

Gifts, Benefits and Hospitality Policy and Procedures

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POLICY

1. Purpose

This policy and procedures document establishes obligations and standards of conduct for NSW Crime Commission officers (Commission officers) in the handling of gifts, benefits and hospitality while carrying out public duties.

The Commission must stringently manage offers of gifts, benefits and/or hospitality in order to avoid actual or perceived conflicts of interest or corrupt behaviour. Members of the Executive Team are expected to lead, model, and promote the implementation of this policy in their professional and personal conduct.

2. Scope/Application

This document is binding on all Commission officers, including a person engaged by the Commission as a consultant, contractor or a Police officer under the *Crime Commission Act 2012*.

This policy applies specifically to the following Commission officers:

- Staff who have been offered a gift, benefit and/or hospitality;
- Managers/Supervisors;
- Division Heads (e.g. Executive Directors and the Internal Audit and Risk Manager);
- Human Resources (HR) Manager;
- Commissioner and Assistant Commissioner (Legal).

3. Definitions

Benefits relate to preferential treatment, privileged access, favours or other intangible advantages such as a personal service or job offer.

Bribe is a monetary inducement or gift, benefit and/or hospitality offered to influence a person to act a particular way while performing their public duty.

Gifts are any tangible or non-tangible item such as a service, prize, ticket, meal, travel, or accommodation provided by a client, applicant, supplier or external organisation, which has an intrinsic value or a value to the recipient, a member of their family, friend or associate.¹

Gifts, Benefits and Hospitality Register is an Objective spreadsheet managed by the HR Manager that records the circumstances when a Commission officer is offered a gift, benefit and/or hospitality.

Gifts of gratitude/appreciation are gifts that may be offered as a result of speaking at a conference, providing a paper to an industry publication or similar.

Hospitality is the provision of benefits such as entertainment or catering directly associated with and consumed during the course of a particular event.²

¹ NSW Public Service Commission, *Behaving Ethically: A guide for NSW government sector employees*, p. 39.

² NSW Department of Premier and Cabinet, *Gifts, Benefits and Hospitality Policy*, p. 6.

Non-token gifts, benefits and/or hospitality are items that have a retail value greater than \$30.

Personal interest refers to the interests that arise from an individual's private or non-work life that can bring financial or other material benefits or result in disadvantages to the public interest or to other people. Personal interests include the interests of an individual's close connections, including family connections and/or the interests of associates.

Public duty is a power, authority, duty or function that is conferred on a person as the holder of public office, and includes a duty to serve the public interest, the agency and the public in an ethical manner.

Token gifts, benefits and/or hospitality are items that have a retail value less than or equal to \$30.

4. Policy Statements

4.1 Guiding Principles

Commission officers are to uphold the Commission's *Conflict of Interests (including Declarable Associations) Policy and Procedures, Code of Conduct*, and the NSW Public Sector's core values of trust, integrity, service and accountability in their personal and professional conduct. In carrying out their public duty, Commission officers are to:

- Place the public interest over personal interests;
- Act professionally with honesty and impartiality;
- Be transparent in activities; and
- Avoid situations that give rise to the appearance of preferential treatment in the discharge of public duties.

4.2 Prohibitions

Commission officers are expected to **decline** any gifts, benefits and/or hospitality where:

- There could be a perception by a 'reasonable person'³ of a conflict with personal interests, or preferential treatment or influence in the execution of public duty.
- The gift, benefit and/or hospitality **exceeds \$30** and can be declined politely in the circumstance. This also includes token gifts, benefits and/or hospitality that have a cumulative value exceeding \$30.
- The offer is from an internal or external source with an interest in the processes around Commission management and decision making. For example, a colleague, Manager/Supervisor, Executive Team member, head of another agency, regulator, supplier/potential supplier, contractor, consultant, family, friend or associate.
- The officer receiving the offer is involved in management decisions, oversight responsibilities, purchasing approvals, evaluating tenders/quotes/proposals or applications, or managing contracts.
- The gift or benefit is cash, cheques, money-orders, gift vouchers, debit cards, pre-paid cards, or is similar to cash.

³ The NSW Independent Commission Against Corruption publication, *Managing Conflicts of Interest in the NSW Public Sector April 2019*, defines a 'reasonable person' as a fair-minded and informed observer, p. 5.

- It is provided to a Commission officer's family member, friend or associate.
- It undermines the core values of trust, integrity, service and accountability of the NSW Government Sector.

In turn, Commission officers must not solicit gifts, benefits, and/or hospitality from a colleague, external agent or organisation. Such actions constitute bribery and corrupt conduct under the *Independent Commission Against Corruption Act 1988* and may lead to criminal prosecution.

