have the unintended consequences of damaging business relationships.

3.5 Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be recorded in the department's gifts, benefits and hospitality register. The business reason for accepting the non-token offer must be recorded in the register and provide sufficient detail to link the acceptance to the individual's work functions and benefit to the department.

This can be done by completing the reportable Gifts, Benefits and Hospitality form, accessible via the department's website. The completed form must be submitted within five business days.

When completing the Gifts, Benefits and Hospitality form individuals should consider the following examples of acceptable and unacceptable levels of detail as these details will be entered on the register and publically published:

Unacceptable: "Networking"

"Maintaining stakeholder relationships"

Acceptable: "Individual is responsible for evaluating and reporting outcomes of the Department of Health and Human Services sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the on the event."

"Individual presented to a visiting international delegation. The delegation presented the Individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The Gift was accepted, written approval was subsequently obtained for the gift, which became the department's property."

3.6 Ownership of gifts offered to individuals

Non-token gifts accepted by an individual for their work or contribution may be retained by the individual where their manager or organisational delegate has provided written approval.

Employees must transfer to the department any gift of cultural significance or valued at over \$50.

4 Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

4.1 Requirements for providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes and to celebrate achievements.

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 2** 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.

The Hospitality and Conference Expenses Guideline (which can be found on the department's internal website) must be referred to when organising events. The guideline covers conferences, seminars, training and meetings and provides information relating to approvals, catering and alcohol. As a general principle, catering for staff training or work place meetings is not appropriate.

4.2 Table 2. HOST test

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

4.3 Containing costs

Individuals should contain costs involved in the provision of gifts, benefits and hospitality wherever possible. The following questions may be useful to assist individuals to decide the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?

- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

Records relating the provision of hospitality such as approval forms and records relating to procurement and expenditure must be retained in accordance with the requirements under the *Financial Management Act 1994 (Vic)*.

4.4 Management of the provision of gifts to staff

This section sets out the requirements for providing rewards or recognition to staff.

The department's reward and recognition program serves to recognise and thank significant employee achievements and to make employees feel valued and motivated to achieve set goals. Formal and local recognition activities operate within the department. For guidance, standards and processes refer to the 'Reward and Recognition Program' on the departments website.

The total value of formal recognition purchases is capped at 0.1 per cent of total salary budget for each Division or Branch. The value of recognition purchases must not exceed \$50 for each individual being recognised and approval of a Deputy Secretary is required. Purchasing guidelines must be followed.

Celebrations of events such as birthdays, marriages, or the birth of children are not to be funded using public money.

5 Breaches

5.1 Handling Breaches

Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, 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 department'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*, such as sections of the Code covering conflict of interest (section 3.7), public trust (section 3.9) and gifts and benefits (section 4.2); and
- individuals making improper use of their position.

For further information on managing breaches of this policy, contact the department's Corporate Integrity Unit.

The department will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

5.2 Speak up

Individuals who consider that gifts, benefits and hospitality or conflict of interest within the department may not have been declared or is not being appropriately managed should speak up and notify their manager or the Corporate Integrity Unit.

The department will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

6 Governance

6.1 Authorising Officer and organisational delegate

Authority to approve provision and acceptance of gifts, benefits and hospitality is delegated under Section 20(1) of the *Public Administration Act 2004 (Vic)* by the Secretary of the department. It is recommended that line managers familiarise themselves with the 'Delegation and Authorisation of the Secretary's Functions and Powers to Officers of the Department of Health & Human Services'. This can be found on the department's website.

6.2 Role of the Audit and Risk Management Committee

The department's Audit and Risk Management Committee will receive an annual report on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The Committee will consider any risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and propose improvements when appropriate.

6.3 Contacts for further information

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Individuals who are unsure about the acceptance of a gift, benefit or hospitality, or the application of this policy, should ask their manager or the Corporate Integrity Unit for advice.

Corporate.integrity@dhhs.vic.gov.au

7 Reporting

The department's gifts, benefits and hospitality register will be published annually on the department's public website. The register will make public all offers whether accepted or declined valued over \$50.

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For further information please contact the Corporate integrity Unit

Corporate.integrity@dhhs.vic.gov.au

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8 Schedule A

Minimum accountabilities

Public officials offered gifts, benefits and 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 the department's register, and seek written approval from their manager and the authorised delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the Manager, Corporate Integrity.

Public officials providing gifts, benefits and hospitality:

5. 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.
6. Ensure that any costs are proportionate to the benefits obtained for the State and would be considered reasonable in terms of community expectations.
7. 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.

Department Head:

8. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
9. 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.
10. Communicate and make clear within the department 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.
11. 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.

12. 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.
13. Publish the department's gifts, benefits and hospitality policy and register on the department's public website. The published register should cover the current and the previous financial year. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.