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# **Whole-of-Government Gifts, Benefits and Hospitality Procedures**

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# Definitions

- **Agency:** Any Tasmanian Government Department or State Authority or other organisation specified in Column 1 of Schedule 1 of the *State Service Act 2000*.
- **Conflicts of interest:** A conflict of interest exists if you have a private interest that could influence, or reasonably be seen to influence, how you perform your public duties. A conflict of interest can be:
  - Actual – a conflict between your private interests and public duties.
  - Potential - a private interest that could foreseeably conflict with your public duties in the future.
  - Perceived - it is reasonable for people to believe that your private interests could influence your public duties, now or in the future.
- **Delegate:** A person appointed under section 31 of the *State Service Act 2000* that has the legal authority to exercise a function or power to approve acceptance of gifts, benefits, or hospitality. This is usually Senior Executive Service Officers or equivalents.
- **Heads of Agency:** The person holding the office specified in Column 2 of Schedule 1 of the *State Service Act 2000*. This is usually the Secretary of a Government Department or the Chief Executive Officer of a State Authority.
- **Senior Executive:** means a person appointed to an office created by the Premier under section 29(4) of the *State Service Act 2000*.
- **State Service Officer:** Any officer or employee of the Tasmanian State Service including Heads of Agencies, holders of prescribed offices and Senior Executives.

Remunerated Board or Committee members.

Any member of the Police Service employed under the *Police Services Act 2003*.

Wherever this term is used in the policy, it is also taken to include agents, consultants, contractors, locums, students and volunteers working for the State Service as far as this policy applies to them.

# 1. Initiating policy

These procedures are made in accordance with the *Whole-of-Government Gifts, Benefits and Hospitality Policy*.

## 2. Scope

These procedures apply to all State Service Officers including employees, Heads of Agencies, holders of prescribed offices and Senior Executives.

These procedures apply to agents, consultants, contractors, locums, students and volunteers engaged by or working with the State Service as required by the terms or conditions contained within their contract, instrument of appointment or any other instrument setting out the agreed terms of their engagement.

These procedures only apply to offers of gifts, benefits or hospitality ('GBH') made to State Service Officers or their family, friends or close associates during the performance of their duties or in relation to the performance of their duties.

## 3. Risk assessment tool: GIFT Test

When deciding how to respond to a GBH, State Service Officers should use the below GIFT Test to help identify the risk of a conflict of interest.

### Giver

Questions to ask yourself:

- Who is providing the GBH and what is their relationship to me?
- Does my role require me to provide advice to external parties, select suppliers, award grants, regulate industries or determine government policies?
- Could the person, group or organisation benefit from a decision I make?

If you are likely to have regular dealings with the person offering the GBH, or if you have had, or are likely to have, one or more dealings with them that will involve providing them advice, regulating their activity, or making determinations on matters that involve them, accepting a GBH from them will create an actual or perceived conflict of interest.

# Influence

Questions to ask yourself:

- Are they seeking to gain an advantage or influence my decisions or actions?
- Has the GBH been offered to me publicly to pressure my acceptance through needing to appear polite?
- Has the GBH been offered to me in a private setting in the potential hope that no one will know?
- Is it a basic courtesy or token of appreciation or is it a non-token offer?
- Does its timing coincide with a decision I'll be making in the foreseeable future?
- Is the GBH expensive or luxurious, or would you otherwise not have access to it?

Consider the timing, intent and relevant context in offering you the GBH. If there is any suspicion that the person or organisation might be trying to influence your actions or decisions by offering you a GBH, accepting a GBH from them will create an actual or perceived conflict of interest.

# Favour

Questions to ask yourself:

- Are they seeking a favour in return for the GBH?
- Has the GBH been offered honestly?
- Has the person, group or organisation made several offers over the last 12 months?
- Would accepting create an obligation, or feeling of obligation, to return the favour?

If the person or organisation's conduct in offering you the GBH is dishonest, frequent or otherwise questionable, accepting a GBH from them will create an actual or perceived conflict of interest.