4.3 Exceptions

Although it is ideal to decline gifts, benefits and/or hospitality, refusal in some situations may be unavoidable.

Exceptions to the above prohibitions include:

- A token gift, benefit and/or hospitality not exceeding the value of **\$30**.
- Gifts that are non-returnable (e.g. items received by post or sent anonymously).
- Gifts of gratitude or appreciation that may cause unnecessary embarrassment if refused (e.g. mementos presented at the conclusion of a conference).
- Offers where the hospitality is 'proportionate' and no preferential treatment is given (e.g. refreshments or meals served at a conference where attendance is part of Commission business or for networking purposes).

4.4 Declaring and Managing Gifts, Benefits and/or Hospitality

A Commission officer must declare any accepted/declined gift, benefit and/or hospitality in writing to a Manager/Supervisor and the HR Manager so it can be managed in a way that will reduce risk to an acceptable level.

The HR Manager is to keep details of any gifts, benefits and/or hospitality confidential, particularly those offered by a Human Source.

4.5 Managing Commission-Provided Gifts, Benefits and/or Hospitality

To reduce reputational impact, the Commission will generally not fund the provision of gifts, benefits and/or hospitality to external parties or Commission employees, including half-yearly and Christmas functions. The Commission will follow the advice in sections 4.3 and 4.4 of the NSW Department of Premier and Cabinet's [Gifts, Benefits and Hospitality Policy](#) in this regard.

In some circumstances there may be exceptions regarding Commission-provided hospitality however, these must be approved by an officer with delegated financial authority.

4.5.1 Hospitality for Specific Meetings

Modest catering provisions (e.g. light refreshments) may be provided as part of an on-site conference, forum, roundtable, or workshop where invitees from external organisations are present, and where such meetings are longer in duration than a few hours. Catering for Commission lunchtime seminars is also permitted. Food choices for all catered meetings and seminars should be modest in scope, sourced from a local commercial vendor and approved by an officer with delegated financial authority.

4.5.2 Hospitality for International Guests

The Commission may purchase meals and token gifts for international delegations who are visiting the Commission in an official work capacity.

4.6 Disposing of Gifts, Benefits and/or Hospitality

Once declared, the HR Manager will dispose of a gift, benefit and/or hospitality in a manner that is fair and does not advantage any related party. The HR Manager will ensure all documentation and correspondence related to the gift, benefit and/or hospitality is recorded in Objective.

4.7 Handling Breaches and Misconduct

If a Commission officer fails to disclose a gift, benefit and/or hospitality in accordance with this policy, or if their conduct in handling this is corrupt, criminal or otherwise calls their integrity into question, the officer will be in breach of the Commission's *Code of Conduct* and may also be in breach of:

- *Government Sector Employment Act 2013*;
- *Government Sector Employment Rules 2014*;
- *Law Enforcement Conduct Commission Act 2016* (the LECC Act);
- NSW Public Service Commission *Code of Ethics and Conduct for NSW Government Sector Employees*.

Any disciplinary action will be handled by the HR Manager in line with the Commission's *Misconduct and Unsatisfactory Performance Policy and Procedures*, and may also be notified to the Law Enforcement Conduct Commission in accordance with section 14 of the LECC Act.

If a Commission officer believes they have been offered a gift, benefit and/or hospitality as a bribe, or know of a colleague who has been offered one, they must report it to their Division Head and the HR Manager. Accepting a bribe will constitute corrupt conduct under the *Independent Commission Against Corruption Act 1988* and may lead to criminal prosecution.

4.8 Audit

Compliance with this policy will be audited by the Commission's Internal Audit function annually.

4.9 Training

The HR Team will provide Commission officers with training and support in the management of gifts, benefits and hospitality when required. In addition, the HR Manager is to provide information on this policy to new starters as part of their induction. For current staff, the HR Manager will advise on gifts, benefits and hospitality obligations as and when necessary, and is authorised to escalate issues to the Commissioner or Assistant Commissioner (Legal) for advice and further management.

5. Related Legislation and Documents

The following relevant legislation and documents apply to this policy:

- NSW Crime Commission, *Conflict of Interests (including Declarable Associations) Policy and Procedures*, April 2020;
- New South Wales Crime Commission, *Code of Conduct*, November 2019;
- New South Wales Crime Commission *Statement of Business Ethics*, July 2019;
- NSW Public Service Commission, *Behaving Ethically: A guide for NSW government sector employees*, October 2014;
- *LECC Act 2016*;

- NSW Department of Premier and Cabinet, *Gifts, benefits and Hospitality Policy*, February 2020;
- NSW Ombudsman, *Code of Ethics and Conduct*, January 2020.

