

Gifts, Benefits and Hospitality Guideline

1. Context

This guideline states Eastern Health's position on:

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

This guideline is intended to support individuals and Eastern Health to avoid conflicts of interest and maintain high levels of integrity and public trust.

Eastern Health has issued this guideline to support behaviour consistent with the *Code of conduct for Victorian public sector employees* (the Code). All employees are required to comply with this guideline.

This guideline applies to all workplace participants and for the purpose of this guideline, this includes: executives, Board Directors, employees, contractors, consultants and any individuals or groups undertaking activity for or on behalf of the Eastern Health. (Contractors and consultants are only bound by the code if explicitly required by their contract for services, but all suppliers are expected to comply with the Victorian State Government Supplier Code of Conduct).

This guideline does **not** apply to internal Reward and Recognition such as service awards, A2i and local reward and recognition programs. In these instances, the test of appropriateness that should be applied is whether the reward is proportionate to the business benefit and whether it is an appropriate use of public funds. Refer to the Local Reward and Recognition Guideline for more information.

2. Definition of terms

Business Associate: an external individual or entity with which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

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.

Conflict of Interest - Actual, Potential or Perceived:

- *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 form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.

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

Fundraising that is consistent with relevant legislation and any government policy is not prohibited.

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: gifts, benefits and hospitality accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the organisation, public sector or State. **NOTE:** Networking and maintaining stakeholder relationships are not legitimate business benefits.

Public Official: has the same meaning as under section 4 of the *Public Administration Act 2004*. This includes:

- public sector employees;
- statutory office holders; and
- directors of public entities.

Register: at Eastern Health this is an electronic record in which all declarable gifts, benefits and hospitality are recorded. It records the date an offer was made and by whom, the nature of the offer, its estimated value, any actual, potential or perceived conflicts of interest or reputational risks it raises and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance. **NOTE: Eastern Health is required to publish certain aspects of the Register on its website; some information gathered on the declaration form is not made publicly available.**

Token Offer: is an offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the individual. 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.

Non-Token Offer: is an offer of a gift, benefit or hospitality that is, or may be perceived by the recipient, the person making the offer or by the wider community, to be of more than inconsequential value. All offers worth more than \$50 (cumulatively over 12 months) are non-token offers and must be recorded on the gifts, benefits and hospitality register.

3. Name of Standard to which Guideline, Procedure or Protocol relates

Conflict of Interest #1967.

4. Processes

This guideline has been developed in accordance with the requirements of the *Minimum accountabilities for managing gifts, benefits and hospitality* issued by the Victorian Public Sector Commission (link in section 8).

Eastern Health is committed to and will uphold the following principles in applying this guideline:

Public interest: 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 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 using the attached declaration form and ensuring all questions are answered in full;
- declining non-token offers of gifts, benefits and hospitality, or if an exception applies under this guideline, seeking approval to accept the offer and stating the legitimate business benefit (reasons) for accepting the offer; and
- 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.

Risk-based approach: Eastern Health, through its policies, processes and Risk and Audit Committee, 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.

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 relevant Executive Director.

Requirements for managing 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 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, raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50. 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.

Individuals may accept *one-off* token offers of gifts, benefits and hospitality without approval or declaring the offer on the Eastern Health register.

Exceptions to One off token offers:-

Individuals are to refuse all token offers (excluding token hospitality, such as sandwiches over a lunchtime meeting):

- made by a current or prospective supplier;
- made during a procurement or tender process by a person or organisation involved in the process.

Requirements for refusal of non-token offers

Individuals should consider the GIFT test at **Table 1** and the requirements below to help respond to a non-token offer. If in doubt, decline any offer being made and contact HR Connect for guidance.

