

1 Title: Gifts and Benefits

2 Purpose:

This directive outlines the ethical considerations and procedures involved in the giving and receiving of gifts and benefits by employees and agencies of the Queensland Public Service.

3 Application:

This directive applies to:

- all public service agencies;
- public service employees, including chief executives, senior executives, senior officers, public service officers, and temporary employees and general employees engaged under *Public Service Act 2008*; and
- those public service offices and employees to whom this directive is applied under the *Public Service Regulation 2008*.

4 Legislative Provision: *Public Service Act 2008* – sections 9, 25, 26, 53, 98.

5 Effective date: 1 January 2010

6 Definitions:

Accountable officer has the meaning given by the *Financial Accountability Act 2009* or the appropriate officer who has responsibility for the financial administration of the agency, if the agency is not subject to the *Financial Accountability Act 2009*.

Employee health and well-being program means a program designed to promote health by encouraging individuals to lessen their exposure to common health risks and to actively prevent the onset of disease.

Retail value means the reasonable retail value of the gift or benefit.

Gifts and benefits means :

- (a) the transfer of property or other benefit
 - a. without recompense; or
 - b. for a consideration substantially less than full consideration; or
- (b) a loan of property made on a permanent, or an indefinite, basis;

received or given by an official when they are acting in their official capacity.

For the purposes of this directive, gifts and/or benefits include tangible items of lasting value and intangible items of no lasting value (including hospitality).

It does **not** include any gifts or benefits given or received under an appropriately approved employee health and well-being program or an appropriately approved rewards and recognition program. It does **not** include benefits negotiated when an agency sponsors a service, product or activity on its own or with another government agency, as may occur under the Queensland Government Sponsorship Policy.

Public perception means the perception of a fair-minded person in possession of the facts.

Rewards and recognition program means gifts or benefits received by public service employees awarded under an appropriately approved agency program that recognises contributions towards meeting agency outcomes and objectives.

7 Directive:

7.1 Principles

- Being a public service employee involves a public trust. This means that duties must be carried out impartially and with integrity. Consequently, it is not appropriate for public service employees to be offered, to accept or to give gifts and benefits that affect, may be likely to affect or could reasonably be perceived to affect, the independent and impartial performance of their official duties.
- Public service employees must at all times be mindful of their obligation to maintain and enhance public confidence in the integrity of public administration.
- Public service employees must not ask for or encourage the giving of any form of gift or benefit in connection with the performance of official duties. This includes entering any discretionary competitions which involve a prize.
- Any gift or benefit accepted, regardless of monetary value, implies, or may imply, a relationship which may interfere with objectivity and independence.
- In most situations public service employees can decline offers of gifts or benefits courteously by explaining that acceptance would be against agency policy and consequently that they have no discretion in the area.
- Gifts or benefits accepted by a public service employee remain the property of the agency unless the accountable officer for the agency determines it is appropriate for the recipient to retain the gift or benefit.

7.2 Acceptance of gifts and benefits

If offered a gift or benefit, a public service employee or agency must always consider whether a gift or benefit is appropriate to accept. Issues to consider include why the offer was made and the public perception of acceptance.

Public service employees should discuss these issues with a supervisor or manager to ensure appropriate approval is obtained prior to a decision about whether to accept a gift or benefit.

Any offer of cash, or any items which are readily converted into cash, must be refused in all circumstances. Accepting money in any form will breach a number of public service policies and legislative requirements and may be seen as an attempt at bribery.

7.2.1 Benefit to the State of Queensland

Any gift, other than a token or memento, must not be accepted unless it can be shown to be of benefit to the agency, the State of Queensland and/or the public generally.

7.3 Giving of gifts or benefits

The provisions of this directive also apply to the giving of gifts or benefits by public service employees and agencies. Consideration must be given to why the gift is being offered and the public perception of the giving of the gift or benefit.

Any gift or benefit must be for official purposes and accountable officers must be able to identify the benefit for the agency, the State of Queensland and the public generally.

