

Gifts and Hospitality Policy

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1 Objective

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

The Commission must stringently manage offers of gifts and 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.

Commission officers may be offered gifts or hospitality in the course of their work. The Commission prefers that employees do not accept gifts or hospitality. However, there are times when it would be rude or offensive to refuse a gift or when it is appropriate to accept hospitality. This policy provides guidance for the effective management of gifts and hospitality in accordance with the Public Service Commissioner Direction No 1 of 2022, including the minimum standards for managing gifts and benefits (section 2.1).

There can be serious consequences for the Commission where gifts and hospitality are mismanaged. There is a risk of loss of public trust, damage to the Commission's reputation, financial loss and possible legal action if an employee accepts, solicits or provides a gift or offer of hospitality that is or is perceived to be an inducement. Employees risk embarrassment and consequences relating to breaching the Commission's policies and procedures which may affect their employment and, where criminal conduct is involved, may even lead to prosecution.

2 Scope/Application

This policy applies to all persons undertaking work for or engaged by the Commission in either a paid or unpaid capacity ('employee' as defined in section 3).

This policy and procedures are binding to all Commission officers including a person engaged by the Commission as a consultant or contractor under the *Crime Commission Act 2012*.

3 Definitions

Conflict of interest means when private interests could objectively influence the impartial performance of official duties (this includes actual, potential or reasonably perceived conflicts). See the Commission's Code of Conduct on for more information.

Commission means The New South Wales Crime Commission.

Employee means all employees of the Commission (ongoing, temporary and casual and those on secondment to the Commission), contractors (including employees, agents or subcontractors engaged by a contractor) and agency employees engaged to perform work for, or provide services on behalf of, the Commission, work experience students and volunteers and consultants where their engagement requires adherence to the Commission's Code of Conduct.

Gift means any item that has an intrinsic value and/or a value to the recipient or the recipient's family member, friend or associate (e.g. vouchers, prizes, ceremonial items, small items of appreciation such as chocolates, flowers or a bottle of wine). Gifts include benefits, being non-tangible items of value

(e.g. preferential treatment; discounts; reward programs such as airline, car, or hotel loyalty schemes/airline upgrades¹).

Government property means all property held by, for or on behalf of the State or a Government Sector Finance (GSF) agency (whether or not it is held on trust), except:

- government money or related money
- property held on trust for the benefit of an entity other than a GSF agency (as defined in section 2.4 of the Government Sector Finance Act 2018 (NSW)).

Government sector core values means integrity, trust, service and accountability which apply to government sector employees: section 7 of the Government Sector Employment Act 2013 (NSW).

Hospitality means the provision of benefits directly associated with the course of an event. This may include tickets/right of entry to an event, or food, beverage, entertainment, or other consumables provided at an event. A ticket may be provided as an act of hospitality in respect of an event which an employee attends in their official capacity as a Commission officer.

4 Role and Responsibilities

Employees

- adhere to this policy and related guides
- refrain from accepting gifts or hospitality prohibited under this policy
- notify a manager as soon as practicable via email upon an offer of a gift or hospitality valued \$50 or more (employees are not required to declare hospitality offers that are received via unsolicited bulk email (i.e. spam/junk mail) and may take proactive steps to 'unsubscribe' or block unsolicited or spam communications)
- notify the Governance Team to update the Gifts and Hospitality Register for gifts and hospitality when required within the specified timeframe
- avoid situations in which they have, or might reasonably be thought to have, a private interest which conflicts with their official duties
- avoiding situations that cause (or could be reasonably perceived to cause) preferential treatment or conflicts of interest
- adhere to the financial and procurement delegations
- protect the reputation of the Commission and the NSW Government.

Managers

- ensure employees understand and follow this policy and related guides
- actively manage offers of gifts and hospitality to minimise the risk of unethical or corrupt behaviour
- approve the treatment of any offers of gifts or hospitality for employees within the required timeframe

¹ *NOTE: Refer to the NSW Government Travel and Transport Policy for further information.

- adhere to the financial and procurement delegations including appropriate authorisation to approve expenditure for the purposes of gift and hospitality giving.

Governance team

- register the receipt and giving of gifts and hospitality in the Register
- maintain an accurate record of declarations of offers through the Register and provide advice and training for the Commission's employee on the policy
- prepare an annual attestation on gifts of government property
- securely store and maintain an accurate inventory of surrendered gifts
- conduct an internal audit of the gifts inventory at the end of each financial year.

