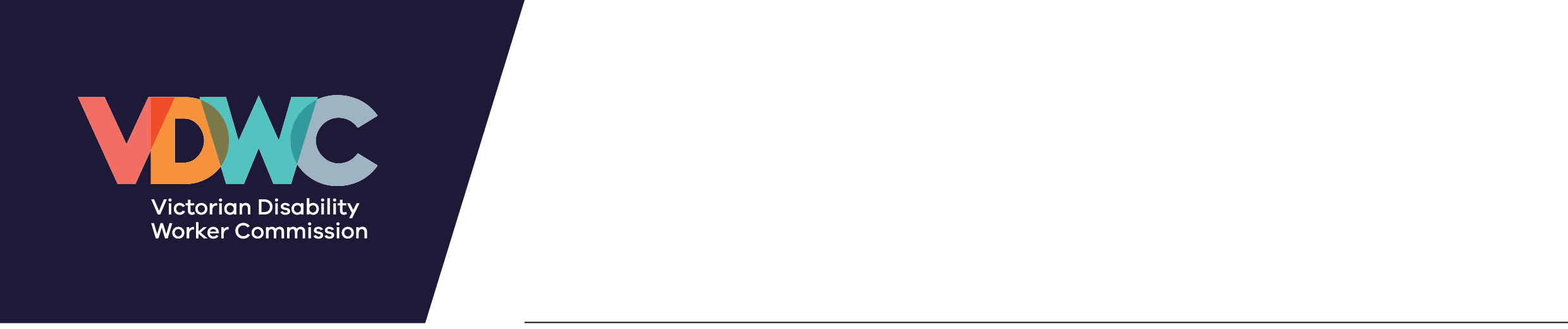
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| Gifts, benefits and hospitality policy |



# Purpose

This policy sets out the Victorian Disability Worker Commission’s (the Commission's) position on:

* responding to offers of gifts, benefits and hospitality and
* providing gifts, benefits and hospitality.

This policy is intended to support individuals and the Commission to avoid conflicts of interest and maintain high levels of integrity and public trust.

The Commission 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.

# Application

This policy applies to employees, contractors, consultants and any individuals or groups undertaking activity for or on behalf of the Commission.

# Policy principles

This policy has been developed in accordance with the minimum accountabilities for the management of gifts, benefits and hospitality issued by the Victorian Public Sector Commission (< https://vpsc.vic.gov.au/html-resources/minimum-accountabilities/>).

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

**Impartiality:** 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 reasonable perception of potential, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions or who may be affected by the exercise of the regulatory functions of the Commission.

**Accountability:** individuals are accountable for:

* declaring all offers of gifts, benefits and hospitality
* requesting approval for all offers $50 or over
* declining offers of gifts, benefits and hospitality, or where required by this policy
* the responsible provision of gifts, benefits and hospitality.

**Integrity:** individuals strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Individuals will refuse any offer that may lead to an actual, perceived or potential conflict of interest.

**Risk-based approach:** the Commission, 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.

**Thanks is enough**: managers should build a culture that encourages employees to uphold particularly high levels of integrity, politely decline offers where practical, and proactively advise external parties such as suppliers, people who use our services and those we regulate that we prefer offers not be made.

**Minimum accountabilities**

Under the *Instructions supporting the Standing Directions of the Minister for Finance 2016*, the Victorian Public Sector Commission has set binding minimum accountabilities for the appropriate management of gifts, benefits and hospitality. In line with Victorian Public Sector Commission guidance, this policy adopts the position that because the Commission is a regulator, a policy of not accepting gifts and hospitality appropriately reflects the Commission's operating environment and risk profile.

**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. |
| Benefits | 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.  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. |
| Ceremonial gifts | Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.  Ceremonial gifts are the property of the public sector organisation, irrespective of value, and should be accepted by individuals on behalf of the public sector organisation. The receipt of ceremonial gifts should be recorded in the register but does not need to be published online. |
| Conflicts of interest | **Actual conflict of interest:**  There is a real conflict between an employee’s public duties and private interests.  **Potential conflict of interest:**  An employee has private interests that could conflict 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.  **Perceived conflict of interest:**  The public or a third party could form the view that an employee’s private interests could improperly influence their decisions or actions, now or in the future.  **Note:** For further information and examples of conflicts of interest see the Conflicts of Interest Policy which is available on the department’s internal website. |
| Gifts | 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) and services (e.g. painting and repairs). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities. |
| Hospitality | 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. |
| Legitimate business benefit | A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of the public sector organisation, the public sector or the State. |
| Public official | As defined in section 4 of the *Public Administration Act 2004*. This includes:   * public sector employees * statutory office holders, and * directors of public entities. |
| Public register | A record, preferably digital, of all declarable gifts, benefits and hospitality. |
| Token offer | A token offer is a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). |
| 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. |

# Management of offers, gifts, benefits and hospitality

This policy requires that gifts and hospitality should not be accepted. However, there are limited exceptions to this, outlined below.

