



## GIFTS, BENEFITS AND HOSPITALITY POLICY

### Summary

This policy sets out the broad principles to be applied by and to all Department of Justice (DoJ) 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. DoJ 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 officer or employee'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 DoJ.

**Officers, employees and contractors 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.

For the meaning of *Italicised* terms, see **the Meaning of Terms section below**.

### Applies to

This policy applies to all officers, employees and contractors of the Department of Justice (DoJ).

### Policy statement

All officers, employees and contractors of the Department are paid by the public to undertake the work they do. With very few exceptions, they should not expect, and are not permitted, to receive *gifts, benefits or hospitality* in relation to that work.

## Our Values

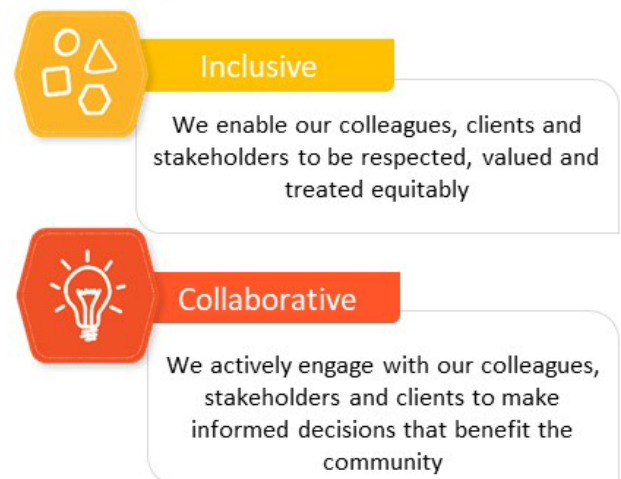
DoJ recognises the importance of encouraging a proactive reporting culture amongst officers, employees and contractors. Our Values influence what we do and how we do it and are intrinsic to creating this culture. Our Values focus on five key areas:



### We act with



### Our workplaces are



As a values driven organisation, we are committed to creating an environment where employees are honest and transparent in their actions and decisions.

## Meaning of Terms

### Gift, Benefit or Hospitality

*Gift, benefit or hospitality* means any gratuity, favour, discount, entertainment, loan, forbearance or other benefit having monetary value, gained by an officer, employee or contractor in the course of their 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 DoJ;

- indirect or concealed gifts such as:
  - the permanent or indefinite loan of money or property; or
  - 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;
- 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 pen, note pad, coaster, information booklet or other item of little intrinsic value received from attending a conference or training as part of your role;
- 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

*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 (see **Declaration of a gift, benefit or hospitality** and **Gift Register** below).

## Government Buyer

Government buyer is a term used to describe the role of an officer or employee whose job involves the acquisition of goods and/or services for one or more Government agency. A buyer includes a manager or senior executive or any other officer or employee 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 assist in making a purchasing recommendation.

## Money or Money Equivalent

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 or any item that may be readily converted to cash.

## Valuable Object

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

## Related documents

| Category              | Relevant Legislation or Policy Documents   |
|-----------------------|--|
| Tasmanian Legislation | <ul style="list-style-type: none"><li>• <a href="#">State Service Act 2000</a> – in particular section 9(12) specifies that “An employee who receives a gift in the course of his or her employment or in relation to his or her employment must declare that gift as prescribed by the regulation</li><li>• Schedule 1 (sections <a href="#">83</a>, <a href="#">84(1)</a> and <a href="#">85</a>) <i>Criminal Code Act 1924</i></li><li>• <a href="#">Regulation 12 State Service Regulations 2021</a></li></ul> |
| Department of Justice | <ul style="list-style-type: none"><li>• <a href="#">Gift Policy Guide - What Is a Gift.pdf (justice.tas.gov.au)</a></li><li>• <a href="#">Gift Policy Guide - What Isnt a Gift.pdf (justice.tas.gov.au)</a></li><li>• <a href="#">Gift Policy Guide - Real Life Examples.pdf (justice.tas.gov.au)</a></li><li>• <a href="#">Gift Policy Guide - Do I need to Declare.pdf (justice.tas.gov.au)</a></li><li>• <a href="#">Conflict of Interest Policy</a></li></ul>  |
| Whole of Government   | <ul style="list-style-type: none"><li>• <a href="#">Employment Direction 5 “Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct”</a></li></ul>  |

## Declaration of a gift, benefit or hospitality

Any officer or employee 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. The Gifts, Benefits and Hospitality Procedures provide further details on the processes in place.

