

# Gifts, Benefits and Hospitality Policy

November 2016

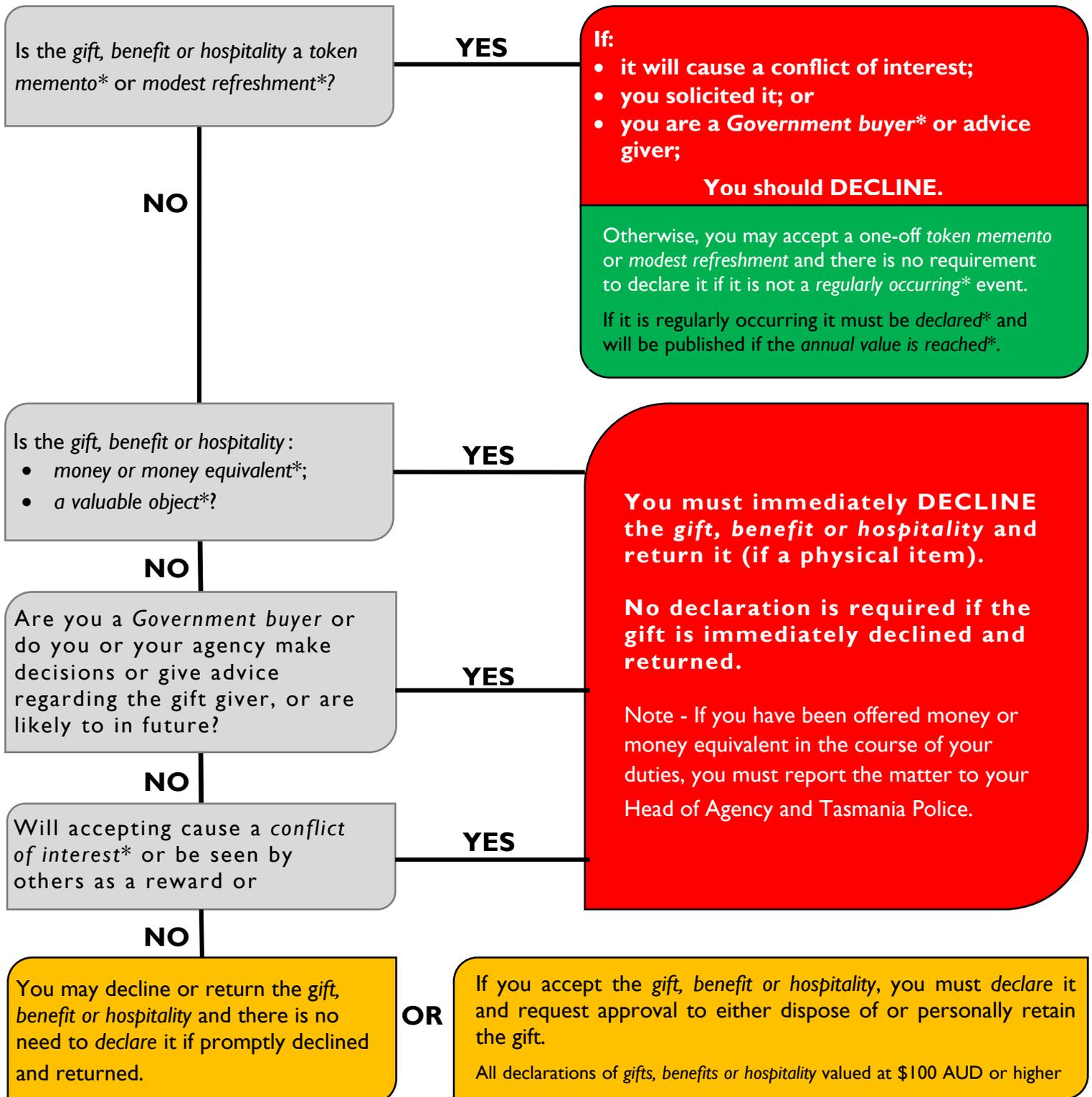
# Contents

Gifts, Benefits and Hospitality Policy.....	1
November 2016 .....	1
Contents .....	2
Gifts, Benefits and Hospitality Flowchart.....	3
Executive Summary.....	4
Law and Related Policy.....	5
Policy Statement.....	5
Definitions.....	6
Declaration of a gift, benefit or hospitality.....	8
Gift Register .....	9
Other.....	9
Internal offer of a gift, benefit or hospitality.....	9
Provision of gifts, benefits or hospitality .....	9
Sponsored Travel.....	10
Redemption or ‘frequent buyer’ cards.....	10
Officers with responsibility for Purchasing, Tenders or Disposals.....	10
Alleged Breaches of this Policy.....	10
Related Documents.....	11
APPENDIX I: SPECIAL REQUIREMENTS FOR [#AGENCY NAME].....	12
Appendix I provides an opportunity for an Agency to list any special requirements or exceptions they wish to name for Agency employees and officers. ....	12

## Gifts, Benefits and Hospitality Flowchart

Officers and employees should not expect to receive *gifts, benefits or hospitality* for doing a job they are paid by the public to do. In most situations, officers and employees should refuse *gifts, benefits or hospitality* if offered.