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

## Conflict of interest and reputational risks

When deciding whether to accept an offer, individuals should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

Figure 1. GIFT test

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| --- | --- | --- |
| G | Giver | Who is providing the gift, benefit or hospitality and what is their relationship to me?  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? |
| I | Influence | Are they seeking to gain an advantage or influence my decisions or actions?  Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or a valuable non-token offer? Does its timing coincide with a decision I am about to make? |
| F | Favour | Are they seeking a favour in return for the gift, benefit or hospitality?  Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?  Would accepting it create an obligation to return a favour? |
| T | Trust | Would accepting the gift, benefit or hospitality diminish public trust?  How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think? |

## Requirement for refusing offers

Individuals should consider the GIFT test at Figure 1 and the requirements below to help decide whether to refuse an offer. Individuals are to refuse offers:

* likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest
* could bring them, the Commission or the public sector into disrepute
* made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:

made by a current or prospective supplier

made during a procurement or tender process by a person or organisation involved in the process

* likely to be a bribe or inducement to make a decision or act in a particular way
* that extend to their relatives or friends
* of money, or used in a similar way to money, or something easily converted to money
* where, in relation to hospitality and events, the Commission 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 organisations or
* made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the Commissioner (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission).

## Exceptions – 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. Token offers cannot be valued at more than $50.

This policy requires that gifts and hospitality should not be accepted and offers of gifts and hospitality are to be recorded in the Commission's register, whether token or non-token.

There are some specific exceptions where a person may accept a token offer. These are:

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| --- | --- |
| Promotional material | Stationary such as pens and note pads or other promotional material, for example given to all attendees at a conference or event. |
| Hospitality provided by Victorian public sector organisations | Victorian public sector organisations may provide hospitality to stakeholders, as part of their functions.  Hospitality offered by a Victorian public sector organisation can be accepted where the reason for the individual’s attendance is consistent with the Commission’s functions and objectives and with the individual’s role. |
| Other modest hospitality | Modest hospitality that would be considered a basic courtesy and proportionate to the occasion, such as tea or coffee offered in the course of a business meeting, catering such as sandwiches at a conference or meeting or finger food at an opening ceremony. |
| Free training and associated hospitality | Free training and associated modest hospitality from professional organisations engaged under a state purchasing contract when there is a legitimate business benefit (such as Continuing Professional Development training). |

When considering these exceptions, individuals should still consider whether the gift or benefit creates a conflict of interest or could lead to reputational damage.

These exceptions are not required to be recorded in the Commission's register.

## Non-token offers

Individuals may only accept non-token offers if the offer has a legitimate business benefit and if acceptance has been approved in writing by the Commissioner. A non-token offer may only be accepted where:

* it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual, the Commission or the public sector into disrepute 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 Commission, public sector or the State.

Examples of non-token offers that may be accepted could include – payment of a conference fee when a person is giving a keynote speech, or receiving an award, where that activity promotes or supports the work of the organisation.

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 the manager within five business days.

Where the gift would likely bring you, the individual, or the Commission into disrepute, the Commission should return the gift. If it represents a conflict of interest for you, the Commission should either return the gift or transfer ownership to the Commission to mitigate this risk.

All gifts accepted must be recorded on the gifts, benefits and hospitality register.

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

All offers of gifts, benefits and hospitality must be recorded in the Commission’s gifts, benefits and hospitality register. This includes:

* Offers that have been accepted and offers that have been declined
* Gifts of any value.

Token offers (set out in the above table), and their acceptance, do not need to be recorded.

