

Gifts, Benefits and Hospitality Procedure

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Responsible Officer:	Executive Director Strategy and Governance	Current Version:	1/02/2021
Authorised Officer:	Chief Executive Officer	Due for review:	Annual 31/01/2022

PURPOSE

The purpose of this Gifts, Benefits and Hospitality Procedure (the Procedure) is to establish the minimum accountabilities expected of employees engaged by GOTAFE relating to the receipt of or provision of Gifts, Benefits and Hospitality.

This procedure is intended to support individuals and GOTAFE to avoid conflicts of interest and maintain high levels of integrity and public trust.

The Procedure supports the behaviours provided in the Code of Conduct for Victorian Public Sector Employees and Code of Conduct for Directors of Victorian Public Entities.

RELEVANT POLICY/POLICIES

This procedure relates to:

- POHR-08 Conflict of Interest Policy

ROLES AND RESPONSIBILITIES

This procedure applies to all GOTAFE employees, labour hire employees, contractors and Board members.

GOTAFE's Governance Committee will receive a report at least annually on the administration and quality control of the Gifts, Benefits and Hospitality policy, processes and register.

The Gifts, Benefits and Hospitality Register is maintained by the Office of the CEO.

PROCEDURE

1. OFFERS OF GIFTS, BENEFITS AND HOSPITALITY

This section sets out the process for accepting, declining and recording offers of Gifts, Benefits and Hospitality.

1.1. Minimum accountabilities when offered Gifts, Benefits or Hospitality

The following minimum accountabilities apply when being offered Gifts, Benefits and/or Hospitality:

- Do not seek or solicit Gifts, Benefits or Hospitality for themselves or others.
- Refuse all offers of Gifts, Benefits or Hospitality that:
 - are money, items used in a similar way to money, or items easily converted to money (eg shares, gift cards with monetary value)
 - give rise to an actual, potential or perceived conflict of interest;
 - may adversely affect their standing as a public sector employee or Board member or which may bring GOTAFE or the public sector into disrepute
 - are a non-token offer that extend to their relatives or friends or are without a legitimate business benefit

(refer also section 1.2 GIFT Test)

- Declare all non-token offers (valued at \$50 or more) of Gifts, Benefits and Hospitality (whether accepted or declined) on the Gifts, Benefits and Hospitality Declaration Form for inclusion on the register.
- Refuse bribes or inducements and report inducements and bribery attempts to the CEO (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission (IBAC)).

1.2. GIFT Test

When deciding whether to accept an offer, the offer should first be assessed using the GIFT Test to determine whether it could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

Individuals are to refuse offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest
- could bring them, GOTAFE or the public sector into disrepute
- made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:
 - made by a current or prospective supplier; or
 - made during a procurement or tender process by a person or organisation involved in the process;
- likely to be a bribe or inducement to make a decision or act in a particular way
- that extend to their relatives or friends
- of money, or used in a similar way to money, or something easily converted to money
- where, in relation to hospitality and events, the organisation will already be sufficiently represented to meet its business needs
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions
- made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector organisations; or
- made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the CEO (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission (IBAC)).

Table 1: GIFT Test

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select contractors, award grants, scholarships or qualifications, regulate industries or determine</p>
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		government policies? Could the person or organisation benefit from a decision I make?
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make or endorse a product or service?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

When in doubt employees should ask their manager for direction, or seek clarification from the Executive Director, Corporate Services.

1.3. Token Offers

Token Offers of Gifts, Benefits and Hospitality may be accepted and do not need to be reported using the Gifts, Benefits and Hospitality Declaration Form.

1.4. Non-Token Offers

All Non-Token Offers received must be declared using the Gifts, Benefits and Hospitality Declaration Form (FHR-80) within fourteen days of the offer being made, regardless of whether the offer is accepted or rejected.

Non-Token Offers may only be accepted if they have a genuine business benefit and be approved in writing as set out in section 1.5.

Examples of acceptable and unacceptable levels of details include:

Unacceptable: *“Networking” or “Maintaining stakeholder relationships”*

Acceptable: *“Individual is responsible for evaluating and reporting outcomes of GOTAFE’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to GOTAFE on the event.”*

“Individual presented to a visiting international delegation. The delegation presented the Individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The Gift was accepted, written approval was subsequently obtained for the gift, which became GOTAFE’s property.”

1.5. Gifts, Benefits and Hospitality Register and Authorisation

The Gifts, Benefits and Hospitality Register is maintained by the Office of the CEO.

The table below sets out the authorisation requirements when being offered Gifts, Benefits and Hospitality.

