

Gifts, benefits and hospitality

Policy

Purpose

This policy states Energy Safe Victoria's (ESV) position on:

- responding to offers of gifts, benefits and hospitality; and
- providing gifts, benefits and hospitality.

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

ESV has issued this policy to support behaviour consistent with the Code of Conduct for Victorian Public Sector Employees, and the Code of Conduct for Directors of Victorian Public Entities (the Code). All employees are required under the Code to comply with this policy.

Scope

This policy applies to all workplace participants. For the purpose of this policy, this includes: all employees, contractors, consultants, Audit and Risk Committee members and other committee and advisory panel members (e.g. ELCCC, Section 8 committee) and any individuals or groups undertaking activity for or on behalf of ESV.

Policy principles

This policy has been developed in accordance with requirements outlined in the minimum accountabilities for the management of gifts, benefits and hospitality issued by the Victorian Public Sector Commission (VPSC).

ESV is committed to and will uphold the following principles in applying this policy:

Impartiality - individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.

Accountability - individuals are accountable for:

- declaring all non-token offers of gifts, benefits and hospitality
- declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer
- the responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

Integrity - individuals strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with community expectations. Individuals will refuse any offer that may lead to an actual, perceived or potential conflict of interest.

Risk-based approach - ESV, through its policies, processes and audit program, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they

are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

Minimum accountabilities

Under the Instructions supporting the Standing Directions of the Minister for Finance 2016, the VPSC has set binding minimum accountabilities for the appropriate management of gifts, benefits and hospitality. These can be found at Schedule A.

Definitions

Business associate: An individual or body that the public sector organisation has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

Benefits: Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs and promises of a new job.

The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.

Ceremonial gifts: Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.

Ceremonial gifts are the property of ESV, irrespective of value, and should be accepted by individuals on behalf of ESV. The receipt of ceremonial gifts should be recorded on the register but does not need to be published online.

Conflict of interest: Conflicts may be:

Actual: There is a real conflict between an employee's public duties and private interests.

Potential: An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.

Perceived: The public or a third party could reasonably form the view that an employee's private interests or previous employment could improperly influence their decisions or actions, now or in the future.

Gifts: Gifts are free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers), consumables (e.g. chocolates) and services (e.g. painting and repairs).

Hospitality: Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.

Legitimate business benefit: A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of ESV, the public sector or the State.

Light refreshments: Light food and drink with business meetings (e.g. tea, coffee or sandwiches).

Official business events: An official business event is when an event hosted by external organisation that it is in the public interest for an employee to attend. These invitations are different to gifts, benefits and hospitality offers and include seminars, conferences and working lunches.

Official business events need to have a tangible connection to an employee's role and be directly related to the agency's work.

Most official business events fall under five categories:

Funded service delivery – opportunities to observe the delivery of programs funded by State Government grants

Stakeholder engagement – opportunities to develop networks with people interested in ESV's activities

Sector knowledge – opportunities to develop a deeper knowledge of the industry and to improve government programs

Business leveraging – opportunities to network with partners interested in investment and collaboration

Professional knowledge – opportunities to maintain knowledge relating to a qualification (*e.g. CPD points*), build expertise in a technical field or become acquainted with industry changes.

In addition to those five categories, there are situations where it is in the public interest for the public service to be represented in some capacity. Those include:

State functions – attending an event or function hosted by the government or the Governor

Accompanying the Minister – supporting a government spokesperson (including Ministers and Parliamentary Secretaries) in the execution of their duties

Government events – attending a function organised and hosted by another government agency or public sector entity

Industry stakeholders – attending an event hosted by industry or community stakeholders where attendance provides a legitimate business benefit.

Public official: Public official has the same meaning as section 4 of the Public Administration Act 2004 and includes, public sector employees, statutory office holders and directors of public entities.

Public register: The public register is a record of a subset of the information contained in the internal register. It is in line with the VPSC minimum accountabilities.

Internal register: A digital record of all declarable gifts, benefits and hospitality. Guidance regarding the information that should be recorded is provided in this Policy.

Token offer: A token offer is a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). Token offers cannot be worth more than \$50.

Non-token offer: A non-token offer is 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.

Management of offers of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the Chief Operating Officer.

Conflict of interest and reputational risks

When deciding whether to accept an offer, individuals should first consider if the offer 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.

This table is a useful tool when considering how to respond to a gift offer.

G	Giver	<p>Who is offering the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select contractors, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
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 my endorsement of 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>

Table 1: GIFT test

Requirement for refusing offers

Individuals should consider the GIFT test at Table 1 and the requirements below to help decide whether to refuse an offer. 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, ESV 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
 - made during a procurement or tender process by a person or organisation involved in the process
 - made during a recruitment and selection 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
- made in secret.