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

Individuals should consider the following examples that show acceptable and insufficient levels of detail to be included in the Commission’s register when recording the business reason:

|  |  |
| --- | --- |
| Insufficient register entry | Acceptable register entry |
| * ‘Maintaining stakeholder relationships’ | * ‘Individual is responsible for evaluating and reporting on the outcomes of the Commission’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the Commission on the event.’ |
| * ‘Networking’ * ‘Individual is responsible for evaluating and reporting on the outcomes of the Commission’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the Commission 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 on behalf of the Commission.’ |

#### Process for declaring gifts

An individual making a declaration of gifts should use the declaration form (< <https://dhhsvicgovau.sharepoint.com/:w:/r/sites/VDWC/_layouts/15/Doc.aspx?sourcedoc=%7BA808EB85-A521-4AA3-989F-47020013AF27%7D&file=Gifts%20benefits%20and%20hospitality%20declaration%20-%20February%202021.DOCX&action=default&mobileredirect=true>>) and once completed provide to the Principal HR and Finance Officer for entry into the gifts register. Access to the internal register is restricted to relevant persons within the Commission.

The Commission’s Audit and Risk Committee will receive a report at least annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of the Commission’s gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

The public register will contain a subset of the information detailed in the Commission’s internal register.

### Ownership of gifts offered to individuals

Non-token gifts with a legitimate business benefit that have been accepted by an individual for their work or contribution may be retained by the individual where

* the gift is not likely to bring them or the Commission into disrepute and
* where the Commissioner has provided written approval.

Employees must transfer to the Commission official gifts or any gift of cultural significance or significant value.

### Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Individuals should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

### Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of the Commission. The receipt of ceremonial gifts should be recorded on the Commission’s register but this information does not need to be published online.

# Management of the provision of gifts, benefits and hospitality

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

Figure 2. HOST test

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| --- | --- | --- |
| H | Hospitality | To whom is the gift or hospitality being provided?  Will recipients be external business associates, 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? |

### Requirements for providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided when welcoming guests, to 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 that 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 Figure 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.

#### Containing costs

Individuals should contain costs involved with providing gifts, benefits and hospitality wherever possible, and should comply with the financial probity and efficient use of resources guidance outlined in the Code. The following questions may be useful to assist individuals to decide on 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 Commission 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?
* Is the gift symbolic, rather than financial, in value?
* Will providing the gift, benefit or hospitality be viewed by the public as excessive?

# Related policy, legislation and other documents

Minimum accountabilities for the management of gifts, benefits and hospitality (see Instructions supporting the *Standing Directions of the Minister for Finance*)

* the Commission’s Conflict of Interest Policy
* Public Administration Act 2004
* Code of Conduct for Victorian Public Sector Employees
* Victorian Public Sector Commission’s Gifts, Benefits and Hospitality Policy Guide

# Authorising officer

This policy is issued under the authority of the Commissioner as the Authorising Officer and is subject to annual review.

# Breaches

The Commission may take disciplinary action (including dismissal) consistent with any relevant industrial instrument and legislation 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 Code, such as sections of the Code covering conflict of interest, public trust and gifts and benefits
* individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Commissioner.

The Commission 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.

# Speak up

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 speak up and notify the Commissioner. Individuals who believe they have observed corrupt conduct in their colleagues may also make a protected disclosure directly to the Independent Based-based Anti-corruption Commission (IBAC).

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

# 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 accepting a gift, benefit or hospitality, or the application of this policy, should ask the Commissioner, as the Authorising Officer, for advice.

# References/related documents

## Policies and guidelines

* Quick Guide: Gifts, benefits and hospitality policy

## Compliance

This policy complies with all relevant legislation, in particular:

* Minimum accountabilities for the management of gifts, benefits and hospitality (*see Instructions supporting the Standing Directions of the Minister for Finance)*
* Commission's Conflict of Interest Policy
* Code of Conduct for Victorian Public Sector Employees
* Victorian Public Sector Commission’s Gifts, Benefits and Hospitality Policy Guide
* *Public Administration Act 2004*

# Policy review and currency

This policy is to be reviewed:

* annually from the last approved date or
* within six months of any significant legislative change or VPS wide policy change that affects the policy.

## Version history

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| --- | --- | --- | --- |
| Release notice | | | |
| Version | Date of effect | Amendment details | Amended by |
| 1.0 | 17/03/2021 | Initial release |  |
| Record no. (TRIM): | VDWC/D/936 |  |  |
| Policy owner: | Commissioner |  |  |
| Approved by: | Commissioner | Approved on: | 17/03/2021 |
| Next Review Due: | 17/03/2022 |  |  |