However, in limited circumstances, it may be appropriate to consider acceptance of a *gift, benefit or hospitality*, or a *modest refreshment*, if offered. In these cases, follow the guidance below.



\*Refer to your agency's policy on gifts, benefits and hospitality

# Gifts, Benefits and Hospitality Policy

## Executive Summary

This policy sets out the broad principles to be applied by and to all Tasmanian State Service officers and employees in relation to the offer, acceptance or refusal of a *gift, benefit or hospitality*.

The Tasmanian community expects high standards of integrity, impartiality, transparency and the responsible use of resources from all state service officers and employees. State service officers and employees are expected to be honest and transparent in their dealings, make unbiased decisions and provide unbiased advice, avoid real and perceived conflicts of interest and earn and maintain public trust. The acceptance of *gifts, benefits or hospitality* by a state service officer or employee may lead to a conflict of interest between an employee or officer's personal interests and public duty, and may call into question a decision that is made, a contract that is awarded, or advice that is given by the employee or the agency.

**Officers and employees should not expect to receive *gifts, benefits or hospitality* for doing a job they are paid by the public to do. In most situations, 'thanks' is enough.**

However, in limited circumstances, it may be appropriate to consider acceptance of a *gift, benefit or hospitality, or modest refreshment*.

If you cannot refuse, follow the guidance in this policy.

This policy provides limited exceptions for low value *token mementos* and *modest refreshments*, however these exceptions will not apply if they are *regularly occurring*; if you have solicited the memento or refreshment; if you are a *Government buyer* and the memento or refreshment may influence or might be deemed to influence a procurement or disposal decision; or in general, the acceptance of the memento or refreshment may cause an actual, perceived or potential conflict of interest.

Under no circumstance should employees or officers accept a gift of *money or money equivalent, or a valuable object*.

If you have any doubt about whether or not to accept a gift, benefit or hospitality, or if you believe acceptance may cause an actual, perceived or potential conflict of interest, you should simply decline the offered gift, benefit or hospitality or speak to your supervisor.

It is important to note that non-compliance with this policy may constitute misconduct and will be dealt with in accordance with *Employment Direction No. 5 – Procedures for the investigation and determination of whether an employee has breached the Code of Conduct (ED5)*.

The inappropriate acceptance or solicitation of gifts and benefits may result in disciplinary action under the *State Service Act 2000*, or prosecution (including for the offence of bribery under the *Criminal Code*). This applies equally regardless of your position on the corporate hierarchy or within your agency.

Specific requirements applicable to your agency are listed in **Appendix I** [*#agency to delete if no special requirements*].

For the meaning of *Italicised* terms see **Definitions** below.

## Law and Related Policy

- [Section 9\(11\)-\(12\) State Service Act 2000](#)
- [Regulation 12 State Service Regulations 2011](#)
- [Employment Direction 5 “Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct”](#)
- [Treasurer’s Instructions 1101 and 1201](#) in relation to the Code of Ethics for officers engaged in procurement processes
- Conflict of Interest – Declaration and Management Policy [[#agency to replace with reference to their own Conflicts Policy](#)]
- Schedule I (sections [83](#), [84\(1\)](#) and [85](#)) *Criminal Code Act 1924*

## Policy Statement

**Officers and employees should not expect to receive gifts, benefits or hospitality for doing a job they are paid by the public to do. In most situations, ‘thanks’ is enough.**

You must **never** accept a *gift, benefit or hospitality, token memento or modest refreshment* in the following circumstances:

- It is *money or money equivalent*;
- A *valuable object* valued at \$100 AUD or higher;
- You are a *Government buyer* and your acceptance may influence or be perceived to influence a procurement or disposal decision;
- You or your agency makes decisions or gives advice regarding the gift giver or are likely to in future and your acceptance may influence or be perceived to influence the decision or advice;
- Your acceptance may otherwise cause an actual, perceived or potential conflict of interest, or may be seen by other people as a reward or incentive.

