

## **POLICY: GIFTS, BENEFITS AND HOSPITALITY POLICY**



### **PURPOSE**

The community expects high standards of integrity and impartiality from Victorian public sector employees and school councillors. These individuals must not accept gifts, benefits or hospitality from people seeking to influence their decisions unfairly. Whenever Department employees, school council employees or school councillors do accept gifts, they must always act fairly and objectively and maintain public trust by being honest, open and transparent.

### **AIMS:**

This policy will guide all individuals as to what they need to do when considering whether to accept gifts, benefits and hospitality. It is underpinned by the integrity and impartiality values and principles specified in the Public Administration Act 2004, the Code of Conduct for Victorian Public Sector Employees and the School Council Code of Conduct.

This policy and guidelines apply to all employees in the Public Service and Teaching Service and all school councillors.

The policy also includes gifts, benefits or hospitality given to an employee or a school councillor's immediate family if the donor can be linked back to the employee or school councillor's duties and responsibilities. The policy does not apply to gifts received in a private context.

### **IMPLEMENTATION:**

1. The minimum requirements apply to all Departmental employees and school councillors.

The minimum requirements for individuals are that they:

- do not solicit gifts, benefits or hospitality
- refuse all offers of gifts, benefits or hospitality from people or organisations about which they are likely to make decisions, i.e. tender processes, procurement, licensing or regulation, etc.
- refuse all offers of money or items easily converted to money, such as shares
- refuse bribes and report bribery attempts to their manager/principal
- seek advice from their manager/principal or other appropriate delegate if unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value.

The minimum requirements for individuals when providing gifts, benefits or hospitality are that they:

- 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;
- ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations; and

- 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.

The minimum accountabilities for the Department's executive officers, executive class and principal class employees in the Teaching Service (excluding assistant principals) are that they:

- establish and regularly review policies and processes to respond to offers of gifts, benefits and hospitality, including multiple offers from the same source;
- 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;
- disseminate and establish awareness and compliance with gifts, benefits, and hospitality policies with all employees and school councillors;
- reinforce to all employees and school councillors that a breach of gifts, benefits and hospitality procedures could constitute a breach of binding codes of conduct and result in possible disciplinary action;
- ensure 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 Department's Audit Committee; and
- ensure that hospitality expenditure is recorded and reported in accordance with whole of government financial management, accountability and reporting requirements.

2. Individuals must exercise particular care in accepting gifts, benefits or hospitality if:
  - the donor person, company or organisation is involved in a tender process with the Department or school, or the donor person or organisation is the subject of, or affected by, a decision within the Department or school's discretionary power or significant influence;
  - the person, company or organisation is in a contractual relationship with the Victorian Government or school council; or
  - the employee or school councillor has been offered gifts of any kind from the same donor more than once in the last year.
3. Employees or school councillors may accept benefits and hospitality, such as invitations to official functions or events of reasonable value, as long as they are related to the business of the Department or school, and provided that they do not involve a conflict of interest or create a perception that the employee or school councillor will be unduly influenced by accepting the benefit or hospitality. In all cases the benefit or hospitality should be proportionate to the occasion. Benefits and hospitality in relation to for-profit organisations sponsoring conferences or industry tours should generally be declined, unless reasons why there is no conflict of interest

or apparent conflict of interest or improper influence can be demonstrated. However, if attendance at the conference or industry tour is in the public interest, then the Department or school should consider paying for the travel and accommodation.

4. Gifts of seemingly excessive value should not be accepted. The only exception to this is when failure to accept the gift, benefit or hospitality is likely to cause embarrassment or insult to the donor.
5. Gifts of any value must never be accepted if:
  - the donor or reasonable observer would perceive that acceptance would create an obligation to the donor, particularly if the value of the gift is disproportionate to the circumstances in which it is offered
  - the gift is likely to influence an employee or School Councillor in the course of their duties or where acceptance could cause a conflict of interest
  - the organisation's primary purpose is to lobby Ministers, Members of Parliament or agencies
  - the gift is an offer of money or anything readily convertible into money (e.g. shares), or
  - the organisation or individual has a connection with a tender process or a decision over which the Department or the school could be perceived to have influence.
6. Employees and school councillors may keep token gifts (under \$100) such as a box of chocolates, for the work they have done.
7. In limited circumstances, employees and School Councillors may be able to keep a gift worth \$100 or more, but less than \$500, subject to the documented approval of their Deputy Secretary or school council. The Secretary, Deputy Secretary or school principal may also consider offering the employee or school councillor the option of purchasing the gift at market value.
8. Gifts worth \$500 or more must be surrendered to the State or school **under all circumstances**. Employees and school councillors may purchase a gift worth more than \$500 from the State or school, with the Secretary's or school council's written approval, provided that no other public entity (e.g. Museums Victoria) has expressed interest in retaining the gift.
9. Official gifts, namely gifts intended for the Department, school or the Victorian Government rather than the individual recipient(s), remain the property of the Department or school.
10. When an employee or school councillor is representing the Department or school at an event, and the Department or school has paid for their time, labour or accommodation to attend the event, any benefits accruing from this event belong to the Department or school. The employee or school councillor is then required to record any benefit accordingly, dependent upon the nominal value.