7.3.1 Official Hospitality

Expenditure for official hospitality must be considered only where it is considered essential to facilitate the conduct of public business through persons who are able to do so, either by advice or because of their vocation or business needs. Such hospitality should not be a substitute for business meetings which would ordinarily be conducted in the workplace.

7.3.2 Corporate Gifts

The practice of giving gifts should not be common or frequent in occurrence. The appropriateness of gift giving must be considered and appropriate approval must be obtained from the accountable officer. Where a gift is to be made on behalf of the State, consideration should be given to selecting an appropriate gift from the Official Gift Range maintained by Protocol Queensland.

7.3.3 Gifts or benefits offered to public service employees

Any gift or benefit that is offered to a public service employee on behalf of their employing agency or the State, except those offered as part of an appropriately approved employee health and well-being program, appropriately approved rewards and recognition program or relevant directive¹, must comply with the requirements of this Directive.

7.4 Reporting of gifts and benefits

Any gift or benefit received or given that has a retail value of more than \$150 must be recorded in a gifts and benefits register. If multiple gifts are from the same donor or from donors in a similar relationship with the public service employee, in any financial year and the cumulative value is more than \$150, then each gift or benefit must be reported. Gifts or benefits received must be reported within one month of receipt.

¹ For example, Directive 2/07 Rewards for Creating Commercially Valuable Intellectual Property.

Any gifts of cultural or historical significance must be reported, regardless of their value.

7.4.1 Determining values

Public service agencies and employees should have an appropriate person verify the estimated retail value of a gift, if the value is not easily established. Deliberately undervaluing a gift or benefit to avoid reporting it or to fraudulently keep it may be official misconduct.

7.4.2 Gifts and Benefits Register

Gifts or benefits received or given with a retail value of more than \$150 must be recorded in the agency's gifts and benefits register. Agency registers must be in a form approved by the Commission Chief Executive. The register must be published under the *Right to Information Act 2009* as part of an agency's publication scheme. The register must be published online each quarter, within 10 calendar days of the end of the quarter.

7.4.3 Review of Gifts and Benefits Register

The gifts and benefits register is to be subject to regular review. The reviewer must be independent and should communicate any results of the review to the accountable officer. The purpose of such a review should include analysis for trends or patterns which may cause concern and need corrective and preventative action.

7.5 Retention of gifts and benefits

Gifts or benefits accepted by a public service employee or agency remain the property of the agency unless the accountable officer determines it is appropriate for the recipient to retain the gift or benefit.

7.5.1 Accepted gifts of \$150 value or less

Any gift or benefit which has a retail value of \$150 or less and is accepted by a public service employee or agency, may remain the property of the employee if acceptance is not likely to affect, or could reasonably be perceived to affect, the independent and impartial performance of the employee's official duties.

Any gifts of cultural or historical significance must remain the property of the agency, regardless of their value.

7.5.2 Accepted gifts of more than \$150 value

Any gift or benefit accepted by a public service employee or agency and is not a gift of cultural or historical significance:

- which has a retail value of between \$150 and \$350 may remain the property of the employee if the accountable officer gives approval for the public service employee to retain the gift or benefit in appropriate circumstances; or

- which has a retail value of over \$350 may remain the property of the employee if the accountable officer gives approval for the public service employee to retain a gift or benefit, in exceptional circumstances.

All gifts of cultural or historical significance must remain the property of the agency, regardless of their value.

If a gift or benefit is retained by the agency, it must be used for public benefit and in an appropriate manner. If an agency does not have an appropriate use for the gift or benefit, it may be disposed of in accordance with the Guidelines for Gifts and Benefits.

7.5.3 Gifts or benefits must not involve time away from official duties

Public service employees must not be away from their official duties at public expense. Gifts or benefits can only be used outside the public service employee's normal working hours or on approved leave, unless the gift or benefit forms part of the public service employees' official duties and appropriate approval is obtained.