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

Token offers

A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual. It may include a modest box of chocolates, business tie,

promotional items such as pens and note pads, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

Token offers cannot be worth more than \$50.

Individuals may generally accept token offers up to the value of \$50 without approval or declaring the offer on ESV's register, as long as the offer does not create a conflict of interest or lead to reputational damage.

ESV does not require staff to record light refreshments such as light food and drink with business meetings, like tea, coffee or sandwiches.

All gifts of alcohol (e.g. a bottle of wine) regardless of value must be declared and ownership transferred to ESV.

Non-token offers

Individuals can only accept non-token offers if they have a legitimate business benefit. All accepted non-token offers must be approved in writing by the individual's manager or organisational delegate, recorded in the gifts, benefits and hospitality register and be consistent with the following requirements:

- it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual, ESV or the public sector into disrepute
- there is a legitimate business reason for acceptance. It is offered in the course of the individual's official duties, relates to the individual's responsibilities and has a benefit to ESV, the public sector or the State.

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must declare the offer within five business days.

Other common acceptable reasons for accepting a non-token offer are:

- Ceremonial gifts offered as part of the cultural practice of a community (e.g. from an overseas delegation)
- Thank you gifts, such as a small gift to a speaker at a conference and seminar.

Where a non-token gift would likely bring you or ESV into disrepute, it should be returned.

Ownership of accepted non-token gifts will be transferred to ESV.

Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of ESV. The receipt of ceremonial gifts will be recorded on ESV's register but this information does not need to be published online.

Recording offers of gifts, benefits and hospitality

All non-token or ceremonial offers, whether accepted or declined, require an ESV person to complete a Gift, Benefit and Hospitality declaration from within 5 days.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included when recording the business reason:

Unacceptable detail

- Networking
- Maintaining stakeholder relationships

Acceptable detail

- Individual is responsible for evaluating and reporting on the outcomes of ESV's sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the ESV 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 on behalf of ESV.

People Services will record the offer in ESV's gifts, benefits and hospitality register. The business reason for accepting the non-token offer must be recorded in the register with sufficient detail to link the acceptance to the individual's work functions and benefit to ESV, the public sector or the State.

Access to the register is restricted to relevant persons within ESV.

The Internal Register will be tabled at the Executive Management Board meeting every 6 months. ESV's Audit and Risk 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 report will include analysis of ESV's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

The Public Register will contain a subset of the information detailed in ESV's internal register and will be updated bi-annually. It will include information for the current and previous financial year.

Ownership of gifts offered to individuals

Ownership of non-token and ceremonial gifts, including all gifts of alcohol, will be transferred to ESV. These items will generally be auctioned and the proceeds donated to charity.

Hospitality provided by Victorian public sector organisations

Victorian public sector organisations may provide hospitality to stakeholders, as part of their functions.

Accepted hospitality offered by a Victorian public sector organisation as part of official business does not need to be declared or reported, where the reason for the individual's attendance is consistent with ESV's functions and objectives and with the individual's role.

Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Individuals should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:

- any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities
- that any costs are proportionate to the benefits obtained for ESV, and would be considered reasonable in terms of community expectations (the 'HOST' test at Table 2 is a good reminder of what to think about in making this assessment)
- it does not raise an actual, potential or perceived conflict of interest.

H	Hospitality	<p>To whom is the gift or hospitality being provided?</p> <p>Will recipients be external business partners, or individuals of the host organisation?</p>
O	Objectives	<p>For what purpose will hospitality be provided?</p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?</p>
S	Spend	<p>Will public funds be spent?</p> <p>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?</p>
T	Trust	<p>Will public trust be enhanced or diminished?</p> <p>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?</p>

Table 2: HOST test

Requirements for providing gifts, benefits and hospitality

Gifts provided to external stakeholders

ESV will not provide gifts in the course of official business, however we may from time to time provide small promotional tokens to external parties as a token of appreciation. Token gifts under \$30 do not need to be declared.

Gifts provided to ESV's people

At the discretion of the Chief Operating Officer, ESV may fund gifts in the following circumstances:

- When a colleague is sick at hospital (with a serious illness) – either flowers or a gift basket can be sent to the hospital or home
- Bereavement (death of immediate family)
- The arrival of a new baby – flowers and a card can be sent to the colleague (or spouse) either at the hospital or home address. This is in addition to any contribution/collection made by ESV's people.

The cost to purchase a gift by the organisation must not exceed \$110 (including delivery).

There is no formal procedure with regard to retirement or resignation. It will be at the discretion of the General Manager who may take into account the length of service and contribution to ESV, or our previous organisations (the Office of Gas Safety or Office of the Chief Electrical Inspector). This will include the completion of a Gifts, Benefits and Hospitality form.