5 Policy Statements

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
- avoid situations that give rise to the appearance of preferential treatment in the discharge of public duties.

5.1 Conflict of interest

Where a conflict of interest (actual, potential or reasonably perceived) exists, the offer of a gift or hospitality must always be declared and declined.

As noted at section 5.2, gifts and hospitality are prohibited if they create or constitute a conflict of interest. Conflicts of interest should be declared and managed in accordance with the Commission's Code of Conduct and the Code of Ethics and Conduct for NSW government sector employees.

5.2 Prohibited gifts and hospitality

Employees must not accept a gift or hospitality:

- in the form of cash, cheques, money orders or gift vouchers
- as an inducement to act in a certain way or from people/organisations expecting preferential treatment
- where there could be a perception that it has been offered as an inducement to act in a certain way
- where it is to be provided to a family member, relation, friend or associate
- if it could be perceived as undermining the core values of trust, integrity, service and accountability of the government sector
- if it could give rise to a conflict of interest
- if it is valued at \$50 or more (unless accepted on the basis of goodwill to the Commission or the State, or for legitimate business purposes, as outlined in section 5.3).

Employees must not accept a gift or hospitality where the recipient currently exercises, or may in the future exercise, discretion in the making of a decision affecting the giver – this includes but is not limited to tender processes, and procurement of goods or services. Employees must not accept hospitality provided by a vendor while there is active procurement underway and must not accept invitations to events to ‘seal the deal’ or ‘celebrate’ finalising a procurement process, contract, or decision that may affect the giver.

Employees should never solicit a gift or hospitality.

If employees are still not sure whether acceptance of the gift is prohibited they should consult the Governance team.

5.3 Accepting gifts and hospitality

Employees can accept offers of gifts and hospitality valued at less than \$50, provided acceptance of the offer is not prohibited under section 5.2. Any gifts or hospitality received from the same source in the previous six-month period must be aggregated for the purposes of applying the \$50 threshold (for example, a person cannot accept multiple gifts valued at less than \$50 from the same organisation in a six-month period if the combined total value of those gifts is \$50 or more).

All offers of gifts and hospitality that are valued at \$50 or more or are prohibited under section 5.2 must be declared in the Register (see section 5.4 below).

If the value of the offer is \$50 or more, the gift or hospitality should be politely refused.

The exceptions to this rule are:

- gifts that are offered as an **act of goodwill** towards the people of NSW. Where a gift is offered as an act of goodwill to the people of NSW and declining the gift could cause offence, the offer may be accepted by an employee on behalf of the Commission, noting that the gift must not become the personal property of the employee. Such gifts should be declared on the Register and surrendered to the Governance team for disposal (see section 5).
- hospitality which involves a **legitimate business purpose**. In this case, the employee must obtain their manager’s approval prior to the event and declare the offer of hospitality on the Register.

5.3.1 Decision table: when to accept, decline and declare

Accept	Decline	Declare
Offers less than \$50, unless prohibited under section 5.2.	Prohibited offers. Offers of \$50 or more unless: <ul style="list-style-type: none"> • gift is an act of goodwill to the people of NSW • hospitality for legitimate business purposes and manager has issued prior approval. 	All offers of \$50 or more and prohibited offers (see section 5.4).

5.3.2 Examples of cases where offers of gifts and hospitality may be accepted

Gifts – employee may:

- accept and retain small token gifts where it is offered to all attendees or participants at a seminar or official business function (for example a pen with a logo during a training session)

- accept and retain a prize ‘won’ at an external business function (if it is not prohibited under section 5.2)
- accept and surrender ceremonial gifts or gifts of goodwill to the Commission or the State of NSW (see section 6).

Hospitality – employee may:

- accept low-risk or modest hospitality as defined in section 3 and listed below:
 - functions where the recipient attends in an official capacity as a Commission representative
 - hospitality provided as part of a conference package (where the Commission has paid a fee for the employee to attend)
 - catered briefings, roundtables, lunches etc., where invitees from a range of external organisations are present
 - occasional working lunches, where the hospitality is incidental and of low value (see ‘modest hospitality’ example above)
- accept and attend invitations for networking events that align with the Commission’s business operations.

5.4 Declaration of offers of gifts and hospitality

All offers of gifts and hospitality that are valued at \$50 or more (subject to the exceptions outlined in section 5.3) or are prohibited under section 5.2 must be declared on the Gifts and Hospitality Register. The Governance team maintains the Register and reports on declarations to the Chief Operating Officer and Commissioner at the end of each financial year, or as requested.