In the case of an international delegation offering ceremonial gifts on behalf of their country to an individual, school or the Department, these gifts (dependent on the nominal value) are to be recorded on the gift register and become the property of the Department or school.

11. Acceptance of token gifts or reasonable hospitality does not need to be formally registered. Similarly, hospitality provided by other government departments or governments does not need to be recorded.
12. For school-based employees and school councillors, acceptance and offers of a gift worth more than \$100 (nominal value) must be formally registered on the school's gift register. The gift register is monitored by the principal and annually reviewed by the school council.
13. Individuals may receive offers of sponsored travel and accommodation to attend a conference. Such offers should generally be declined because of the potential for conflict of interest. However, if attendance is considered to be in the public interest, then the Department or school could pay for the travel and accommodation instead. If there is no public benefit to accepting a gift, benefit or hospitality, then it should be declined. This is particularly the case when acceptance could be perceived as an endorsement of the organisation or product.
14. If an individual considers they have been offered a bribe or inducement, the offer must be reported to the Secretary, school principal or their delegate immediately.
15. Hospitality or the giving of gifts is often provided to welcome guests, facilitate the development of relationships to further public sector business outcomes and celebrate achievements. Authorised officers may consider providing hospitality for the purposes of:
  - receiving guests (for example a visiting delegation from another jurisdiction, or hosting a meeting held over lunch time);
  - facilitating relationships between third party organisations that are in the interests of the State (for example, an event where community sector organisations can meet business organisations to establish partnerships);
  - celebrating the opening of an event, exhibition, or the establishment of a new public body; or launching an initiative (for example, the launching of a new community awareness campaign). All purchases need to be made in accordance with the Department's Purchasing Policy and Guidelines (corporate).
16. For a range of reasons, catered activities may be occasionally provided for employees. These may include:
  - as part of a larger staff-related event, for example a training course, workshop, planning day seminar or conference; and
  - to recognise an organisational or individual staff achievement (for example the successful completion of a project or the retirement of a long-standing member of staff).

17. Working meals involve participation of persons outside the organisation.

The provision of working meals should normally occur:

- at an ordinary Departmental or school-based meeting location
- on non-regular occurrences, except where particular meetings are planned to continue without break for the convenience of Departmental or school-based timetables.

18. Working meals may be accepted when:

- there are organisational efficiencies in continuing the meeting through the normal meal break; or there is no reasonable alternative date and time to conduct the meeting except through a normal meal period.

19. Any hospitality including the venue chosen for the meal should be in accordance with the significance of the purpose of the meeting and the status of the persons/participants.

20. Effort should be undertaken to avoid meetings between 12.00 noon and 2.00 pm, unless absolutely necessary.

21. An employee is not permitted to claim a reimbursement or allowance for meals or beverages where the meal/entertainment has been provided as part of hospitality.

22. On occasions, the Department or school may wish to recognise significant staff achievements and provide token gifts as part of:

- reward and recognition programs or events; and
- celebrating length of service milestones and/or retirements.

A token, such as a card and/or flowers, may also be sent to family members to acknowledge an employees' contribution to the workplace in the event of their death. Doing so can also assist their colleagues with their bereavement.

- Gifts given in celebrations of events such as birthdays, marriages or the birth of children should not be funded using public monies. All purchases need to be made in accordance with the Department's Purchasing Policy and Guidelines (corporate).

23. Fringe benefits tax (FBT) is a tax payable by an employer in respect of fringe benefits provided to an employee or their associate (e.g. employee's spouse or children) by:

- an employer; or
- an associate of an employer (an associate of the Department includes government schools, TAFEs, another government department or statutory authority, such as VCAA, or VRQA), or
- a third party (ie organisation/entity external to the Department, for example a private company).

The FBT legislation provides that certain benefits that are less than \$300 in value and infrequently provided may qualify as a 'minor benefit', which is exempt from FBT. However, the minor benefit exemption does not extend to gifts of an entertainment nature. Consequently, all entertainment gifts will be subject to FBT regardless of their value.

Entertainment is specifically defined in tax legislation as entertainment by the way of:

food, drink, recreation and accommodation or travel associated with the provision of food, drink or recreation.

Therefore, all gifts that are of an entertainment nature and/or any other gifts of \$300 or more in value, accepted by an individual from an employer, associate of an employer, or third party are subject to FBT.

24. If intending to supply alcohol at an event which will include Departmental or school staff representation, then approval is required from the Secretary, or Deputy Secretary or principal, prior to the event occurring. Securing this prior approval remains the responsibility of the appropriate authorised officer – the ‘DET Hospitality Approval Form’ can be found within the ‘DET Hospitality Approval Guidelines’ document, available via Financial Services Division.

### **EVALUATION**

Policy to be reviewed as necessary.

REFERENCE: DET Gifts, Benefits and Hospitality Guidelines & Policy