

Gifts and benefits

Accepting a gift or a benefit may seem innocent, especially if it is a low-value or token gift. But accepting any gift, even a small one, could be the start of a more complicated pattern of conduct and become a serious corruption risk. For precisely that reason, public sector roles such as those of procurement or contract management staff are expressly forbidden to accept **any** gift or benefit.

The aims of this advisory are to:

- Explain why accepting gifts and benefits can be a serious corruption risk, and
- Encourage agencies to ensure that their systems for managing gifts and benefits minimise the potential for unethical or corrupt behaviour by either the giver of gifts or the person to whom they are offered.

As agency policies related to the acceptance and recording of gifts and benefits vary across the Queensland public sector, **this advisory should be read in conjunction with agency-specific directives, policies and thresholds.**

A gift or a benefit can be any tangible or intangible thing, including goods or services provided below the retail price (e.g a generous discount on purchase of goods).

Legislation and directives on gifts and benefits

The main authority for guidance about gifts and benefits is the legislation most relevant to your agency, such as the *Public Sector Ethics Act 1994* or the *Local Government Act 2009* – its requirements or principles are carried through into codes of conduct, directives and policies. All agencies and their staff should be aware of their governing legislation in relation to gifts and benefits.

The Public Service Commission (PSC) has recognised that acceptance of gifts or benefits by public service employees has the potential to negatively affect how the public service is viewed.

Any perception that the recipient has or could have been improperly influenced by a gift or benefit can undermine public confidence in the integrity, impartiality and fairness of the system of government.

The PSC's [*Directive No. 22/09 Gifts and Benefits*](#):

- Reflects the ethics, principles and values in the *Public Sector Ethics Act 1994* and the requirement to act with integrity and impartiality as described in the Code of Conduct for the Queensland Public Service.
- Provides a definition and mandatory guidance for the public service as to what comprises a gift or benefit, and includes gifts and benefits that are given by public sector employees as well as what may be accepted.

Be gifts and benefits smart

- It is important to remember that an act of apparent generosity from a co-worker may be an attempt to compromise the employee, especially if the employee is in a position to report their poor work performance or have a key or sensitive role.¹
- Rationalisations such as “the boss is getting gifts”, “everyone’s doing it”, “it’s only fair”, “it’s just this once” or “I didn’t want to offend” will not protect employees from allegations of corrupt conduct and possible disciplinary action.
- Offering, seeking to obtain, or corruptly receiving a gift or benefit may be a criminal offence.² Deliberately not disclosing, or undervaluing, gifts and benefits to avoid reporting them may be considered fraud.

Corruption risks

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

- be the first step in a process of “grooming” (see below)
- provoke a sense of obligation in the recipient towards the donor
- consciously or unconsciously influence decisions made by the public entity
- cause a perception of undue influence
- be perceived as taking a bribe or secret commission
- benefit some individuals or organisations through influence or unjust decisions, while unfairly disadvantaging others.

Beware of grooming

CCC corruption investigations have found instances in which suppliers set out to create false friendships and used gifts and benefits to manipulate buyers³. The CCC refers to this practice as “grooming”, where the main purpose for the perceived friendship and distribution of gifts or benefits is simply to create a favourable impression with an employee (for example, a purchasing decision-maker).

Success is achieved once the employee accepts the gift or benefit. The result is that the employee’s favourable opinion of the supplier consciously or unconsciously influences future buying decisions. Invitations to a corporate sporting box or tickets to a concert, a free lunch, a free game of golf at an exclusive golf club, especially during times where no Invitations to Tender or supply contracts are available, may be examples of grooming.

The employee receiving the gift or benefit can argue that it will not influence their decision-making, however, the perception that it could is real. In any case, the supplier has already achieved their goal once the employee thinks favourably of them.

¹ Crime and Corruption Commission, *Fraud, financial management and accountability in the Queensland public sector: an examination of how a \$16.69 million fraud was committed on Queensland Health*, Brisbane, 2013, pages 9 and 19. <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Fraud-financial-management-and-accountability-in-the-qld-public-sector-Report-2013.pdf>

² *Criminal Code Act 1899*, Chapter 42A, Secret commissions

³ [NSW ICAC Report Operation Jarek, Chapter 4, Corruption prevention](#)



Important questions to ask

Managers should provide guidance to employees about the risks and issues associated with gifts and benefits, particularly if they feel that employees are unsure about their obligations. To help employees determine the best course of action in relation to an offer of a gift or benefit, managers and staff could explore hypothetical scenarios and consider questions such as:

- Is the intended recipient of the gift in a high-risk or sensitive role?
- Are they only being offered the gift because of the position they hold?
- Is the offer of the gift or benefit being made by a person or organisation who could benefit from a favourable decision either at present or in the future?
- Does the decision to accept the gift or benefit place the intended recipient in a conflict of interest situation?
- Would someone else with sufficient understanding of the circumstances perceive that acceptance of the gift or benefit could have influenced the decision?

