



## Gifts and benefits

### In this advisory:

- Major misconduct risks
- Strategies to prevent misconduct
- Making the right decision
- Further information and resources

## Introduction

A gift or benefit is anything of value that is offered to you in the course of your work, apart from your normal employment entitlements. It can be either tangible or intangible:

- **Tangible gifts** — cash, goods, hospitality (e.g. meals or drinks), promotional materials (e.g. free pens, diaries), samples, scholarships, discounts on goods and services (including discounted interest rates)
- **Intangible gifts** — personal services, free or subsidised travel or accommodation, entertainment, preferential treatment, privileged access, promise of a special favour or advantage (e.g. a special type of loan).

Policies on gifts and benefits do not relate to an organisation's internal reward systems, or to personal and private gifts from friends and relatives — provided there is no expectation that you will favour any member of the public as a result of receiving the gift.

As a public sector employee, you are required to behave with the highest integrity, and ensure that your conduct is beyond reproach. In general you are expected to refuse any form of reward beyond your usual employment entitlements, because acceptance would put in doubt your integrity and that of your organisation and the government as a whole.

Rationalisations such as 'everyone's doing it', 'it's only fair', 'it's just this once' or 'I didn't want to offend' will not protect you from sanctions. However, if you have attempted to comply with the rules but have genuinely made a mistake (e.g. about the value of an asset), your organisation will take this into account.

Public service employees are bound by the Public Service Commission Directive No. 22/09, *Gifts and benefits*.

As a rule, any government employee involved in procurement should refuse any gift or benefit offered to them. Read more about procurement risks.

## Major misconduct risks

No matter how small a gift is, accepting it may:

- signify taking a bribe or secret commission
- cause a perception of undue influence
- provoke a sense of obligation in the donor or the recipient
- consciously or unconsciously influence decisions made by the organisation
- benefit some individuals or organisations through influenced or unjust decisions, while unfairly disadvantaging others
- result in the organisation incurring a Fringe Benefits Tax (FBT) liability on any benefits obtained by employees
- compromise the independence, impartiality or good name of the organisation.

Accepting gifts or benefits could create a conflict of interest between your official duty and your personal interests. In particular, if you work in a sensitive area or one of particular trust (e.g. internal audit or purchasing), you should refuse any gift that could create a perception of bias or influence if you accept it. Consult your supervisor if you are unsure.

The intention behind the giving of a gift — and what the community may perceive as the intention — should always be considered in determining whether accepting the gift is appropriate.

Bribery is a serious criminal offence, so you should immediately report to your organisation anyone who attempts to give you something with the expectation that you will give them favourable treatment in return. If you do not deal with offers of gifts and benefits appropriately, you could face reprimand, loss of salary, fines, dismissal or jail time.

Public sector employees should never, under any circumstances, accept a gift of cash or of anything readily convertible to cash (such as shares, betting slips or promissory notes).

## Strategies to prevent misconduct

Every organisation should have a policy and procedure that should, at a minimum, include the following guidelines:

- All gifts and benefits given to public sector employees in their official capacities are technically the property of the organisation.
- All employees must declare any gifts or benefits whose value exceeds a prescribed amount.
- The accumulated value of multiple gifts or benefits within a 12-month period from the same donor(s) in a similar relationship with the employee should be used to decide if they exceed the prescribed amount.
- Fair market value should be used to assess the value of a gift, and records kept on how a particular valuation was reached. Valuing items such as jewellery, secondhand goods and artworks requires particular attention. Remember: deliberately undervaluing gifts to avoid reporting them is considered fraud.
- Gifts and benefits to be declared must be clearly defined, and any exceptions specified in detail. (Some special cases are detailed below.)
- Gifts and benefits must be reported to the organisation within a predefined time period from receipt (e.g. one month).
- A suitable manager/delegate should be made responsible for deciding whether the gift may be retained by the recipient. The organisation must retain any items of cultural or historical significance. Generally, staff should be permitted to retain gifts worth less than the prescribed amount, unless acceptance could be perceived as affecting their ability to perform their duties independently and impartially.
- Fringe benefits tax liability must be considered in any decision relating to the retention of a gift or benefit.
- The organisation should record the details, including what was done with the gift (e.g. retained by the recipient, sold at auction, put on display), on a publicly available 'gifts register'. Responsibility for the register must be assigned to a suitable officer.
- Gifts that are retained by the organisation must be accounted for (e.g. on an assets register).
- The organisation should outline the steps taken to ensure that all staff are aware of their obligations under the policy and procedure.

Some organisations choose to have a process whereby an officer offered a gift may purchase it from the organisation at a fair price. Such processes must be transparent and equitable.

## Special cases

Some circumstances cause uncertainty, for example:

- **Corporate box and event invitations** — these must be declared if there is any official connection with the donor, even when the invitation appears to be issued on a personal basis.
- **Lucky door prizes and similar gifts at functions or conferences** — these are gifts if the employee is attending in an official capacity or with funding from the organisation. Raffle or lottery winnings from tickets that the employee paid for privately are not considered a gift or benefit.
- **Benefits such as coffee-shop discounts or travel deals that are offered equally to all employees** — the organisation needs to take an official position and consider the identity of the donor and the intention behind the offer, as well as any possible link between giving a discount and expecting reciprocal action by the public service employee.
- **Frequent flyer points or other consumer rewards** — these belong to whoever paid for the purchase. If the organisation paid for the travel, the points belong to the organisation.
- **Industry awards received for work done in an official capacity** — these must be declared and separate

consideration given to the various components of the award (trophies, equipment, travel, holidays, bursaries or scholarships).

- **Small tokens of thanks** (such as a bottle of wine or box of chocolates for delivering a speech) — these can normally be accepted as a matter of social convention. However, you should consider the value of the gift and the sensitivity of the recipient's position.

## Making the right decision

The chart below will help you make the right decision about whether to accept, declare, or reject a particular gift. Remember to check your organisation's policy on gifts or benefits first, because it may have different standards and thresholds from those outlined here.

Always consult your supervisor or senior manager about any gift or offer of a gift, and ensure that the matter is handled in a manner that cannot reflect on your own integrity or that of your employer.

- Gifts and benefits — making the right decision (PDF, 455 KB)

## Further information and resources

- Accepting gifts and benefits at Christmas
- *Criminal Code 1899* (Part 2, Chapter 13)
- *Public Service Commission Directive No. 22/09, Gifts and benefits*
- *Financial Accountability Act 2009* (Parts 1, 4, and 5)
- *Financial and Performance Management Standard 2009*
- *Local Government Act 2009* (Chapter 1 and Chapter 2 (1))
- *Public Sector Ethics Act 1994*
- *Public Service Act 2008* (Chapter 1 (part 3) and Chapter 6)
- The regulation of political donations and gifts in Queensland: a comparative analysis

Please contact us if you would like further detailed guidance and information on any aspect of this advisory.

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