

## Gifts, Benefits & Hospitality Policy

### 1. OUR PURPOSE

This policy states the State Trustees Limited (“State Trustees”) position on:

- receiving gifts, benefits and hospitality; and
- providing gifts, benefits and hospitality.

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

### 2. APPLICATION

This policy applies to Executives, Board members, employees, contractors, consultants and any individuals undertaking activity for or on behalf of State Trustees.

### 3. POLICY PRINCIPLES

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 are not to accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Individuals are not to 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 the Gifts, Benefits and Hospitality policy and processes.

**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 are to refuse any offer that may lead to an actual, perceived or potential conflict of interest.

**Risk-based approach:** State Trustees, through its policy and processes, 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.

#### 4. MINIMUM ACCOUNTABILITIES

Minimum accountabilities for the appropriate management of gifts, benefits and hospitality are outlined in Schedule A.

#### 5. DEFINITIONS

##### **Business associate**

An individual or body that State Trustees has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

##### **Benefits**

Benefits include preferential treatment, privileged access, favours or other advantages offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs and promises of a new job.

The value of 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 on the register but does not need to be published online.

##### **Conflict of interest**

Conflicts may be:

**Actual:** There is a real conflict between an employee's public duties and private interests.

**Potential:** 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:** The public or a third party could reasonably form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.

##### **Gifts**

Gifts are free or discounted items or services that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers), consumables (e.g. chocolates) and services (e.g. painting and repairs).

##### **Hospitality**

Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals, 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**

Public official has the same meaning as section 4 of the Public Administration Act 2004 and includes, public sector employees, statutory office holders and directors of public entities.

### **Public register**

A public register is a record of a subset of the information contained in a register, for publication as required by the minimum accountabilities. Guidance regarding the information that should be published is provided in the Victorian Public Sector Commission Policy Guide.

### **Register**

A register is a record of all declarable gifts, benefits and hospitality. Guidance regarding the information that should be recorded is provided in the Policy Guide.

### **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). The minimum accountabilities state that token offers cannot be worth more than \$50.

### **Non-token offer**

A non-token offer is 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 in the Gifts, Benefit and Hospitality Register.

## **6. 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 the prior written approval of the Chief Executive Officer or General Manager, Corporate Services.

### **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 may exist.

Figure 1. GIFT test

<b>G</b>	Giver	<b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b> 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?
<b>I</b>	Influence	<b>Are they seeking to gain an advantage or influence my decisions or actions?</b> 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?
<b>F</b>	Favour	<b>Are they seeking a favour in return for the gift, benefit or hospitality?</b> 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?
<b>T</b>	Trust	<b>Would accepting the gift, benefit or hospitality diminish public trust?</b> 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, State Trustees 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; or
  - made by a client;
- 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 organisation 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 Chief Executive Officer or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission).

## **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. It may include promotional items such as pens and note pads, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

The minimum accountabilities state that token offers cannot be worth more than \$50.

Individuals may generally accept token offers without approval or declaring the offer in the State Trustees Gifts, Benefits and Hospitality Register, as long as the offer does not create a conflict of interest or lead to reputational damage.

## **Non-token offers**

Individuals can only accept non-token offers if they have a legitimate business benefit. All accepted non-token offers must be approved in writing by the individual's manager or organisational 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, State Trustees 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 State Trustees, public sector or the State.

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.

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

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

All non-token offers, whether accepted or declined, must be recorded in the State Trustees 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 State Trustees, public sector or State.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included in the State Trustees register when recording the business reason:

### **Unacceptable**

- "Networking"
- "Maintaining stakeholder relationships"

### **Acceptable**

"Individual is responsible for evaluating and reporting on the outcomes of the State Trustees sponsorship of Event A. Individual attended Event A in an official capacity and reported back to State Trustees 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 State Trustees.”

All gifts should be declared to General Manager, Corporate Services via the GBH declaration form, who will enter it into our GBH register. The register is contained in Objective.

Access to the register is restricted to relevant persons within State Trustees.

State Trustees' Audit and Risk Management 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 State Trustees 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 State Trustees internal register. It will include:

- Date of offer
- Recipient
- Donor
- Details of the offer
- Estimated or actual value
- Decision (accepted or declined)
- Ownership (individual, transferred to State Trustees Limited or returned to organisation that provided the offer).

### **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 State Trustees into disrepute, and where their manager or organisational delegate has provided written approval. Employees must transfer to State Trustees 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 State Trustees. The receipt of ceremonial gifts should be recorded on the State Trustees register but this information does not need to be published online.

### **Hospitality provided by Victorian public sector organisations**

Victorian public sector organisations may provide hospitality to stakeholders, as part of their functions. When offered hospitality by a Victorian public sector organisation, individuals should consider the requirements of the minimum accountabilities.

Accepted hospitality offered by a Victorian public sector organisation as part of official business does not need to be declared or reported, where the reason for the individual's attendance is consistent with State Trustees functions and objectives and with the individual's role.

### Standing Exemptions

The following offers are outside the scope of this policy and do not need to be declared:

- Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.

## 7. 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

<b>H</b>	Hospitality	<p><b>To whom is the gift or hospitality being provided?</b></p> <p>Will recipients be external business associates, or individuals of the host organisation?</p>
<b>O</b>	Objectives	<p><b>For what purpose will hospitality be provided?</b></p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?</p>
<b>S</b>	Spend	<p><b>Will public funds be spent?</b></p> <p>What type of hospitality will be provided? Will it be modest or expensive? Will the costs incurred be proportionate to the benefits obtained?</p>
<b>T</b>	Trust	<p><b>Will public trust be enhanced or diminished?</b></p> <p>Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?</p>

### 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 Procurement Policy and Guidelines. 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 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?
- Is the gift symbolic, rather than financial, in value?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

## **8. 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):

- Public Administration Act 2004
- Corporate Delegations of Authority
- Compliance Policy
- Risk Management Framework
- Procurement Policy & Guidelines
- Code of Conduct
- Conflict of Interest Guidelines
- State Trustees Limited Enterprise Agreement 2019

## **9. RELEVANT LEGISLATION**

- Charter of Human Rights and Responsibilities Act 2006
- Australian Human Rights Commission Act 1986
- Fair Work Act 2009
- Privacy Act 1988
- Privacy and Data Protection Act 2014

## **10. BREACHES**

Breaches of this policy may result in disciplinary action under the Performance and Misconduct Policy. This includes where an individual fail to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the State Trustees Limited Conflict of Interest Guidelines.

Actions inconsistent with this policy may constitute misconduct under the Public Administration Act 2004, which includes:

- breaches of the binding Code of Conduct for State Trustees Limited Employees, such as sections of the Code covering conflict of interest, public trust and gifts and benefits; and
- individuals making improper use of their position.

For further information on managing breaches of this policy, please contact General Manager, Corporate Services.

State Trustees 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.

## **11. SPEAK UP**

Individuals who consider that gifts, benefits and hospitality or conflict of interest within State Trustees may not have been declared or is not being appropriately managed should speak up and notify their General Manager or General Manager, Corporate Services. 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).

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

## **12. 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 their General Manager or the General Manager, Corporate Services for advice.

## SCHEDULE A: MINIMUM ACCOUNTABILITIES

### **Employees 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 their organisation's register and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission).

### **Employees 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.

### **Executive sector organisations:**

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 organisation 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.