Employees who are offered gifts or hospitality valued at \$50 or more must:

1. notify their Manager of the offer as soon as possible via email and politely decline the offer (unless it is an exception for hospitality or goodwill as outlined in section 5.3)
2. declare the offer and how it was handled and advise the Governance team to update the Register within **ten working days** of receiving the offer.

Offers that are received via unsolicited email (including spam/junk mail) and that are ignored or declined do not need to be declared on the Register – unless the offer could give rise to an actual, perceived or potential conflict of interest.

Offers that are received from or on behalf of a Commonwealth, State or Territory government do not need to be declared on the Register.

6 Disposal of Gifts Process

All accepted gifts valued at \$50 or more must be surrendered to the Governance team. The Chief Operating Officer, will decide on an appropriate disposal method and records of the disposal decision are maintained by the Governance team.

6.1 Disposal of perishable gifts

Perishable goods (such as chocolates, food hampers etc.) should be disposed of appropriately. If it is decided by the Chief Operating Officer that the perishable gift can be shared amongst employees, physical surrender of the gift to the Governance team is not required.

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6.2 Disposal and record of non-perishable gifts valued \$50 or more

All non-perishable gifts valued at \$50 or more should be surrendered to the Governance team for appropriate disposal (such as an internal auction amongst employees with the proceeds donated to a charity).

All non-perishable gifts surrendered to the Governance team will be stored securely. An inventory of these gifts will be maintained by the Governance team and an internal audit of the inventory, and gifts stored, will be conducted at the end of each financial year. The Governance team will also maintain a record of the disposal of any gifts held on inventory.

7 Providing Gifts or Hospitality

7.1 Provision of gifts

Employees providing a gift should ensure:

- it is provided for a business purpose. It should assist the conduct of official business or other legitimate organisational goals or promote and support Government policy objectives and priorities.
- costs are proportionate to the benefits obtained for the Commission and would be considered reasonable in terms of community expectations.
- the gift is purchased through a transparent and equitable process. Employees may refer to other relevant Commission policies e.g. the *Procurement Policy*.

7.2 Providing hospitality

Any expenditure by employees on official hospitality must:

- be provided for an official business purpose: it should assist the conduct of business or other legitimate organisational goals or promote and support Government policy objectives and priorities.
- be properly documented: all receipts (which include information on the items purchased, amount and date) must be provided to the Commission Finance Team.
- generate direct benefits: the hospitality must result in, or be reasonably expected to contribute to, achieving the Commission's objectives and should not be used merely for social occasions.
- be reasonable for the circumstances, and publicly defensible: for example, it is appropriate to provide modest refreshments like sandwiches during an all-day training session, but more lavish arrangements like a three-course meal would not be appropriate.
- NOT provide a personal benefit to employees or their family or friends: (e.g. Christmas functions, birthday celebrations, employee farewells or work socials). In exceptional circumstances, and only with prior approval of the Commissioner, families of employees may be asked to attend official functions where their presence is necessary for the success of the function or where the party to be entertained is to be accompanied by a family member, (e.g. functions on weekends, where guests are being entertained and families/partners are attending, significant events sponsored or organised by the Commission where guests accompanied by their families/partners will be attending).

Additional considerations:

- Authority to approve expenditure on official hospitality and/or entertainment must be consistent with the Commission's financial delegations and Procurement Policy.
- The Commissioner, Assistant Commissioner, Chief Operating Officer and Executive Directors are authorised to approve expenditure for official hospitality and/or entertainment with the following exceptions:
 - Approval for official events, and functions requires the approval of the Chief Operating Officer and Commissioner.
 - Only the Commissioner can approve expenditure for alcohol not related to a meal.
- In general, hospitality and/or entertainment should not be extended to consultants or other providers of goods and services (e.g. employees of audit or legal firms, IT suppliers, advertising agencies, printers) unless authorised by the Chief Operating Officer prior to the event.
- When hospitality is provided, the employee involved must demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

7.3 Gift and hospitality giving between Commission employees

The above guidance (7.1 and 7.2) refers to the provision of gifts and hospitality for official business purposes.

The Commission recognises that employees may, on occasion, provide small gifts or hospitality to other employees provided that the gift or hospitality:

- is paid for by the employee (no Commission funds are used)
- is proportionate and reasonable for the circumstances (e.g. a Manager providing morning tea to their team in celebration of an event)
- does not cause – and could not be seen to cause – a conflict of interest
- could not be construed as an inducement to act in a certain way
- is consistent with the government sector core values of integrity, trust, service and accountability (see section 7 of the *Government Sector Employment Act 2013* (NSW))
- is in keeping with the Commission's Code of Conduct and the Public Service Commission's Code of Ethics and Conduct.