# Trust

Questions to ask yourself:

- Would accepting the GBH diminish public trust?
- How would the public view acceptance of this GBH?
- What would my colleagues, family, friends or associates think?

Think about how accepting the GBH would look to other people. If someone might think there is something not right going on, accepting the GBH will create an actual or perceived conflict of interest.

If you determine that there is little to no risk of creating an actual or perceived conflict of interest from accepting the GBH after asking yourself the above questions, it is likely that the GBH is low-risk and you can accept it without seeking approval. Remember, however, that the default position should always be to decline a gift.

If you determine that there is a risk of creating an actual or perceived conflict of interest, you must seek approval from your Head of Agency using the form at [Appendix 1](#) before accepting.

## 4. Applying the policy principles in decision-making

In accordance with section 3 of the *Whole-of-Government Gifts, Benefits and Hospitality Policy*, the following principles must be met before a Head of Agency or their delegate approves acceptance of a GBH.

- i. **Beneficial:** the acceptance of the GBH will directly or indirectly benefit the Tasmanian public.
- ii. **Proportional:** the GBH is not luxurious, extravagant or excessive beyond what is needed to obtain the benefit from its acceptance.
- iii. **Necessary:** it is not possible and/or more appropriate for the agency to pay fair value for the GBH offered.
- iv. **Transparent:** the acceptance of the GBH will not create an actual or perceived conflict of interest that is unable to be appropriately mitigated by publicly declaring the acceptance.

## Example

### Facts

A surgeon who works for the Tasmanian Government has been invited by a medical tools and equipment company to watch a demonstration of a new surgical method using a tool developed by that company.

The medical company is based in New South Wales, and they have offered to pay for the surgeon's flights, meals and accommodation so they can attend the demonstration in Sydney.

The demonstration is not a ticketed event. Only those who have been invited may attend.

The company has been engaged by the Tasmanian Government to provide tools and equipment in the past and is likely to seek business from them again in the future.

It is likely that they will seek to market the product that is being used in the demonstration. However, there is no current procurement process involving this company. Additionally, the surgeon who has been invited to the demonstration is not involved in the decision to purchase medical equipment.

## Officer Assessment

The surgeon applies the [GIFT test](#) and recognises that the company has a business relationship with the Tasmanian Government and may receive future contracts.

They also consider that the purpose of the demonstration is to present their product with the aim of making a profit from it in the future. They suspect they have been invited in the hope that they will advocate for the purchase of the tool. They alternatively consider that the company may gain a positive reputation and be seen as a more legitimate provider of medical equipment or tools if respected surgeons attend the demonstration.

The surgeon considers the definition of a high-risk GBH from the policy and notes that the offer falls within the examples provided.

The surgeon determines that the acceptance of the GBH will create a perceived conflict of interest but considers that attendance may allow them to learn a new surgical technique for the benefit of their patients.

They fill out the form at [Appendix 1](#) and submit it to their Head of Agency or delegate for approval.

## Head of Agency or Delegate Assessment

A delegate of the Head of Agency receives the completed form which explains what the GBH is, who is offering it, and what benefit will be achieved. The surgeon has asked whether the agency can pay the cost of the flights, accommodation and meals. The delegate considers this appropriate and approves this payment. This now means that only the attendance at the demonstration is considered a GBH.

The delegate applies the principles of the policy and considers that:

- i. **Beneficial:** attendance at the demonstration may teach the surgeon a new technique which will improve the treatment of Tasmanian patients. They are satisfied that the GBH will lead to a benefit for Tasmania.
- ii. **Proportional:** the surgeon will only be attending the demonstration. They will not receive any material items to take home or any food or drink other than perhaps a modest refreshment. They are satisfied that the GBH is not

extravagant or luxurious beyond what is necessary to obtain the benefit identified.