Table 2: Authorisation and Register Reporting Requirements

Type	Authorisation	Register
Token Offers	Approval is not required to accept Token Offers	Lodgement on the Gifts, Hospitality and Benefits Register not required
Non-Token Offers	<p>Non-Token Offers may only be accepted if they have a genuine business benefit and be approved in writing by the direct manager.</p> <p>Non-Token Offers made to a member of the Executive Leadership Team (other than the CEO) may only be approved by the CEO.</p> <p>Non-Token Offers made to the CEO or a Board Member may only be approved by the Board Chair.</p>	<p>All Non-Token Offers, whether accepted or not, must be declared using the Gifts, Benefits and Hospitality Declaration Form (FHR-80) and lodged with the Office of the CEO within fourteen days of the offer.</p> <p>The business reason for accepting any Non- Token Offer must be recorded in the register and provide sufficient detail to link the acceptance to the individual's work functions and benefit to GOTAFE.</p> <p>Note: Non-token gifts with a legitimate business benefit and have been accepted for work or contribution may be retained by the employee. Official gifts or any gift of cultural or ceremonial significance, or of significant value, must be transferred to GOTAFE.</p>
All gifts that are of an entertainment nature and/or are valued at \$300 or more.	Authorisation for Token and Non- Token Offers is as set out above.	All gifts that are of an entertainment nature and/or are valued at \$300 or more must be reported to the Director, Finance and Procurement for fringe benefit tax reporting purposes.

When in doubt employees should ask their manager for direction, or seek clarification from the Executive Director, Corporate Services.

2. PROVISION OF GIFTS, BENEFITS AND HOSPITALITY

This section sets out the requirements for providing Gifts, Benefits and Hospitality.

2.1. Minimum accountabilities when providing Gifts, Benefits or Hospitality

The following minimum accountabilities apply when providing Gifts, Benefits and/or Hospitality:

- Ensure that any Gift, Benefit or Hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals or promotes and supports GOTAFE’s or government policy objectives and priorities.
- Ensure that any costs are proportionate to the benefits obtained by GOTAFE and would be considered reasonable in terms of community expectations.
- Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.
(refer also section 2.2 HOST Test)

2.2. HOST Test

Gifts, Benefits and Hospitality may be provided to welcome guests, facilitate the development of business relationships, further GOTAFE public sector business outcomes and to celebrate achievements.

The HOST Test should be used to assist employees to decide whether or not to provide Gifts, Benefits or Hospitality to employees or stakeholders.

Table 3: HOST Test

H	Hospitality	To whom is the gift or hospitality being provided? Will recipients be external business partners, or individuals of the host organisation?
O	Objectives	For what purpose will hospitality be provided? Is the hospitality being provided to further the conduct of official business? Will it promote and support GOTAFE and government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?
S	Spend	Will public funds be spent? What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained?
T	Trust	Will public trust be enhanced or diminished? Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

When in doubt employees should ask their manager for direction, or seek clarification from the Executive Director, Corporate Services.

3. BREACHES AND CONSEQUENCE OF NON-COMPLIANCE

Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, may be taken where an individual fails to adhere to this procedure. This includes where an individual fails to avoid wherever possible or to identify, declare and manage a

conflict of interest related to Gifts, Benefits and Hospitality in accordance with GOTAFE's Conflict of Interest Policy.

Actions seen to be inconsistent with this procedure may constitute misconduct under the Public Administration Act 2004, which includes:

- breaches of the binding Code of Conduct for Victorian Public Sector Employees and/or the Code of Conduct for Directors of Public Entities, such as sections of the Code covering conflict of interest, public trust and gifts and benefits; and
- individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Executive Director, Corporate Services.

GOTAFE contractors, consultants and other business associates are expected to comply with the Victorian State Governments Supplier Code of Conduct. Those identified as acting inconsistently with this Code may be subject to contract re-negotiation, including termination.

4. OFFICE OF THE CEO

The Office of the CEO shall:

- establish, implement and review policies and processes for the effective management of Gifts, Benefits and Hospitality that comprehensively address the minimum accountabilities set in 1.1, 2.1 and 4.
- establish and maintain a register for Gifts, Benefits and Hospitality offered to GOTAFE employees and Board members that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
- communicate and make clear within the organisation that a breach of this Gifts, Benefits and Hospitality procedure may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct and may result in disciplinary action.
- establish and communicate a clear policy position to business associates on the offering of Gifts, Benefits and Hospitality to employees, including possible consequences for a business associate acting contrary to GOTAFE's position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
- report at least annually to GOTAFE's Governance Committee on the administration and quality control of its Gifts, Benefits and Hospitality procedure and register. This report must include analysis of the organisation's Gifts, Benefits and Hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
- publish the organisation's Gifts, Benefits and Hospitality procedure and register on the organisation's public website. The published register should cover the current and the previous financial year.