You must **never** solicit a *gift, benefit or hospitality* in the course of your duties as an officer or employee, for your personal benefit or for the benefit of a spouse, partner, friend or family member.

**In each of the above instances**, you must immediately decline and return (if a physical item) the *gift, benefit or hospitality or token memento or modest refreshment*. You are not required to declare the offer or receipt of the *gift, benefit or hospitality or token memento or modest refreshment* if it is immediately declined and if a physical object, returned. If you have been offered or received *money or money equivalent, drugs or illegally obtained property* in the course of your duties or in relation to your duties from any person or entity you are required to immediately report the offer or receipt to the Tasmania Police and to the Head of Agency or their delegate so that appropriate action may be taken.

### **In all other circumstances:**

- If you are offered a *token memento or modest refreshment* you may consider accepting it if it is not *regularly occurring*. You are not required to declare the receipt of a *token memento or modest refreshment* if it is not *regularly occurring*.

- If the item is not a *token memento* or *modest refreshment*, but instead a higher-valued *gift, benefit or hospitality*:
  - You may decline or return the offered *gift, benefit or hospitality*. You are not required to declare the offer or receipt of the *gift, benefit or hospitality* if it is promptly declined and if a physical object, returned.
  - If you are unable to decline or believe it is appropriate to accept the *gift, benefit or hospitality* you must declare it and request approval from the Head of Agency or delegate to accept or otherwise dispose of the *gift, benefit or hospitality* in an approved manner. All declarations must be recorded on the agency's Gift Register (see **Declaration of a gift, benefit or hospitality** below), noting that all declarations of items valued at \$100 or higher must be published (see **Gift Register**).

It is inevitable that situations will arise which are not dealt with by this policy. The overriding concern is to ensure that no conflict exists or appears to exist between the public duty and private interest of a staff member. If there is any doubt as to the appropriateness of the offered *gift, benefit or hospitality*, or potential for perceived or actual conflict of interest, decline the offer or discuss the matter with the Head of Agency or their nominated delegate.

## Definitions

*Gift, benefit or hospitality* means any gratuity, favour, discount, entertainment, loan, forbearance, or other benefit having monetary value gained by an officer or employee in the course of the officer's or employee's duties or in relation to the officer's or employee's duties from any person or entity other than the employer. It includes, but is not limited to:

- a gift of *money or money equivalent*;
- a gift of a physical object (excluding *token mementos*);
- the conferring of a benefit;
- the conferring of an honorary degree, title or award;
- a *purchasing incentive*, such as a gift of goods and/or services with purchase, other promotional reward, discount or loyalty points offered generally to any public purchaser or to a broadly defined class of purchasers of a particular good or service, a redemption or frequent buyer card, which is received in relation to the purchase of a particular good or service for the agency;
- 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 of a benefit which has a financial or commercial value for less than full value; or
- provision of hospitality, including meals (excluding *modest refreshments*);
- accommodation;
- travel (e.g. airfares, taxi fares, vehicle hire);

- education or training not offered or paid for in full by your employer or yourself (e.g. external conference or seminar ticket, externally hosted training course, or completion or award of an external qualification); or
- entertainment (e.g. tickets to arts/sporting/recreational events) for less than full value.

A *gift, benefit or hospitality* does NOT INCLUDE:

- a *token memento* meaning an item of little intrinsic value, such as a greeting card, confectionery, calendar, diary, magnet, pen, plaque/certificate or trophy which is solely for presentation, a scarf or tie, badges, souvenirs, craft, remembrances or other tokens bestowed at an official function, marks of courtesy (e.g. a bottle of moderately priced wine acknowledging appreciation for a speaking engagement), or of a seasonal nature of a minor value. Although it may be difficult to value a particular item that is received or offered, if a comparable item is commercially valued at \$50 or higher, the item is not a *token memento* and is considered to be a *gift, benefit or hospitality*;
- a *modest refreshment* meaning food or refreshment which generally is not in conjunction with a sit-down meal, such as coffee, biscuits, sandwiches, cake, hors d'oeuvres, fruit, or any other snack;
- a publicly available discount;
- a randomly drawn prize given in a contest which is open to the public or to a broadly defined class of government employees;
- something for which you have paid fair value.

*Regularly occurring* in the context of the offer of a *token memento* or *modest refreshment* means the offer by and acceptance of *token mementos* or *modest refreshments* from a single supplier which in total are valued at \$100 or higher in a 12 month period. If you have accepted *token mementos* and/or *modest refreshments* from a single supplier valued in total at over \$100 in an annual period, you will be required to declare the receipt of each of these items, and the declaration will be required to be published by the agency (see **Declaration of a gift, benefit or hospitality** and **Gift Register**).