- iii. **Necessary:** the surgeon is not able to pay to attend the demonstration, but the agency can cover the associated costs, which has been agreed to. They are satisfied they are not accepting a GBH that could or should otherwise be paid for.
- iv. **Transparent:** the surgeon's attendance could create a perceived conflict of interest but they acknowledge that declaring the acceptance on the public register along with the reason for acceptance will demonstrate to the Tasmanian public that this decision was made independently to any procurement decision relating to the company.

The delegate approves the acceptance of the gift and provides the form back to the surgeon with instructions on how to accept, along with their approval to pay for the associated costs of attendance.

## 5. Processes for receiving a gift, benefit or hospitality

### 5.1 Disposing of GBH received

If a GBH is unable to be returned, it can be disposed of by donating the GBH to charity or treating it as waste.

A State Service Officer must never dispose of a GBH by giving it to a colleague, friend, family member, or other person or entity with whom they have an association.

### 5.2 Declaring offers declined, returned or disposed of

Any State Service Officer who is offered a GBH that they are required to declare in accordance with the *Whole-of-Government Gifts, Benefits and Hospitality Policy*, must fill out and submit the [Gift, Benefit or Hospitality Acceptance/Declaration Form](#) to the Head of Agency or their delegate for inclusion on the [Gift Register](#).

The form must be filled out and submitted within seven working days of the date the GBH was offered.

The form must include whether the gift was declined, returned or accepted with the intent to dispose of the gift later (this could be due to a number of reasons including avoiding causing offence to the party giving the gift or embarrassing the agency in a public setting).



The Head of Agency or their delegate is then required to note the form and record the decision on the agency [Gift Register](#). Documentation relating to the declaration of a GBH should be stored in an agency's record management system.

## 5.3 Declaring offers if seeking acceptance

Any State Service Officer who wishes to accept a GBH for which approval is required in accordance with the *Whole-of-Government Gifts, Benefits and Hospitality Policy* must first fill out the [Gift, Benefit or Hospitality Acceptance/Declaration Form](#) and submit it to their manager.

When filling out the form, care should be taken to provide sufficient explanation as to why the GBH should be accepted and any other necessary context to ensure the Head of Agency or their delegate has all the information needed to make the best decision.

When reviewing the [Gift, Benefit or Hospitality Acceptance/Declaration Form](#), managers must consider whether it is possible and appropriate for the agency to pay fair value for the GBH. If a decision is then made to pay fair value for the GBH, there is no need to continue with the form or make a declaration.

If the manager decides not to pay fair value for the GBH, they should provide an explanation for why prior to forwarding the form to the Head of Agency or their delegate for approval.

The Head of Agency or their delegate must then consider whether acceptance of the GBH would meet the principles within of the *Whole-of-Government Gifts, Benefits and Hospitality Policy*. If it would not, then the GBH should be declined or disposed of, or the agency should pay fair value for it.

The Head of Agency or their delegate is required to make a decision on what should happen with the offered GBH and record the reasons for their decision.

The completed form should then be forwarded to both the State Service Officer and the relevant area of the agency for recording in the [Gift Register](#).

Documentation relating to the acceptance of a GBH should be stored in an agency's record management system.

## 5.4 Declaring/accepting a gift, benefit or hospitality for the agency

If a State Service Officer is offered a GBH on behalf of the agency, they must provide the GBH to their Head of Agency along with a completed [Gift, Benefit or Hospitality Acceptance/Declaration Form](#) stating their intent to surrender it to the agency.

The Head of Agency must then decide whether it is appropriate to keep the GBH for the use of, or display within, the agency, or whether the GBH should be appropriately disposed of. The Head of Agency is responsible for ensuring that appropriate action is taken in accordance with their decision and that their decision is logged on the [Gift Register](#).

If a Head of Agency intends to accept a GBH on behalf of their agency, and they consider this acceptance is likely to draw public criticism, they should seek approval from the Head of the State Service and/or obtain advice from the Integrity Commission before doing so.

Documentation relating to the agency receiving a GBH should be stored in an agency's record management system.

