

Gifts, Benefits and Hospitality - Board and Employee Policy



1 Background

South Gippsland Water's (SGW) board members and employees have a responsibility to respond to any gift, benefit, hospitality offers in accordance with good public sector governance practices and in line with a number of key principles:

- **Obligations:** board members and employees act in accordance with their respective obligations and with good public sector governance practice;
- **Public interest:** board members and employees act in the public interest, in compliance with this policy;
- **Culture of integrity:** the corporation fosters a culture of integrity. Board members and employees are supported to raise any unresolved gifts issues;
- **Risk-based:** the corporation's risks in relation to gift offers are assessed, managed, and monitored;
- **Processes:** the corporation's procedures are transparent and accountable. Processes are in place to ensure that board members and employees are aware of the requirements of this policy and how to comply with it.

This policy is consistent with the Model Policy on *Gifts, benefits and hospitality – responding to gift offers*, with respect to boards and employees of DELWP agencies.

2 Purpose

This policy sets out the corporation's standards for responding to gift offers. It applies to all board members and employees (i.e. senior executives and other staff, including 'in house' contractors and consultants).

Its aim is to minimise gift offers made to, and accepted by, board members and employees. This helps to protect and promote public confidence in the integrity of the corporation.

Gift offers are discouraged and must never be accepted unless there is clear justification, consistent with the prohibitions in this policy, to do so.

3 Definitions

3.1 Gift offer

A gift offer is anything of monetary or other value that is offered by an external source (organisation or individual) to a board member or employee as a result of their role with SGW. It includes free/discounted:

Items or services: for example, items such as a Christmas hamper, desk calendar, box of chocolates, bottle of wine, commemorative object, or 'door prize' at a function; services such as tree-logging or house painting.

Benefits: such as preferential treatment, privileged access, favours or other advantages or intangibles, for example, access to a discount or loyalty program, or the promise of a new job.

Hospitality that exceeds common courtesy: 'Hospitality' is the friendly reception and treatment of guests. It includes offers of food, drink, travel, accommodation, events or activities (e.g. sporting, social, industry, arts, entertainment, or other events/activities). 'Common courtesy' is polite, basic and modest. It does not raise a conflict of interest. Whether an offer exceeds common courtesy depends on the circumstances (i.e. what is offered, by whom, to whom, when and why).

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Direct or indirect:

A gift offer may be direct or indirect. It may be made directly to a board member or employee or indirectly via an offer to their relative or close associate, including:

- A member of their immediate family (e.g. spouse, partner, child, grandchild, parent, sibling);
- A regular member of their household (whether or not they are related); or
- Another close associate (e.g. friend, business associate, other relative).

Is the gift offer ‘token’ or ‘reportable’?

A gift offer that is made by an external source is either ‘token’ or ‘reportable’:

- **Token** – the gift offer is trivial and inconsequential. The combined total of offers to the board member or employee from that source in the last 12 months does not exceed \$50;
- **Reportable** – the gift offer exceeds the token value OR is of cultural, historic or other significance.

3.2 Conflict of Interest

A ‘conflict of interest’ is a conflict between a board member’s or employee’s public duty to act in the best interests of the corporation and their private interests (financial or non-financial). A conflict exists whether it is:

- **Real** – it currently exists;
- **Potential** – it may arise, given the circumstances;
- **Perceived** – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person’s performance of their duty to the corporation, now or in the future.

3.3 Bribe

A ‘bribe’ is an offer of money or other inducement made with the intention to corruptly influence a board member or employee in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.

3.4 Legitimate Business Reason (benefit)

A ‘legitimate business reason’ is a business purpose that furthers the official business or other legitimate goals of the corporation, public sector, or State.

3.5 Responsible Person

The ‘responsible person’ is the person whom the board member or employee notifies of any gift offers they receive; notifies of suspected bribery attempts; and seeks advice from about this policy and how to comply.

	Responsible Person
Employee	General Manager Corporate Services
Board member or MD	Chair
Chair	Deputy Chair Where appropriate, the Chair should also seek advice from the Minister and/or DELWP.

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3.6 Other Definitions

SGW: South Gippsland Water.

DELWP: Department of Environment, Land, Water and Planning.

PAA: Public Administration Act (2004).

MD: Managing Director.

4 Prohibited Gifts

A board member or employee must refuse any gift offer that:

- Is **money** or is similar to money (e.g. gift vouchers) or easily converted into money (e.g. shares);
- Is a **conflict of interest** (real, potential or perceived) – e.g. is offered by an external source with an interest in a decision that the board member or employee is likely to make or can influence, including in relation to:
 - Procurement of goods or services;
 - Tender processes;
 - Awarding of a grant or sponsorship;
 - Setting of policy;
 - Enforcement, licensing or regulation;
 - Contracts.
- Could in any other way create a **reasonable perception** that it is offered to influence, or could influence, the judgement of the board member or employee (i.e. how they act, or fail to act, now or in the future);
- Is inconsistent with **community expectations**;
- Could in any other way bring their **integrity**, or that of the corporation, into disrepute.