*Employee* means a permanent or fixed-term employee appointed under section 37 of the *State Service Act 2000*.

*Government buyer* is a term used to describe the role of an employee or officer whose job involves the acquisition of goods and/or services for one or more Government Agencies. A buyer includes a manager or senior executive or any other employee or officer that is responsible for making a purchasing decision or exercising a financial or legal delegation in relation to a purchasing decision; and a member of a purchasing panel or committee that is able to influence or assists in making a purchasing recommendation.

*Money or money equivalent* includes cash, financial instruments, shares, units, gift cards/vouchers, discount coupons, loyalty bonus points that may be redeemed for a cash or non-cash personal reward, lottery tickets, 'scratchies', credit cards, debit cards with credit on them, memberships, prepayments such as phone or internal credit, any item that may be readily converted to cash.

*Officer* means a person appointed under section 31 of the *State Service Act 2000*.

*Valuable object* means a physical object with a market value of AUD \$100 or higher as at the date of the offered gift.

## Declaration of a gift, benefit or hospitality

Any employee or officer who receives an offer of a *gift, benefit or hospitality* that complies with the Policy Statement, and wishes to accept the *gift, benefit or hospitality*, must complete the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' and provide it to the Head of Agency or delegate for approval.

Any employee or officer who receives an offer of a *gift, benefit or hospitality* and does not wish to retain or is unable to retain the *gift, benefit or hospitality*, and is unable to return the *gift, benefit or hospitality* to the offeror, must surrender the *gift, benefit or hospitality* to the Head of Agency or delegate for approval and if appropriate, disposal, and complete the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' noting the surrender of the gift and disposal of the item.

Any employee or officer who receives an offer of a *gift, benefit or hospitality* on behalf of the Agency, or for the benefit of the Agency, must surrender the *gift, benefit or hospitality* to the Head of Agency or delegate for approval and disposal, and complete the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' noting the surrender of the gift and the Agency's future use or disposal of the item.

There is no requirement to declare the offer or acceptance of a *token memento* or *modest refreshment* unless the employee or officer has received and accepted *token mementos* and *modest refreshments* from a single supplier that are valued in total at over \$100 in an annual period. If the annual threshold is reached, the employee or officer is required to complete the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' detailing the receipt of each of the *token mementos* and *modest refreshments* and provide it to the Head of Agency or delegate for approval.

If the employee or officer completing a declaration is the Head of Agency, the declaration is to be provided to the Secretary of the Department of Premier and Cabinet.

If the employee or officer completing a declaration is the Secretary of the Department of Premier and Cabinet, the declaration is to be provided to the Secretary of the Department of Treasury and Finance.

Declaration forms must be provided as soon as practicable to the relevant Head of Agency or delegate for approval.

Completed Declaration forms are to be stored on the agency's Gift Register.

When a Head of Agency or their delegate receives an 'Acceptance of Gift, Benefit or Hospitality Declaration Form' for approval of acceptance of a *gift, benefit or hospitality*, the Head of Agency or their delegate should consider whether there is sufficient public interest to support the acceptance of the *gift, benefit or hospitality*, including for example, whether there is a direct link to an official purpose; and that the *gift, benefit or hospitality* is of demonstrable benefit to the agency, the State, the Government or the public. Both the relationship between the giver (offeror) of the *gift, benefit or hospitality* and the intended recipient, and the intent of the offer should be considered, together with how the offer may be perceived by the public.

## Gift Register

Each Head of Agency will ensure that the agency maintains an appropriate Gift Register in electronic or hard copy form to record declarations by employees and officers for the purpose of this policy.

Agency and employee/officer compliance with this policy is to be included in the agency's annual Audit and Risk management processes, with findings to be reviewed by the agency Executive on an annual basis.

All declarations of *gifts, benefits or hospitality* to the value of \$100 or greater, or a declaration of *token mementos* and *modest refreshments* (reaching the annual threshold of \$100 from a single supplier that have been recorded in the agency's Gift Register in a financial year) must be published in the Agency's Annual Report for that financial year, or on the Agency's website within four months of the end of that financial year.

## Other

### Internal offer of a gift, benefit or hospitality

From time to time the agency may host small functions to celebrate significant milestones or achievements. Examples include the retirement or resignation of a staff member or the celebration of the completion of a significant project involving a number of staff who made a significant contribution to the project. Such entertainment will be modest in nature in terms of expenditure e.g. for food and drink, be for a restricted time and be approved by the Head of Agency or delegate. There is no requirement to declare the acceptance of Head of Agency approved hospitality as a *gift, benefit or hospitality*.

