

1 Title: Gifts and Benefits

2 Effective Date: 1 January 2010

3 Purpose

To provide guidance on the ethical considerations and procedures involved in the giving and receiving of gifts and benefits by employees and agencies of the Queensland Public Service.

4 Application:

This guideline 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*.

5 Principles:

This guideline should be read in conjunction with the *Gifts and Benefits Directive* and the principles which concern the giving and receipt of gifts and benefits in other documents, such as the *Public Sector Ethics Act 1994*, *Codes of Conduct*, the *Public Service Act 2008*, the *Financial Accountability Act 2009*, the *Financial Management Standard 2009*, the *Crime and Misconduct Act 2001*. Provisions in the Cabinet Handbook, Ministerial Handbook and Parliamentary Standing Orders may also be relevant.

6 Guidelines:

6.1 Definition of gifts and benefits

In accordance with the definition in the Gifts and Benefits Directive, the term 'gifts and benefits' refers to items given and received in the course of official duties and includes tangible (of lasting value) and intangible (of no lasting value) items.

Gifts and benefits include, but are not limited to:

- Gifts of alcohol, clothes, products;
- Gifts of travel or accommodation;
- Preferential treatment such as queue jumping, use of facilities, hospitality or benefits generally;
- Food and drink received or given as part of a meeting, conference, trade display or other event attended as part of official duties;



- Cap, pen, pencil, notepad, bottle of wine, bunch of flowers, box of chocolates;
- Free use of facilities such as gyms, holiday homes or discounted travel;
- Corporate offers of transportation, accommodation, tickets, meals and functions as part of a major event;
- Awards or prizes including lucky door prizes or similar;
- Tickets to the theatre, cultural events, sporting and other events or access to a private spectator box at a sporting or other venue;
- Restaurant meals and beverages; and
- Sports team sponsorship.

6.2 Acceptance of gifts and benefits

The first consideration must always be whether a gift or benefit is appropriate to accept. There are two major considerations – why was the offer made and the public perception of acceptance.

A Useful Decision Making Guide has been included in appendix one as an example of how an employee may consider whether a gift or benefit should be accepted. It is provided as an example only and specific circumstances should be discussed with a supervisor or manager.

Why was the offer made?

Each type of gift carries with it different risks that should be considered when deciding whether or not to accept a gift or benefit. (This is not an exhaustive consideration of why gifts may be offered).

- Can it be perceived that it is a gift or benefit to influence? These gifts or benefits are intended to generally ingratiate the giver with the recipient for favourable treatment in the future. Acceptance of these gifts or benefits should not be accepted.
- Can it be perceived that it is a gift or benefit of gratitude? These are gifts offered to an individual or agency in appreciation of specific tasks or for exemplary performance of duties. This includes gifts for staff who speak at official functions as part of their duties. Such gifts are frequently offered, and in many circumstances, it would be inappropriate to refuse them. Acceptance of these gifts or benefits should only be contemplated when services to a client are completed to avoid any expectation of favourable ongoing treatment or the impressions of such to others. Acceptance of these gifts or benefits can be considered as they represent a lower risk.
- Was it a memento or token gift or benefit? Token gifts are offered in business situations to an agency or public service employee representing an agency. They are usually products that are mass-produced and not given as a personal gift. This includes sponsors material provided to all delegates at a conference. Acceptance of these gifts or benefits can be considered as they represent a lower risk.
- Was it a ceremonial gift or benefit? These are official gifts that are offered by one organisation to another. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency not a particular individual. Acceptance of these gifts or benefits can be considered as they represent a lower risk.

The public perception of acceptance

Public perception of the acceptance of a gift or benefit can be affected by various factors, such as:

- The relationship between the giver and the public service employee. If the public service employee is in a position to provide advice or make decisions about (but not limited to) granting licences, inspecting and regulating businesses or giving approvals, it is more likely that the gift would be perceived as inappropriate.

- The transparency and openness of the gift. If the gift is offered to a public service employee in a public forum, it is less likely to be perceived as a gift of influence than if it were offered in a private context.
- The value of the gift. Expensive gifts are more likely to be perceived as gifts to win favours.
- The frequency of gift giving. Agencies should take into account previous gifts given by an individual or organisation to a public service employee. While the perception that one gift may not be considered sufficient to cause a public service employee to act outside their official duty, the sum of multiple gifts may be considered sufficient to do so. Multiple gifts from the same donor or from donors in a similar relationship with the public service employee, where the cumulative value is more than \$150 in any financial year, must be reported under section 7.4.