Hospitality provided to external guests

We may provide hospitality to external guests for the following purposes:

- Receiving guests, such as a visiting delegation from another jurisdiction or country, or hosting a meeting over lunch time.
- Hosting standards committee meetings or standards working group meetings with external attendees.
- Facilitating relationships between third party organisations that are in the interests of the organisation's function and objectives.
- Launching an event, exhibition, or other public function.

Hospitality provided to ESV's people

As a general rule ESV will not provide paid catering for internal meetings and events for our people. However, we can provide paid catering as part of a significant ESV event (offsite or full day).

We may provide modest refreshments for other internal meetings and events, where they occur over a longer period (over three hours).

In deciding whether we should pay for all, some or none of the costs in relation to staff event or internal meeting the following considerations apply:

- Whether there have been multiple events or meetings over a short time period, which could result in a perception of excess.
- The need to balance the positive benefits of organisational recognition with community expectations, in relation to modest and prudent use of public funds.

Recording the provision of gifts, benefits and hospitality

Hospitality over the value of \$20 per person, or \$300 in total, requires a gifts, benefits and hospitality form to be completed and disclosed in the register, before catering is booked.

The provision of gifts, benefits and hospitality will be recorded on the Internal Register, but is not published in the Public Register.

Provision of alcohol

We do not provide alcohol as part of our catering and hospitality arrangements.

The supply of alcohol can lead to increased risks, including the risk of anti-social behaviour and risks to the reputation of both individuals and the organisation alike which may contravene our obligations under the Code.

Staff who take part in events where alcohol is provided, and who drive our motor vehicles are also reminded of their obligations under the road rules and of the Motor Vehicle Policy.

Related policy, legislation and other documents

- Minimum accountabilities for the management of gifts, benefits and hospitality
- ESV's Conflict of Interest Policy
- Public Administration Act 2004
- Code of Conduct for Victorian Public Sector Employees
- Code of Conduct for Directors of Victorian Public Entities
- Victorian Public Sector Commission's Gifts, Benefits and Hospitality Policy Guide

Breaches

Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with ESV's Conflict of Interest Policy.

Actions inconsistent with this policy may constitute misconduct under the Public Administration Act 2004, which includes:

- breaches of the binding Code, such as sections of the Code covering conflict of interest, public trust and gifts and benefits
- individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Head of People Services.

ESV will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

Speak up

Individuals who consider that gifts, benefits and hospitality or conflict of interest within ESV may not have been declared or is not being appropriately managed should speak up and notify their manager a member of the Executive Management Board or the Head of People Services. Individuals who believe they have observed corrupt conduct in their colleagues may also make a protected disclosure directly to the Independent Based-based Anti-corruption Commission (IBAC).

ESV will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

Contacts for further information

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Individuals who are unsure about accepting a gift, benefit or hospitality, or the application of this policy, should ask their manager, Executive Management Board member, or Head of People Services for advice.

Document control

Version	Date	Revision information	Author/Edited by	Authorised by	Review date
1.0	Jul 2009	Conflict of Interest Policy ESV Employees Gifts Policy		Executive Manager Finance & IT	
2.0	Jan 2015	Re-issue 'ESV gifts, benefits and hospitality policy' DOC/14/14507	Human Resources	Executive Management Team	
3.0	Jun 2017	Small edits to reflect changes to the responsibility for the Gift Register and changes to ESV providing catering	People Services	Executive Management Board	
4.0	Nov 2017	Edited to provide clarity around ESV providing catering. Further changes to ESV's approach to accepting gifts, benefits or hospitality	People Services	Executive Management Board	
5.0	Oct 2018	Edited to reflect comments provided by the Audit & Risk Committee and converted to new template	Chief Operating Officer	Executive Management Board	Oct 2021
6.0	Mar 2019	Edited to reflect: changes to the declaration and recording requirements of provision of gifts and hospitality	People Services	Executive Management Board	Mar 2022

Schedule A – Minimum accountabilities

1. Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
2. Refuse all offers of gifts, benefits and hospitality that:
 - are money, items used in a similar way to money, or items easily converted to money
 - give rise to an actual, potential or perceived conflict of interest;
 - may adversely affect their standing as a public official or which may bring their public sector employer or the public sector into disrepute; or
 - are non-token offers without a legitimate business benefit.
3. Declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).
5. Ensure that any gift, benefit and 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 government policy objectives and priorities.
6. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
7. 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.
8. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
9. Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
10. Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
11. 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 the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
12. Report at least annually to the organisation's audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes 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.
13. Publish the organisation's gifts, benefits and hospitality policy and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.