

Code of Conduct for Ministers

Receipt and Giving of Gifts Policy

March 2018

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1. Application of Policy

1.1 These guidelines apply to:

- Ministers and other members of Cabinet;
- The immediate families and dependants of Ministers and other members of Cabinet but only in relation to or consequential on the official duties of the Ministers or, for persons who are not Ministers, their membership of Cabinet.

1.2 Any reference to a 'Minister' in this policy shall be read as including a person who is not a Minister but who is a member of Cabinet (listed above).

1.3 Where the Premier is the Minister who has received or is giving a gift, then any reference in this document to 'the Premier' as the approving authority shall be read as a reference to the Secretary, Department of Premier and Cabinet.

2. Definition of Gifts

2.1 For the purposes of this policy, a gift has its common meaning and includes but is not limited to:

- a gift of money;
- a gift of a physical object;
- the conferring of a benefit; or
- indirect or concealed gifts such as:
 - the permanent or indefinite loan of money or property;
 - the sale or transfer of property at less than full value; or
 - the provision for less than full value of a benefit which has a financial or commercial value;
 - a gift that has been presented, donated or transferred.

2.2 Gifts:

- made in a will;

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- to or from a relative, friend or acquaintance outside of the course of official duties (ie in a purely personal capacity) and which do not give rise to or create the appearance of a conflict of interest; or
- that form part of an approved assistance program such as a disaster relief arrangement;

do not fall within the scope of this Policy.

2.3 In cases of doubt, the matter may be referred to the Premier, the Secretary, Department of Premier and Cabinet or the Parliamentary Standards Commissioner for advice.

3. Principles

3.1 The acceptance and giving of gifts by Ministers should be guided by the principles set out in this Policy.

3.2 It is inevitable that situations will arise which are not adequately dealt with by the Policy. The exercise of good judgement is often required and it is the responsibility of the Minister to decide what is appropriate. Guidance can be obtained from the Premier, the Secretary, Department of Premier and Cabinet or the Parliamentary Standards Commissioner if required.

3.3 The overriding concern is to ensure that no conflict exists or appears to exist between the public duty and private interests of a Minister. Such conflict or appearance of conflict could relate to a Minister's past, current or future duties.

3.4 The propriety of accepting any gift must always be judged in terms of the possibility of creating or appearing to create a conflict of interest notwithstanding that the gift might be of less value than the monetary limits established by this policy.

3.5 Other than for token gifts, Ministers should indicate that it is contrary to Government policy to accept gifts. There are circumstances, however, where the acceptance of a gift on behalf of the State is necessary such as where:

- Refusal would adversely affect the interests of the State;
- Refusal would cause offence or embarrassment;
- Refusal would be contrary to the cultural norms of the donor; or

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- The gift is part of a formal exchange of gifts between the Tasmanian Government and another government, institution, company or person approved by the Premier (eg those items presented at meetings with Ministers of the diplomatic and consular corps).
- 3.6 Under no circumstances should Ministers accept gifts involving the transfer of money or financial Instruments, regardless of value.
- 3.7 Regular or frequent gifts from a single source should be discouraged and avoided.
- 3.8 Ministers should not give, or make available any gift or benefit other than as required for the discharge of their official duties in any circumstances which would give rise to or create the appearance of a conflict of interest. This includes gifts and benefits offered to the Minister to do that which they are already paid to do.
- 3.9 Ministers should take all reasonable steps to ensure that their immediate family or dependants do not receive gifts or benefits which could compromise Ministerial independence by giving the appearance of an indirect attempt to influence, or secure favour with, the Minister.
- 3.10 Any gifts or benefits offered, whether made directly to the Minister or indirectly to their immediate family or dependents, must be declared to the Premier as soon as possible to be assessed as to whether it requires to be registered.

4. Receipt of Gifts

4.1. *Token Gifts*

- 4.1.1 Table favours, mementoes, remembrances or other tokens bestowed at an official function and other gifts received as souvenirs, marks of courtesy or of a seasonal nature may be accepted and retained by Ministers provided that they are of a minor value (eg. books, diaries, ties and scarves, pens, pins and badges, etc) and do not give rise to or create the appearance of a conflict of interest.

4.2 *Personal Gifts*

- 4.2.1 Personal gifts are those items which are clearly intended for the personal use or consumption of the recipient. Such gifts would include bottles of wine, hampers of food,

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etc. Again the value should be minor and the gift itself should not give rise to or create the appearance of a conflict of interest. Ministers may also retain personal gifts.