PROCEDURES

1. Assessing a Gift, Benefit and/or Hospitality

A Commission officer is to follow the criteria outlined in policy section 4.2 and 4.3 in assessing whether they can accept a gift, benefit and/or hospitality.

Examples of common gifts and benefits may include:

- Branded mementos or business accessories given as a reminder of a work event such as stationery, coffee mugs, books, umbrellas, key rings, clothes, or memory sticks;
- Gifts of gratitude/appreciation such as chocolates, biscuits, food hampers, alcohol, cigars/cigarettes, flowers;
- Invitations to business events, or tickets to corporate boxes at sporting, cultural or social gatherings;
- Money-orders, cheques, gift vouchers, debit cards, pre-paid cards, or anything similar to cash;
- Airline, car, or hotel loyalty schemes, or travel/accommodation upgrades;
- Scholarships and awards.

Hospitality may include:

- Modest light refreshments such as tea, coffee or sandwiches offered during a business meeting at the host's premises or by the host at a conference;
- A restaurant meal as part of a working lunch.
- Invitations to an event or meal which extends to family members, friends and associates.

If in any doubt about accepting a gift, benefit and/or hospitality, it is best practice to politely **refuse** the offer.

2. Declaring a Gift, Benefit and/or Hospitality

Whether a gift or benefit is accepted or declined, a Commission officer must declare any and all token or non-token offers in an email to their Manager/Supervisor and HR Manager within **3 days** of the offer being made.

Modest hospitality such as the provision of tea, coffee, biscuits, and sandwiches do not need to be declared. However, if an offer of hospitality is significant in value such as a restaurant meal or an invitation to an event, it must be declared to a Manager/Supervisor via email **within 3 days** of the offer.

If a Manager/Supervisor or Executive Team member is the officer receiving the gift, benefit or hospitality, they must declare this in an email to their direct line Manager, which may be the Commissioner or Assistant Commissioner (Legal). In turn, the Commissioner or Assistant Commissioner (Legal) must declare any gift or benefit to the HR Manager promptly via email.

The HR Manager is responsible for handling how the gift, benefit and/or hospitality is managed after it is declared. This includes:

- Consulting with the officer concerned, and their Manager/Supervisor to determine the appropriate course of action;
- Recording all correspondences between parties in Objective;

- Completing the *Gifts, Benefits and Hospitality Register* in Objective.

3. Decision Making and Record Keeping

Once a Commission officer has declared a gift, benefit and/or hospitality, the HR Manager must complete the following criteria in the *Gifts, benefits and Hospitality Register* found in Objective *Human Resources > Administration > Gifts and Benefits Register – Administration*:

- Date of the offer;
- Name of staff member receiving the offer;
- Details of the offering person and/or organisation;
- Relationship of the staff member to the offering person;
- Disclosure of any conflict of interests;
- Reason for the offer (as assessed by the recipient);
- Description of the offer;
- The estimated value of the offer;
- Whether the offer was accepted or declined in the first instance;
- Decision on what will happen with the offer and the reasons for the decision;
- Approving senior officer (Commissioner, Assistant Commissioner (Legal) or Division Head).

The HR Manager is to make one of the following decisions and relay this in writing to the Commission officer who was offered the gift, benefit and/or hospitality, and their Manager/Supervisor:

- Retain – the Commission officer may retain the offer if in their possession or;
- Dispose – the Commission officer must dispose of the offer if in their possession (e.g. donate it to charity, place it in a raffle, share it with Commission staff etc.) or;
- Refuse – the Commission officer is to decline the offer if not already accepted.

Once surrendered, the HR Manager is to dispose of the gift, benefit, and/or hospitality within **one month** of receipt. All written correspondences must be saved by the HR Manager into Objective *Human Resources > Administration*.

4. Handling Bribes

In situations where a Commission officer is offered a bribe, the officer must:

- Refuse the bribe and immediately stop interacting with the person who made the offer.
- Promptly notify their Manager/Supervisor, Division Head, and the HR Manager via email by outlining the offer of a bribe, where and when it was made, and who made it.

The HR Manager is to then escalate the matter to the Commissioner or Assistant Commissioner (Legal) for advice and further management.

5. Audit

The Commission's Internal Audit function will audit compliance with this policy by the end of September each year and audit the previous financial year. The audit will specifically address reporting, the registration of items received, and the appropriateness of the action taken.

Version Control

Version	Effective date	Update comments	Author
1.0	31Jul14	Initial version.	Policy Officer
2.0	30Apr20	Significant rewrite and restructure to align with PSC policy on behaving ethically. Addition of Commission-provided hospitality. Procedures section added.	Policy Officer

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