There are some public entity roles, such as procurement officers and contract managers for the monitoring or delivery of goods or services, for whom the corruption risks and perceptions of conflict of interest associated with accepting gifts or benefits from suppliers are too great. In these instances any offer of a gift or benefit must be declined.

[Read more about procurement risks.](#)⁴

Strategies to prevent corrupt conduct and reputational harm

Develop and implement a policy and procedure

The PSC Directive is a good guide for any agencies looking for guidance on what should be included in a gifts and benefits policy. To ensure that a gifts and benefits policy contains a strong anti-corruption message, the following points should be considered:

- Agencies should undertake their own risk assessment of vulnerable functions and positions and provide clear guidance on how staff are to manage those risks.
- Some sectors will need to consider special circumstances and design policies and procedures to meet those circumstances. Examples of this could include doctors receiving sponsored professional training seminars from industry bodies, and teachers receiving end-of-year gifts from students and/or parents.
- There may be corruption risks where employees engage in secondary employment and, in the course of that work, are offered gifts which create real or perceived conflicts of interest.
- When determining whether or not it is appropriate to accept the gift, consider the intention behind the giving of a gift as well as what the community may perceive the intention to be.
- The circumstances surrounding the way the gift or benefit is offered must always be considered. Bribery is a serious criminal offence and staff must immediately report to their manager or supervisor anyone who attempts to give them something with the expectation that they will give the donor favourable treatment in return. If staff do not deal with offers of gifts and benefits appropriately, they could face reprimand, loss of salary, fines, dismissal or jail time, or their conduct may be referred to the CCC.

⁴ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-Prevention-Advisory-Procurement-and-contract-management-2016.pdf>



- Giving and receiving gifts and benefits between staff (other than through an official performance-related recognition program or group celebration of life events such as birthdays or marriage) may be “grooming” and can be the cause of corruption within a public entity.
- All gifts and benefits given to employees in their official capacity are the property of the public entity. Therefore, not disclosing the receipt of the gift or benefit may be considered theft or fraud and may result in such behaviour being referred to the CCC.
- The public entity should ensure that staff are aware of their obligations under the policy and procedure.
- Ideally, information about gifts and benefits, including the agency’s policy and the possible corruption risks, should be publicly available, and form part of induction training and regular refresher training. However, some roles (such as procurement, contract management, compliance and enforcement, and issuing authorisations or licenses) have greater risks attached to them and specialised and more detailed training is recommended.

Special cases

The following cases involve particular types of gifts and benefits that are often overlooked when developing policies.

- *Lucky door prizes and similar gifts at functions or conferences.* If the employee is attending in an official capacity or with funding from the organisation, these gifts are the property of the agency. 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 agency 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.
- *Reward scheme points.* Public entities should develop clear policies about benefits such as reward scheme points accrued from the use of a corporate credit card or other reward scheme points such as frequent flier points accrued by those travelling on official business.
- *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).

Learnings from CCC investigations and audits

CCC investigations and audits have revealed instances where employees understood their obligations under a particular policy or process but decided to ignore those obligations in order to obtain an improper advantage or gain. Unfortunately, these examples show why public entities cannot always rely on individuals to do the right thing and act in the public interest, rather than self-interest.

Therefore, the CCC recommends that public entities should not leave the responsibility for declaring and managing gifts and benefits solely with individual employees or delegated officers. Relying solely on the honesty of their staff, rather than pursuing proactive initiatives, may leave public entities exposed to fraud and corruption.

To give confidence that the control arrangements facilitated by a gifts and benefits policy (and associated declaration process) are working, public entities should also consider innovative ways of proactively utilising their systems to identify potential undeclared gifts and benefits on the part of their employees. In support of this, public entities might consider what systems and processes



they already have that may assist to provide this confidence. Examples may include data mining procedures or utilising their internal audit area to conduct an audit of their gifts and benefits processes and controls.

Conclusion - Making the right decision

The *Guide to declaring gifts and benefits flow chart* (page 6) will help employees make the right decision about whether to accept, declare, or reject a particular gift or benefit.

Remember to check your public entity's policy on gifts or benefits first, because it may have different standards and thresholds from those outlined here.

Employees should be encouraged to always consult supervisors or managers about any gift or benefit, or offer of a gift or benefit, and ensure that the matter is handled in a way that cannot reflect negatively on their integrity or that of the public entity.