Examples of appropriate gifts or hospitality giving between employees include:

- the gifting of flowers, paid for by a team or team member (using personal funds), to a colleague on their birthday
- buying a coffee for a team member (using personal funds)
- small gifts paid for by a Manager (using personal funds) and given to their team members in recognition of hard work to celebrate an event (e.g. Christmas)
- providing transportation to a colleague on the way to a professional development event you are both attending.

Examples of inappropriate provision of gifts or hospitality:

- an employee who is applying for a job within the Commission buying lunch for the hiring manager
- a manager using their Commission Credit Card to treat their team to lunch at the conclusion of a project.

Employees do not need to declare the appropriate giving of gifts or hospitality between employees on the Register. However, employees should report to their Manager if they believe that another employee has acted in a way that is unethical or a breach of the Commission's Code of Conduct. Employees can also report suspected cases of fraud and corruption as outlined in the Public Interest Disclosures Policy.

8 Gifts of Government Property

Gifts of government property must be approved by the Commissioner prior to providing the gift. The approval must be forwarded through the Chief Operating Officer to the Governance team and attached to a declaration on the Gifts of Government Property Register within **ten working days** of providing the gift.

Gifts of government property may be made under certain circumstances, as prescribed in the *Governance Sector Finance Act 2018* (NSW) (GSF Act). Section 5.6(1) of the GSF Act states that a person handling government resources cannot make a gift of government property unless:

- the property was acquired or produced to use as a gift, or
- the gift has been authorised by the Treasurer in writing, or
- the gift is made in accordance with the Treasurer's directions (including TD21-04 Gifts of Government Property), or
- the gift was authorised by or under any law.

Under 5.6 (1)(c) a gift of government property can be made in accordance with Treasurer's Direction TD21-04 (TD21-04), which permits gifting where the following considerations are met:

- **Financial considerations** – all of the following: the property is genuinely surplus to a GSF agency's requirements, and cannot be transferred (with or without payment) to another GSF agency which requires or can use the property, and sale at fair value of the property would be uneconomical
- **Policy considerations** – at least one of the following: holds historical or symbolic significance for the recipient; holds some other special significance for the recipient and there are compelling reasons to justify gifting the property to that recipient; it is a low value asset and gifting supports the achievement of a NSW Government policy objective.

8.1 Gifts of Government Property Register

All gifts of government property by the Commission must be recorded in the Gifts of Government Property Register within **ten working days** of providing the gift.

Information collected from the Register is retained for at least five years from the date of the gift as specified in TD21-04. Where gifts of government property by the Commission have been made, the Gifts of Government Property Register is published on the Commission website at the end of each financial year (with personal information removed).

The Governance team maintains the Register and reports on declarations to the Executive and the Audit and Risk Committee. Where the Commission has not made any gifts of government property in a given financial year, an attestation will be provided to the Audit and Risk Committee.

9 Related Policies / Breaches

This policy aligns with:

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- PSC Code of Ethics and Conduct for NSW Government Sector Employees
 - PSC Managing Gifts and Benefits: Minimum Standards
 - *Government Sector Employment Act 2013* (NSW)
 - *Government Sector Employment Rules 2014* (NSW)
 - *Independent Commission Against Corruption Act 1988* (NSW)
 - *Government Sector Finance Act 2018* (NSW)
 - TD21-04 Gifts of government property
 - NSWCC Code of Conduct
 - NSWCC Procurement Policy.
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9.1 Breaches of this policy

A breach of this policy will also be considered a breach of the Commission's Code of Conduct. Steps for managing an allegation of a breach of the Code are outlined in the Commission's *Misconduct and Unsatisfactory Performance Policy*.

A breach of the Code may also constitute misconduct under the *Government Sector Employment Act 2013* (NSW) or corrupt conduct as defined in the *Independent Commission Against Corruption Act 1988* (NSW).

10 Contacts

For further information or questions on this policy, employees may contact the Governance team.

11 Version Control

Version	Effective Date	Update Comments	Author
1.0	31Jul14	Initial version	Governance Team
2.0	30Apr20	Rewrite to align with PSC policy	Governance Team
3.0	16Feb24	New policy development based on DPC model policy	Chief Operating Officer

12 Publication Information

Key Information	Details
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