## Gift Register

The Head of Agency will ensure that DoJ maintains an appropriate Gift Register in electronic form to record declarations by officers and employees for the purpose of this policy.

DoJ and officer/employee compliance with this policy is to be included in the DoJ annual Audit and Risk Management processes, with findings to be reviewed by DoJ 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

DoJ's Gift Register in a financial year) must be published in the DoJ Annual Report for that financial year and are also published at the end of each quarter on the DoJ website.

## Provision of gifts, benefits or hospitality

It is unlikely that officers or employees 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 officer or employee to provide a *gift, benefit or hospitality* in the course of official business, approval should be sought from the relevant Output Manager followed by the Head of Agency prior to providing the *gift, benefit or hospitality*. Output Managers wishing to provide *gifts, benefits or hospitality* should seek approval from the relevant Deputy Secretary prior to submission to the Head of Agency.

All approved, *gifts, benefits and hospitality* provided in the course of an official or employee's duties to the value of \$100 or greater that have been recorded in the DoJ Gift Register in a financial year must be published in the DoJ Annual Report for that financial year and on the DoJ website within four months of the end of that financial year.

## Redemption or 'frequent buyer' cards

DoJ 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 DoJ, or for the benefit of DoJ) as long as the use is for the benefit of DoJ.

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**).

## 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 Tasmania Police.

All officers and employees should be aware that it is a crime under the *Criminal Code Act 1924* 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).

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 your Manager.

## Gifts, Benefits and Hospitality Procedures

DoJ has developed Gifts, Benefits and Hospitality Procedures and Frequently Asked Questions that describe the processes and approach to take if you are offered or considering soliciting a gift, together with a number of sample scenarios.

# What are everyone's workplace responsibilities for this policy?

## Officer/employee/contractor

All officers, employees and contractors of DoJ have a responsibility to comply with this Policy and the Gifts, Benefits and Hospitality Procedures. They are responsible and accountable for:

- Declaring the acceptance of a gift, benefit or hospitality in the circumstances specified in the policy.
- Ensuring that they understand and apply this Policy, the Gifts, Benefit and Hospitality Procedures and Frequently Asked Questions or any guidance that applies to them.

## Output Manager

In addition to their personal responsibilities as employees:

- All Output Managers are responsible for ensuring employees in their Output are aware of, and have received adequate training in, the requirements of this Policy and the Gifts, Benefit and Hospitality Procedures and Frequently Asked Questions.
- All Output Managers are responsible for noting declarations made by employees of their Output and for providing guidance as to when it is and is not to appropriate to accept gifts, benefits or hospitality.

## Secretary

In addition to their personal responsibilities as an employee, the Secretary is responsible for:

- Ensuring an appropriate Gift Register is maintained to record declarations by officers and employees.
- Reviewing declarations of acceptance of gifts, benefits or hospitality and determining how the situation should be addressed.
- Pursuant to this policy, the Secretary has delegated their powers to the Deputy Secretaries.

## Agency Executive

Agency Executive is responsible for:

- Supporting, endorsing, and reviewing this Policy, the Gifts, Benefits and Hospitality Procedures and Frequently Asked Questions.
- The implementation of this Policy and the Gifts, Benefit and Hospitality Procedures and Frequently Asked Questions with oversight of related activities pursuant to this Policy within their respective portfolio areas.
- Ensuring there are systems to educate, train, and induct persons to whom the Policy applies about their meaning and how to apply them in a practical sense.

|                    |                         |
|--------------------|-------------------------|
| Responsible Output | Office of the Secretary |
| Date approved      | August 2022             |
| Review date        | August 2025             |
| Reference          | DOC/22/87929            |