If it is a reportable gift offer (item 8), it must also be refused unless there is a '**legitimate business reason**' to accept it.

4.1 Gift Offers of Hospitality

To ensure compliance with the above requirements, board members and employees must be particularly cautious about accepting gift offers of hospitality (i.e. food, drink, travel, accommodation, events or activities). Gift offers of hospitality are often inconsistent with community expectations. There is also a high risk of conflict of interest. In such cases, the gift offer must be refused *even if there is a legitimate business reason to accept*.

4.2 Recording Prohibited Gift Offers

To assist to monitor the frequency and nature of prohibited gift offers, it is essential that all such offers are disclosed in accordance with the requirements for token or reportable gift offers.

4.3 Misuse of Position

Accepting a prohibited gift offer may constitute misuse of a board member's or employee's position, a breach of this policy and/or a breach of the relevant code of conduct, and may result in disciplinary action. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

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5 Attempts to Bribe

A board member or employee who receives a gift offer that they believe is an attempted bribe must refuse the offer. They must:

- Immediately notify the responsible person and lodge a gift offer declaration form (item 9), so that their refusal can be properly recorded;
- Report the matter to the Independent Broad-based Anti-corruption Commission (IBAC) as a protected disclosure.

A board member or employee who believes that another board member or employee may have solicited or been offered a bribe which the other person has not reported must either notify the responsible person or report the matter to IBAC as a protected disclosure.

The MD must notify IBAC of any matter which they believe on reasonable grounds may be corrupt conduct or, if appropriate, notify the police of a suspected offence.

6 Ban on Soliciting Gifts

Board members and employees must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position, a breach of this policy and/or a breach of the relevant code of conduct and may result in disciplinary action. It may also constitute corruption and lead to a criminal prosecution.

7 Token Gift Offers

A board member or employee who is offered a gift of **token value** (as defined in item 3.1) that is not a prohibited gift (item 4) may:

- Refuse the gift offer;
- Accept the gift offer and retain the gift as their own.

[SCO-001e Gifts, Benefits and Hospitality – Board and Employee Procedure](#) details strict requirements for disclosing Token Gift Offers.

8 Reportable Gift Offers

A board member or employee who is offered a **reportable** gift (as defined in item 3.1) must, **regardless of whether the gift is accepted:**

- Verbally disclose the offer to the responsible person as soon as practicable;
- Within five working days of the offer, sign and lodge a properly completed gift offer declaration form.

A gift offer must not be accepted if it is a prohibited gift (item 4).

[SCO-001e Gifts, Benefits and Hospitality – Board and Employee Procedure](#) details strict reporting requirements for disclosing, declaring and dealing with Reportable Gift Offers.

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9 Gift Offer Declaration Form

A board member or employee must complete and lodge a gift offer declaration form as required and detailed in the [SCO-001e Gifts, Benefits and Hospitality – Board and Employee Procedure](#).

10 Gifts Register

A *Register of responses to reportable gift offers* ('gifts register') will be maintained that includes a record of:

- All **reportable** gift offers and responses (based on completed gift offer declaration forms);
- If the gift offer was accepted, how the gift will be used or disposed of by the corporation.

A copy of the gifts register that complies with privacy obligations will be published on SGW's external website. It should be updated at least every six months. Entries should remain on the website for at least the current and previous financial year.

11 Monitoring Compliance

The administration and quality control of the corporation's policy and processes, including the gifts register and gift offer declaration forms, will be subject to regular scrutiny and annual reporting to the Audit and Risk Management Committee and the board.

12 Promoting and Improving Compliance

The MD will have suitable business rules, processes, and record-keeping requirements in place for the practical implementation of this policy. This includes guidance, training and establishment of a 'Gifts hub', a central point of referred for advice.

Summary flow chart

To assist employees and board members, a flowchart of how to respond to gift offers is set out in **Appendix 1**.

13 Culture of Integrity

It is essential that board members, employees, and external stakeholders are supported to raise queries and issues about gift offers, including queries and issues relating to their own conduct or that of others.

13.1 Assistance with Making Decisions

A board member or employee who is uncertain how to comply with this policy should seek advice from the responsible person/ Gifts hub. This does not abrogate their responsibility to make the right decision.

13.2 Possible Breach of this Policy

A board member or employee who may have breached this policy must immediately notify the responsible person and remedy any breach.

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13.3 Speaking up

A board member or employee who believes that another board member/employee may have breached this policy must 'speak up' in line with advice detailed in [SCO-001e Gifts, Benefits and Hospitality – Board and Employee Procedure](#).