DEFINITIONS

<i>Benefits</i>	are the preferential treatment, privileged access, favours or other advantage offered to an employee. They may include invitations to sporting or cultural events, social events or promises of a new job. While their value may sometimes be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence their behaviour. Employees are to be aware that the use of personal loyalty, discount and/or rewards cards when making purchases on behalf of GOTAFE, are considered to be a 'benefit'.
<i>Bribes</i>	are money or other inducements given or promised to employees to corruptly influence the performance of their role.
<i>Business associate</i>	An external individual or entity which GOTAFE has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering Gifts, Benefits and Hospitality.
<i>Conflict of interest</i>	Occurs when an employee's private interests conflict with their public duty. Employees have a duty to always resolve a conflict in the public interest, not their own. This may mean that they decline a gift or transfer the gift to their employer's ownership if this is identified as being in the public interest. Any actual, potential or perceived conflict of interest matters, as defined, are to be referred to the GOTAFE Conflict of Interest Policy (POHR-08) and Conflict of Interest Procedure (PRHR-163).
<i>Corruption</i>	Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses their position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. Conduct that may be considered an act of 'fraud' or 'corruption', as defined above, are to be referred to the GOTAFE's Fraud and Corruption Management Procedure (B-P109)
<i>Direct or indirect</i>	A gift may be offered directly or indirectly. It may be offered directly to a Board member or employee or offered indirectly via an offer to his/her relative or close associate, including, a member of his / her immediate family, a regular member of his / her household, or another close associate (eg. friend, relative, business partner).
<i>Entertainment</i>	Entertainment is specifically defined in tax legislation as entertainment by the way of food, drink, recreation, accommodation or travel associated with the provision of food, drink or recreation
<i>Fraud</i>	Dishonest activity causing actual or potential financial loss to any person or entity of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately after the activity. This includes the

deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position. Conduct that may be considered an act of 'fraud' or 'corruption', as defined above, are to be referred to the GOTAFE's Fraud and Corruption Management Procedure (B-P109).

<i>Fringe Benefits Tax (FBT)</i>	is a tax payable by an employer in respect of fringe benefits provided to an employee or their associate (e.g. an employee's spouse) from 1 April to 31 March.
<i>Gifts</i>	are free or heavily discounted items, that are offered to employees in association with their work. 'Gifts' may be enduring such as a work of art, consumables such as a box of chocolates, or an offer of a reward, discount or loyalty card or similar item that <i>provides</i> either a direct or indirect 'benefit'.
<i>Hospitality</i>	is the friendly reception and entertainment of guests. Hospitality can range from offers of light refreshment at a business meeting or conference program to restaurant meals and sponsored travel and accommodation. In all cases the hospitality should be proportionate to the occasion. Modest hospitality offered as part of official business is not a reportable gift.
<i>Legitimate business benefit</i>	is Gifts, Benefits and Hospitality accepted or provided for a business purpose that is consistent with GOTAFE's functions and objectives, and an individual's role. Examples include the CEO or Board members may be asked to accompany a Minister on official business or individuals may be asked to attend the official opening of a government sponsored project or to take part in a study tour. These activities constitute official business, do not have a private benefit and would not ordinarily be recorded as a reportable gift.
<i>Nominal Value</i>	Refers to the value of a gift, benefit or hospitality offer and is set at \$50 for the 12-month period from 1 April to 31 March and includes multiple offers from a single source. It is used to determine whether an offer, if accepted, is a reportable gift.
<i>Non-Token offer</i>	is an offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register
<i>Register</i>	is a record, preferably electronic, of all declarable Gifts, Benefits and Hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how

the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance

Token offer

is an offer of a Gifts, Benefits and Hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and modest hospitality which would be considered a basic courtesy, such as light refreshments offered during a meeting.

Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50. (Individuals may accept token offers of Gifts, Benefits and Hospitality without approval or declaring the offer except if token offers are made often by the same person or organisation, the cumulative value of the offers, or the perception that they may influence the recipient, may result in the offers becoming non-token).

Value

is the estimated or actual value of a gift in Australian dollars. It is also the cumulative value of gifts offered by the same individual or organisation within a 12-month period from 1 April to 31 March. Significant gifts may warrant independent valuation.

DOCUMENTATION AND REGULATION

- Gifts, Benefits and Hospitality Declaration Form – FHR-80
- Employee Code of Conduct policy – POHR14
- Conflict of Interest Policy – POHR-08
- Conflict of Interest Procedure – PRHR-163
- Fraud and Corruption Management Procedure – B-P109
- Public Interest Disclosure Policy – POHR-11
- Public Interest Disclosure Procedure – PRHR - 172
- Financial Management Act 1994: Standing Directions 2018
- Public Administration Act 2004
- Code of conduct for Victorian Public Sector Employees 2015
- Code of conduct for Directors of Victorian Public Entities 2016
- Victorian Public Sector Commission’s Gifts, Benefits and Hospitality Policy Framework.