## 5.5 Declaring/accepting a gift, benefit or hospitality for a Head of Agency

Heads of Agencies must declare offers and/or acceptance of GBH to the Head of the State Service.

The Head of the State Service must declare offers and/or acceptance of GBH to the Secretary of the Department of Treasury and Finance.

The decision-maker must then forward their decision back to the Head of Agency so the appropriate action may be taken.

The decision and action must be recorded on the relevant agency's [Gift Register](#).

Documentation relating to Head of Agency GBH should be stored in an agency's record management system.

## 6. Recording declarations in the Gift Register

The internal Gift Register should include the minimum information required by the *Whole-of-Government Gifts, Benefits and Hospitality Policy*, but may contain more information at each agency's discretion.

At a minimum, all declarations of GBH must be published quarterly, within three months of the end of the quarter, on agency websites as well as in each agency's Annual Report.

The publication on the agency's website should display any GBH declared over the last quarter. The Gift Register should be published even if there have not been any declarations but should clearly show that there have been none.

Agencies have discretion to include more details on their internal or external registers or to publish their registers more frequently.

Agencies may publish declarations that are not needed to be made under this policy at their discretion.

The publication of the Gift Register in the annual report should show all declared GBH over the relevant financial year.

The publicly available Gift Register must include the minimum information as contained in the *Whole-of-Government Gifts, Benefits and Hospitality Policy*, but may contain more information at the Head of Agency's discretion.

# Appendix 1 – Gift, Benefit or Hospitality Acceptance/Declaration Form [Template]

Use this form to:

- Declare offers, request acceptance, or surrender to the agency gifts, benefits or hospitality.
- Declare low-risk gifts, benefits or hospitality if the total value from a single person/organisation reaches \$100 or you have been offered 3 or more from a single person/organisation in a 12-month period.

**Never accept money, or a money equivalent.**

Obtain delegate approval **before** accepting.

## Your details

|                                      |  |
|--------------------------------------|--|
| <b>Name</b>                          |  |
| <b>Position title</b>                |  |
| <b>Work/Business Unit</b>            |  |
| <b>Employment Status<sup>1</sup></b> |  |

## Gift, Benefit or Hospitality details

### Description

What has been offered? If declaring token mementos or modest refreshments provide a break-down of what has been received in the annual period.

|  |  |
|--|--|
|  |  |
| <b>Date of offer</b>                   |  |
| <b>Value<sup>2</sup></b>               | \$   |
| <b>Is the gift in your possession?</b> | <input type="checkbox"/> No, offer made but has not yet been received<br><input type="checkbox"/> Yes, unable to be declined or returned |

<sup>1</sup> For example, permanent, fixed-term, contractor, volunteer etc.

<sup>2</sup> The highest of the cost to giver, retail or replacement cost, or the value to the recipient.

## Provider details

|  |   |
|--|---|
| <b>Name, role, organisation</b>  |   |
| <b>Relationship to you and/or the agency</b>   | <input type="checkbox"/> Client/customer<br><input type="checkbox"/> Member of public<br><input type="checkbox"/> Supplier/contractor<br><input type="checkbox"/> Other |
| <b>Have any previous offers been made to you or your work area by the same provider in the past 12 months?</b> | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Unsure  |

## Circumstances

Describe how the offer was made and why (for example, was it made publicly? Were there conditions attached to the offer? Are they seeking to gain an advantage?).

|   |   |
|---|---|
|   |   |
| <b>Would acceptance create an actual or perceived conflict of interest?</b> | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |

## Requested action

- ☐ I have already declined/returned – completing form for disclosure purposes only.
- ☐ I have already disposed (explanation below) – completing for disclosure purposes only.

- ☐ I accepted the gift, benefit or hospitality on behalf of the agency, or I am surrendering the gift, benefit or hospitality to the agency.
- ☐ I want to accept the offer, and I declare that:
  - I have carefully considered the offer and determined it to be aligned with the expectations and principles of the Gift, Benefit and Hospitality Policy, the Agency and the Tasmanian community generally.
  - I did not solicit the offer.