On occasion, the State may host a function to celebrate a significant milestone or achievement, or commemorate an action or event, and you are requested to attend at the State's cost. Your attendance should be approved by the Head of Agency or delegate. There is no requirement to declare the acceptance of Head of Agency approved hospitality as a *gift, benefit or hospitality*.

Internally, employees and officers form personal friendships and may offer or receive a *gift, benefit or hospitality* to or from a fellow employee or officer to commemorate an action, event or anniversary, such as a birthday, illness or bereavement. There is no requirement to declare a *gift, benefit or hospitality* received from an internal colleague, however, the acceptance of the gift should not cause an actual, potential or perceived conflict of interest with respect to internal decision-making.

### Provision of gifts, benefits or hospitality

It is unlikely that employees or officers will be required to provide any *gift, benefit or hospitality* other than a *token memento* or *modest refreshment* in the course of their official duties.

The policy applicable to the provision of *gifts, benefits or hospitality* is consistent with the principles outlined in relation to the receipt of *gifts, benefits or hospitality*.

In circumstances where it is necessary for an employee or officer to provide a *gift, benefit or hospitality* in the course of official business, approval should be sought from the Head of Agency prior to providing the *gift, benefit or hospitality*.

All approved, *gifts, benefits and hospitality* provided in the course of an official or employees duties to the value of \$100 or greater that have been recorded in the Agency's Gift Register in a

financial year must be published in the Agency's Annual Report for that financial year, or on the Agency's website within four months of the end of that financial year.

### Sponsored Travel

Sponsored travel includes the provision of transport, accommodation or living expenses to employees or officers other than from Agency funds or the employee's or officer's own resources.

All staff travel should be at the expense of the State, or in certain circumstances, of the Commonwealth, and is otherwise deemed to be a *gift, benefit or hospitality* and is subject to this policy.

As noted above (see **Declaration of a gift, benefit or hospitality**), any employee or officer who receives an offer of Sponsored Travel and wishes to accept the *gift, benefit or hospitality*, must complete the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' and provide it to the Head of Agency or delegate for approval. Any approval of Sponsored Travel is conditional upon the employee or officer sharing the learning they gain from the Sponsored Travel in writing with relevant colleagues in their agency promptly upon their return.

### Redemption or 'frequent buyer' cards

An agency is entitled to utilise a redemption or 'frequent buyer' card (or any other *money or money equivalent* or *purchasing incentive* received in the course of a purchase or procurement of goods and/or services on behalf of the agency, or for the benefit of the agency) as long as the use is for the benefit of the agency.

Determining whether a use or disposal is to the benefit of an agency is at the discretion of the Head of Agency or their delegate and must be recorded in accordance with this Policy (see **Declaration of a gift, benefit or hospitality**).

### Officers with responsibility for Purchasing, Tenders or Disposals

Treasurer's Instructions 1101 and 1201 include specific reference to a code of ethics for officers engaged in procurement processes. These instructions state that it is a requirement that all Government buyers decline gifts, gratuities or any other benefits which may influence, or might be perceived to influence, equity or impartiality in procurement decisions.

### Alleged Breaches of this Policy

Any alleged breaches of this Policy will be dealt with in accordance with the procedures set out in *Employment Direction No 5 – Procedures for the Investigation and Determination of Whether an Employee has Breached the Code of Conduct*. In addition, upon investigation, should any alleged breach constitute a criminal offence, the alleged breach will be referred to the State Police.

All employees and officers should be aware that it is a crime for a public officer:

- to corruptly solicit, receive or obtain, or agree to receive or obtain, any property or benefit of any kind for themselves or any other person on account of anything done or omitted, or to be done or omitted, by them in the discharge of the duties of their office (section 83(a) – Corruption of public officers);
- who, under colour of office and otherwise than in good faith, demands, takes, or accepts from any person for the performance of their duty as a public officer, any reward beyond his proper pay and emoluments (section 84(1) – Extortion by public officers);

- who knowingly holds, directly or indirectly, any personal interest in any contract made by or on behalf of the Government of this State concerning any public matter (section 85(1) – Being interested in a contract as a public officer).

## Related Documents

Acceptance of Gift, Benefit or Hospitality Declaration Form

## APPENDIX I: SPECIAL REQUIREMENTS FOR [#AGENCY NAME]

Appendix I provides an opportunity for an Agency to list any special requirements or exceptions they wish to name for Agency employees and officers.

**EXAMPLE:** Department of Treasury and Finance – nil.