4.3 *Other Gifts*

4.3.1. Ownership

- All gifts, other than token and personal gifts, received in the course of official duty are to be declared and automatically become the property of the Crown.
- Gifts must also be declared where more than one gift is received from one source in any calendar year and the aggregated amount of those two or more gifts exceeds \$500.00.
- Where the value of a single gift is less than \$500.00 the Minister may apply to the Premier to retain the gift.
- The value of a gift is assessed on the basis of the Australian wholesale price in Australian dollars. The value of a gift received overseas will be assessed on the wholesale price of the country of origin.
- If there is any doubt as to whether a gift exceeds the \$500.00 limit, the Department of Premier and Cabinet will obtain a formal valuation from an appropriate source. Any costs incurred in obtaining the valuation are to be borne by the Ministerial and Parliamentary Support budget.

4.3.2. Declaration and Future Use of Gifts

- Within 14 days of receiving a gift or, where the gift was received overseas, within 14 days of returning to Australia the Minister shall inform the Protocol Office of the gift.
- Where a gift is received overseas, it must be declared to Australian Customs at the point of entry if the gift falls outside the normal duty free passenger concession or if the gift is subject to a quarantine inspection. Where a gift received overseas does not qualify for duty free entry under normal passenger concessions, all custom duties and other relevant taxes are payable at the appropriate rate. In either instance, the State Protocol Office should be notified. If the gift is to be retained by the Crown, any duties and other relevant taxes may be borne by the Ministerial and Parliamentary Support budget.

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- The Protocol Office must evaluate all gifts received to assess whether such gifts are required to be declared and registered (ie it is not a token or personal gift) and consult with the Minister or the Minister's staff on its intended future use.
- If the gift is to be declared, the Protocol Office shall:
 - complete a Declaration of Official Gift form; and
 - forward the declaration to the Minister's office for the Minister to sign.
 - Signed forms are then to be returned to the Protocol Office, which will update the Gifts register.
- All gifts, other than token and personal gifts, must be declared and surrendered to the Protocol Office. A Minister may apply to the Premier to retain the gift. The State of Tasmania will have first call to retain any gifts deemed to be of historical or cultural significance regardless of value.
- A copy of the appropriate format for a declaration is attached at Annexure A.
- Ministers are encouraged to make practical recommendations concerning the future use of surrendered gifts.
- For every declared gift the Premier will approve its future use including, but not limited to:
 - Transferred on loan for display in the Minister's parliamentary or ministerial office;
 - Transferred on loan for display in other Government offices;
 - Transferred on loan to a repository of items of cultural, educational or historical significance including museums, galleries, libraries, archives, schools or community institutions for display;
 - Stored or used by a Government agency;
 - Donated to a non-profit organisation or charity;
 - Disposed of, reduced to scrap or otherwise destroyed; or
 - Retained by the Minister.

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4.3.4. Display of Gifts in Ministerial or Parliamentary offices

- A Minister may request that declared gifts be issued on loan for display in his or her ministerial or parliamentary office.
- Any gift issued to a Minister on loan must be returned to the Protocol Office when the Minister no longer holds office, or if the item is required for official purposes, or at the request of the Secretary, Department of Premier and Cabinet.
- After an election all gifts on display in ministerial or parliamentary offices must be left in their original position and will be administered by the Protocol Office until the incoming Government confirms their continued display or other use.

4.3.5. Disposal of Gifts

Subject to the Premier's approval and within the requirements of any law and policies concerning the disposal of Crown property, the Secretary, Department of Premier and Cabinet has sole discretion concerning the storage or disposal of gifts not retained by the Crown.

5. **Giving of Gifts**

- 5.1 Ministers should refrain from giving any gift or benefit other than in accordance with their official duties in any circumstances which would give rise to or create the appearance of a conflict of interest. Ministers should have regard to economy and appropriateness when selecting a gift. To avoid embarrassment, advice should be sought from the State Protocol Office prior to the giving of the gift.
- 5.2 Where a gift (over the value of \$500.00) is to be made, the permission of the Premier must be obtained. The request may be in respect of a specific person or for an event or trip where the specific recipients may not be able to be identified in advance.
- 5.3 Where more than one gift is to be given to an individual or single organisation, and the value of the gifts given in any 12-month period is over \$500.00 the approval of the Premier must be obtained.
- 5.4 Where the Premier has approved a gift or gifts over the value of \$500.00 to be made by a Minister, a Declaration of Official Gift is to be forwarded to the Secretary, Department of Premier and Cabinet within 14 days of giving the gift or, where the gift was made overseas, within 14 days of returning to Australia.