14 Obligations and Good Practice

Board members and employees must act in accordance with their respective obligations and with good public sector governance practice, including:

- The establishing Act, being *the Water Act 1989*;
- The *Public Administration Act 2004* ('PAA');
- Binding codes and accountabilities issued by the Victorian Public Sector Commission, in particular:
 - [Code of Conduct for Directors of Victorian Public Entities](#) ('Directors Code of Conduct');
 - [Code of Conduct for Victorian Public Sector Employees](#);
 - Minimum accountabilities for managing gifts, benefits and hospitality.
- Government policy;
- Any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- All other laws and obligations that bind the corporation.¹

15 Related Policies

- [SCO-001e Gifts Benefits and Hospitality – Board and Employee Procedure](#);
- [PCO-001a Conflict of Interest – SGW Employees Policy](#);
- [PCO-001b Conflict of Interest – Board Policy](#);
- [PCO-001c Code of Conduct – Board Policy](#);
- [PCO-001d Dispute Resolution – Board Policy](#);
- [PCO-007 Protected Disclosures Policy](#);
- [PCO-012 Privacy Policy](#);
- [PCO-015 Freedom of Information Policy](#);
- Model Policy for Gifts, Benefits and Hospitality with respect to boards of major DELWP agencies.

16 Responsibilities

Board members and employees (including in house contractors and consultants): are responsible for ensuring that their own conduct meets the required standards of integrity. They place the public interest above their own interests when carrying out their official duties. This includes declaring all gift offers in accordance with this policy and refusing prohibited gifts.

¹ South Gippsland Water is subject to the *Financial Management Act 1994* and therefore, the requirement in the 'Instructions supporting the Standing Directions of the Minister for Finance 2016' to have policies and procedures in place in relation to gifts, benefits and hospitality – see Instruction 2.1(i) and Direction 3.4(e).


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The Chair, the Managing Director (MD) and employees with direct reports: are responsible for being aware of, and monitoring the risks inherent in their team's work and functions. They model good practice and promote awareness of this policy and related processes.

This document is to be reviewed **ANNUALLY** in **March 2018** or earlier as required.

This document must not be released to external parties without approval by the Managing Director.

DOCUMENT APPROVAL		
Board Approval:	Meeting No.: 260	Date: 23/03/2017
Managing Director Signature:		

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Appendix 1 – Flowchart

Have you received a gift offer as a result of your role with SGW?

'GIFT' includes:

- **Items or services** (e.g. chocolates, bottle of wine, commemorative object, calendar, door prize);
- **Benefits** (e.g. promise of a new job);
- **Hospitality that exceeds common courtesy.** ('Hospitality' includes food, drink, travel, accommodation, events or activities – e.g. sporting, social, industry, arts or entertainment. 'Common courtesy' is polite, basic and modest. It does not raise a conflict of interest. Whether an offer exceeds common courtesy depends on what is offered, by whom, to whom, when, why.)

Yes

No (hospitality does not exceed common courtesy)

Policy does not apply

Procedure applies

Is it a prohibited gift?

- Is it **money** or is similar to money (e.g. gift vouchers) or easily converted into money (e.g. shares)?
- **Is it a conflict of interest** (real, potential or perceived)? – E.g. offered by an external source with an interest in a decision that you are likely to make or can influence (e.g. tender process; procurement of goods/services; awarding of a grant or sponsorship; setting of procedure; enforcement, licensing or regulation; contracts).
- Could it in any other way create a **reasonable perception** that it is offered to influence, or could influence, your judgement (i.e. how you act, or fail to act, now or in the future)?
- Is it inconsistent with **community expectations**?
- Could it in any other way bring your integrity, or that of SGW, into **disrepute**?

Yes

No

It is prohibited

- **Refuse** the gift;
- **Disclose** offer to your 'responsible person' (line manager for employees; chair for board members and the MD) as follows:
 - Token offers by email;
 - Reportable offers verbally and by lodging a gift offer declaration form.

Yes – it is 'reportable'

- Is there a 'legitimate business reason' to accept the offer?

No

Yes

'Reportable' obligations

- You can either refuse or accept the gift;
- Regardless, you must inform your 'responsible person' and disclose the offer by lodging a gift offer declaration form;
- If you accept the offer, the corporation is the owner of the gift, not you.

Token or reportable?

- Does the combined total of offers to you from this source in the last 12 months exceed \$50?
OR
- Regardless of value, is the gift offered of cultural, historical or other significance?

No – it is 'token'

'Token' obligations

- You can either refuse or accept the gift;
- Regardless, you must disclose the offer by email to your 'responsible person' and keep a copy of it;
- If you accept the gift, you can keep it as your own.

Note that information about reportable gift offers is published (de-identified) on the corporation's website.