Offers of cash

Any offer of cash, or any items which are readily converted into cash (e.g. lottery ticket, 'scratchie', shares), must be refused. Accepting money in any form may breach a number of public service policies and legislative requirements, including the Criminal Code¹. Offers of cash may be seen as an attempt at bribery. If you are not in a position to refuse the acceptance of such a gift, you should immediately pass it on to your supervisor, manager or an accountable officer within your agency.

In exceptional circumstances, such as an award which involves a cash prize, express approval must be obtained for an employee to accept such a gift or benefit. This is still subject to the considerations under section 6.2 (acceptance of gift or benefit), 6.4 (reporting of gifts or benefits) and 6.5 (retention of gifts or benefits).

6.3 Giving of gifts or benefits

The provisions of the directive and guidelines also apply to the giving of gifts or benefits by public service employees and agencies. Similar considerations as above (why was the offer made and public perception of acceptance) apply to the giving of gifts. Agencies and employees must consider why the gift is being offered and the public perception of the giving of the gift or benefit.

Agencies should also consider the implications of Fringe Benefit Tax (FBT) when making decisions about giving gifts or benefits.

Official Hospitality

In certain cases, it may be periodically appropriate to provide hospitality to individuals of particular importance to the agency or the State. Examples would include:

- Interstate and overseas visitors (where the department or agency has an interest in, or a specific obligation towards, facilitating the visit);
- Representatives of business or industry, trade unions and recognised community organisations, the press and other media; and
- Representatives of other levels of government (in exceptional circumstances only).

Other types of hospitality which may be considered reasonable may include:

- Provision of tea, coffee, morning or afternoon tea for official visitors; and
- Provision of light refreshments/lunches for internal meetings, conferences, seminars and workshops.

Generally, working meals should be of a light nature at the work/meeting location, unless associated with a seminar or other function at a particular venue.

Corporate Gifts

In certain cases it may be appropriate for public service employees to provide corporate gifts to individuals or organisations on behalf of the State. Examples of such cases may include:

¹ For example, the *Public Sector Ethics Act 1994*, *Crime and Misconduct Act 2001*, *Criminal Code 1899*, *Public Service Act 2008*.

- Presentation to sponsors of events;
- Presentation to artists in appreciation of their work;
- Presentation to judges of events or awards acting in an honorary capacity (does not include employees of the department);
- Presentation to foreign dignitaries or delegations visiting Queensland;
- Presentation by eligible public service employees when travelling overseas on official government business.

The practice of giving gifts should not be common or frequent in occurrence. The appropriateness of gift giving should 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.

Gifts or benefits offered to public service employees

Gifts or benefits that are offered as part of an appropriately approved employee health and well-being program, appropriately approved rewards and recognition program or relevant directive, are excluded from the provisions of the Gifts and Benefits Directive. All other gifts or benefits offered to a public service employee on behalf of their employing agency, must comply with the requirements of the Directive.

6.4 Reporting of gifts and benefits

Agencies who have public service employees in sensitive roles (for example providing advice or making decisions about [but not limited to] granting licences, inspecting and regulating businesses or giving approvals, internal audit, tendering, purchasing) should give consideration to reporting all gifts or benefits offered.

If public service employees are in any doubt about whether a gift or benefit should be reported, they should discuss this with their supervisor, manager or accountable officer within their agency.

6.5 Retention of gifts and benefits

Disposal of gifts or benefits

If an agency does not have an appropriate use for the gift or benefit, it may be disposed of in accordance with these principles:

- Disposal of gifts must be in the public interest and pay due respect to the wishes and expectations of the donor (if known). Disposal by donation to a charity, hospital, school, community or non-profit organisation or similar should be considered;
- Disposal of gifts to individuals is not allowed;
- The disposal should be properly documented for audit purposes; and
- Conflicts of interest should be avoided.

Gifts or benefits should not involve time away from official duties

Offers of tickets or corporate hospitality at sporting events, the theatre or other major recreation attractions are to be treated in the same manner as all other gifts or benefits. Any public service employee attending a sporting event, theatre or recreation attraction as part of a gift or benefit, must ensure that this occurs outside the public service employee's normal working hours or on approved leave.