## Reason

### What benefit will be achieved by acceptance?

- ☐ Builds goodwill or positive community relationships
- ☐ Maintains stakeholder relationship(s)
- ☐ Encourages/enhances professional networks
- ☐ Professional development/training
- ☐ Acceptance avoided causing offence
- ☐ Other:

## Explanation

Explain how the above benefit will be achieved.

## State Service Officer sign off

|           |  |
|-----------|--|
| Signature |  |
| Date      |  |

*This section is to be completed by the State Service Officer's Manager (if applicable)*

## Manager determination

- ☐ I support the State Service Officer's requested action (complete form and forward to delegate)
- ☐ I do not support the State Service Officer's requested action (provide instruction below and return the form to officer)

**Reasons for support *or* instruction back to officer if not supported.**

|  |
|--|
|  |
|--|

**If acceptance is supported, explain the reason why the agency is not paying for the gift, benefit or hospitality.**

|                                  |  |
|----------------------------------|--|
|                                  |  |
| <b>Manager name and position</b> |  |
| <b>Manager signature</b>         |  |
| <b>Date</b>                      |  |



*This section is to be completed by the Head of Agency or delegate*

## Delegate determination

- ☐ Do not approve acceptance, offer should be declined
- ☐ Do not approved acceptance, gift, benefit or hospitality should be disposed of
- ☐ Note that it has already been declined/returned
- ☐ Approve acceptance on behalf of agency
- ☐ Approve acceptance by State Service Officer

## Reason for decision

## Action to be taken

In making this determination, I have considered:

- Information provided in this declaration form.
- The requirements of the Policy, such as conflict of interest and the 'thanks is enough' principle.
- Whether there is demonstrable benefit to the public.
- The GBH accepted is proportional to the benefit being obtained and not unnecessarily extravagant or luxurious.
- Whether it would be more appropriate for the Agency to meet the cost.
- The relationship between the gift giver and the intended recipient.
- The intent of the offer.
- How the offer may be perceived by the public.

|                                   |  |
|-----------------------------------|--|
| <b>Delegate name and position</b> |  |
| <b>Delegate signature</b>         |  |
| <b>Date</b>                       |  |

# Appendix 2 – Gift Registers [Template]

## Internal gifts register template

This register details the gifts, benefits or hospitality offered to or accepted by staff in the [Agency] in accordance with the *Gift, Benefit and Hospitality Policy* as at <insert date>.

| Date of declaration | Name of Recipient | Description of gift | Company name/<br>Individual offering gift | Explain nature of conflict | Estimated value of gift | Decision:                                  | Reason for decision | Position of delegate who made decision | Date of decision |
|---------------------|-------------------|---------------------|---|----------------------------|-------------------------|--|---------------------|--|------------------|
|                     |                   |                     |   |                            |                         | Declined/returned                          |                     |  |                  |
|                     |                   |                     |   |                            |                         | Disposed of (how?)                         |                     |  |                  |
|                     |                   |                     |   |                            |                         | Accepted by agency<br>Accepted by employee |                     |  |                  |
|                     |                   |                     |   |                            |                         |  |                     |  |                  |

## Public gifts register template

This register details the gifts, benefits or hospitality offered to or accepted by staff in the [Agency] in accordance with the *Gift, Benefit and Hospitality Policy* as at <insert date>.

| Date of declaration | Recipient's Business Unit | Description of gift | Company name/<br>Individual offering gift | Estimated value of gift | Decision:                                  | Reason for decision | Position of delegate who made decision | Date of decision |
|---------------------|---------------------------|---------------------|---|-------------------------|--|---------------------|--|------------------|
|                     |                           |                     |   |                         | Declined/returned                          |                     |  |                  |
|                     |                           |                     |   |                         | Disposed of (how?)                         |                     |  |                  |
|                     |                           |                     |   |                         | Accepted by agency<br>Accepted by employee |                     |  |                  |
|                     |                           |                     |   |                         |  |                     |  |                  |