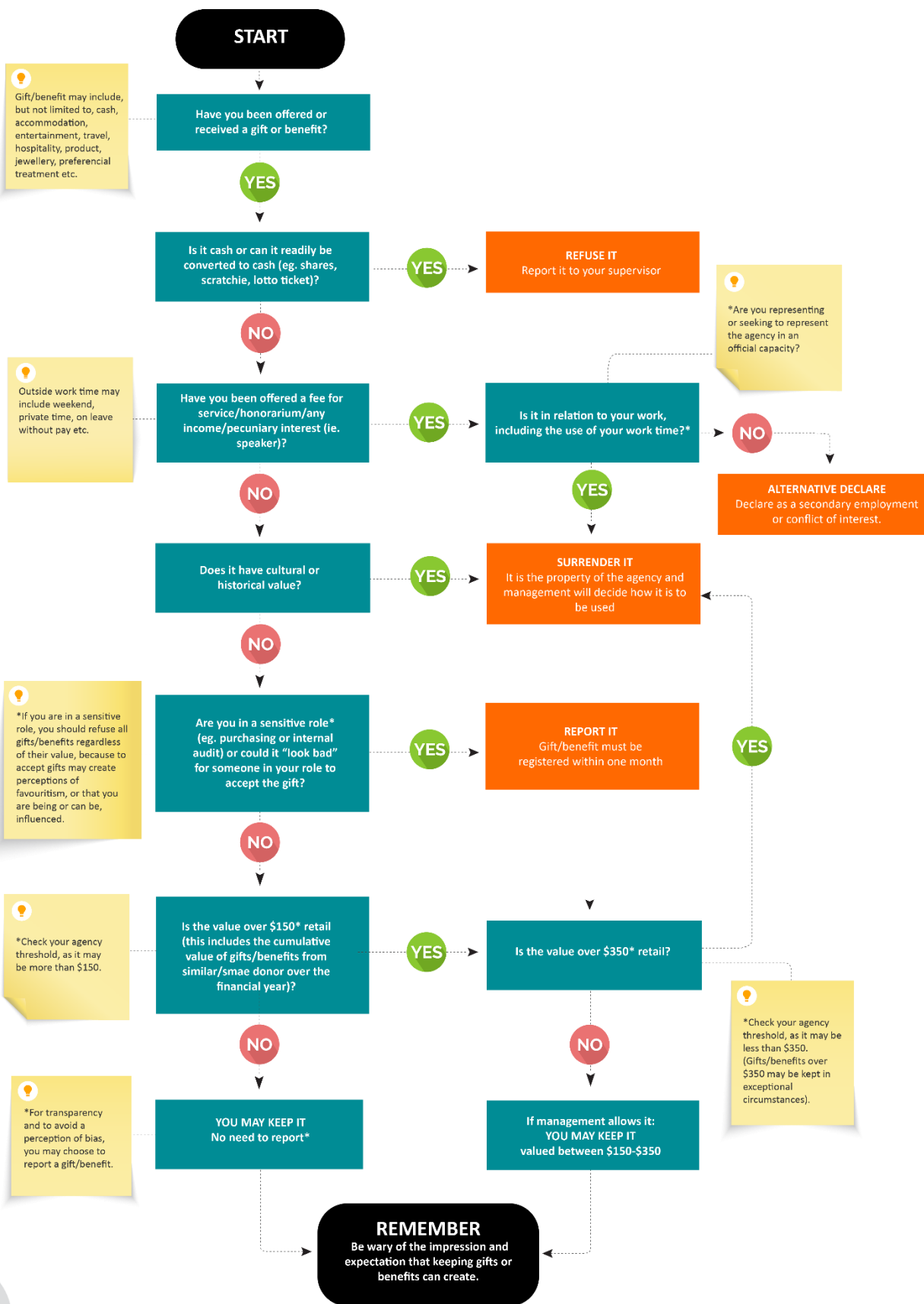
Further information and resources

- [Financial Accountability Act 2009 \(Parts 1, 4, and 5\)](#)
- [Financial and Performance Management Standard 2009](#)
- [Local Government Act 2009](#) (Section 13, Chapter 5 and Chapter 8)
- [Public Sector Ethics Act 1994](#)
- [Public Service Act 2008](#) (Chapter 1 (part 3) and Chapter 6)
- [Public Service Commission — Gifts and Benefits \(Directive No. 22/09\)](#)
- [Public Service Commission — Gifts and benefits: Guideline](#)
- [Public Records Act 2002](#)
- Queensland Integrity Commissioner: [What is lobbying?](#)
- [Queensland Ministerial Handbook](#)
- Codes of Conduct:
 - [Local Government Code of conduct for Councillors in Queensland](#)
 - [Ministerial Staff](#)
 - [Opposition Staff](#)
 - [Queensland Public Service](#)



CCC Guide to declaring gifts and benefits

This flowchart highlights decision points and recommended courses of action in managing a gift or benefit.



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