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- 5.5 A copy of the appropriate format for a declaration is attached at Annexure A.
- 5.6 The Department of Premier and Cabinet will maintain a register of gifts given. The register will provide information on:
- Date gift given;
 - Name of Recipient;
 - Identity of the Gift Donor;
 - Description of Gift; and
 - Estimated value.
- 6. Sponsored Travel**
- 6.1 Except in accordance with these guidelines, Ministers are not to knowingly accept travel that is sponsored wholly or partly from non-government sources.
- 6.2 Sponsored travel includes the provision of transport, accommodation or living expenses to a Minister other than from official funds or the Minister's own resources.
- 6.3 The expectation is that Ministers travelling on official duties will do so at the expense of the State or, in certain cases, the Commonwealth.
- 6.4 All offers of sponsored travel other than from the Commonwealth are to be referred to the Premier for prior endorsement. In normal circumstances, such a request should arrive with the Premier at least six weeks prior to the proposed travel.
- 6.5 Sponsorship by another body may be approved particularly if acceptance of the offer could be considered of benefit to the State. Sponsorship by private firms or groups, however, is more likely to give rise to the appearance of a conflict of interest.
- 6.6 Offers of sponsored travel are not made acceptable by being undertaken in the Minister's own time or in an unofficial capacity particularly where any link exists or could be construed between the offer and the official duties of the Minister.
- 6.7 This part of the policy does not apply to:
- Travel taken as an official of an organisation which does not create or give the appearance of creating a conflict of interest; and

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- Travel associated with parliamentary duties including parliamentary associations.

7. Functions, Entertainment and Hospitality

- 7.1 The occasional provision of passes or tickets to entertainment events (eg sporting events and cultural activities) is normally regarded as hospitality and not as a gift unless there is a potential for a conflict of interest arising or being seen to arise in relation to the receipt of such hospitality.
- 7.2 Frequent hospitality from a single non-official source, other than from family and friends in a purely personal capacity, especially when not associated with a distinctive or seasonal event is unacceptable.
- 7.3 In general terms, hospitality which is directed at establishing networking links between Ministers and persons associated with an organisation or industry, or at introducing a product or service to a Minister as part of a general launch is acceptable. The key issue is whether the hospitality is aimed at inappropriately influencing the Minister in the exercise of some specific or general duty or power either individually in directing the activities of their department or through the exercise of a discretion, or collectively through the decisions of the Government.
- 7.4 Working lunches and dinners associated with a particular project or task are also not usually considered as gifts. Of importance in these circumstances is the nature of the benefit received (eg that the venue of a meal matched the nature of the work undertaken).
- 7.5 Care should be taken when hospitality is associated with sponsored travel. In all cases where travel is involved, the guidelines for sponsored travel should be followed.
- 7.6 The Minister's duty is to preserve the appearance as well as the actuality of independence of judgement and action from improper influence. The appropriateness of any hospitality is normally a matter for the individual Minister. Guidance can be obtained from the Premier, the Secretary, Department of Premier and Cabinet or the Parliamentary Standards Commissioner.

8. Gifts Register

- 8.1 The Department of Premier and Cabinet maintains a register of official gifts received and given by Ministers.

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- 8.2 The register provides information on:
- Date gift received;
 - Name of Recipient;
 - Identity of the Gift Donor;
 - Description of Gift;
 - Estimated value; and
 - Agreed disposal/recommended use.
- 8.3 Each calendar year before the last sitting day, the Premier will cause the register for that year to be tabled in the House of Assembly.
- 8.4 The Department of Premier and Cabinet will also publish the register on the internet.
- 8.5 Ministers are personally responsible for ensuring the accuracy of the register in relation to gifts received or given by them.

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ANNEXURE A



Declaration of Official Gift

Name of Minister	
Portfolio	
Description of gift (attach further pages if required)	The Communications and Protocol Unit will prepare this form for your Minister's signature. Please provide all relevant information to protocol@dpac.tas.gov.au .
Estimated / actual value of gift (strike out whichever is inapplicable)	
Date of receipt / making of gift (strike out whichever is inapplicable)	
Identity of donor / recipient of gift (strike out whichever is inapplicable)	
Recommendation concerning future use of gift	<input type="checkbox"/> To remain Property of the Crown <input type="checkbox"/> To be donated to an organisation (Minister's choice *) <input type="checkbox"/> To be retained by the recipient

Signature of Minister		Date of declaration	
Approved		Date of approval	

* Once arranged the organisation name and date given must be provided to the Communications and Protocol Unit