Individuals are to refuse all non-token offers:

- made by a current or prospective supplier;
- made during a procurement or tender process by a person or organisation involved in the process.

unless it can be documented/shown that acceptance of the non-token offer:

- has legitimate business benefit, i.e. will clearly enhance patient care or service delivery
- will not influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest;
- an equivalent offer has not already been accepted by other staff e.g. in relation to hospitality and events (the organisation may be already sufficiently or over-represented) and there is a legitimate business reason to support acceptance
- could not be perceived as an endorsement of a product or service, or acceptance would not unfairly advantage the sponsor in future procurement decisions, e.g. engaging the services of or participating in luncheons provided by pharmaceutical sales representatives would not be acceptable
- is being made by a person or organisation about which they will not be likely make a decision (also applies to processes involving grants, sponsorship, regulation, panels, tenders, enforcement or licensing);
- is not a bribe or inducement to make a decision or act in a particular way;
- is not extended to relatives or friends, such as a non-token gift for a child or family wedding;
- is not made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector agencies; and
- has not been made in secret.

Money, or goods used in a similar way to money, or something easily converted to money **must always be declined**. Gifts left with a staff member in an unopened card, such as a Tattsлото ticket, “scratchie” card or gift voucher must be donated to the Foundation and must be declared using the declaration form.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the Chief Executive or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission). If in any doubt refer to the Fraud and Corruption Control Standard on Objectify. If still concerned, HR Connect can also provide further support.

Table 1. GIFT test

G	Giver	Who is providing the gift, benefit or hospitality and what is their relationship to me? 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?
I	Influence	Are they seeking to gain an advantage or influence my decisions or actions? 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?
F	Favour	Are they seeking a favour in return for the gift, benefit or hospitality? 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?
T	Trust	Would accepting the gift, benefit or hospitality diminish public trust? How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?

Requirements for accepting non-token offers

There will be some exceptions where there is a legitimate business benefit for accepting a non-token offer. All non-token offers accepted **must** be approved in writing by the individual's manager or Executive Director depending on its value and whether financial restrictions/delegations apply; 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, Eastern Health or the public sector into disrepute (the 'GIFT' test at **Table 1** is a good reminder of what to think about in making this assessment); and
- 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 Eastern Health, the public sector or the State. The reason for accepting the gift must be included in the declaration form, and the manager approving acceptance must state their reasons for approving the gift.

Individuals may be offered a gift, benefit 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 seek approval from their manager within five business days or as soon as practicable, e.g. immediately following their return from conference or other leave. The item accepted becomes the property of Eastern Health, not the individual.

NOTE: Where the value of an offer of a gift, benefit or hospitality is unknown it must be reported by the recipient as non-token.

Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be declared using the attached form so they can be recorded in Eastern Health’s gifts, benefits and hospitality register. As detailed above, the **business reason** for accepting the non-token offer must be recorded in the register and sufficient detail provided to link acceptance of the offer with the individual’s work functions and benefit to Eastern Health, the public sector or State.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included in Eastern Health’s register when recording the business reason:

Unacceptable:	“Networking” or “Maintaining stakeholder relationships”
Acceptable:	“Individual is responsible for evaluating and reporting outcomes of Eastern Health’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to Eastern Health 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 and written approval was subsequently obtained for the gift, which became Eastern Health’s property. ”

Eastern Health’s Risk and Audit Committee will receive a report at least annually on the administration and quality control of the Gifts, Benefits and Hospitality Guideline, processes and register. The report will include analysis of Eastern Health’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.

Ownership of gifts offered to individuals

Non-token gifts accepted by an individual for their work or contribution may be retained by the individual where their manager or Executive Director has provided written approval. Employees must transfer to Eastern Health any official gifts or any gift of cultural significance or **significant value** (over \$50). That is, all non-token gifts, benefits and hospitality are accepted on behalf of Eastern Health for a legitimate business reason and Eastern Health is the owner.

Management of the provision of gifts, benefits and hospitality

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

Requirements for providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes, celebrate achievements and thank external contributors for their input or assistance e.g. thanking a guest speaker by presenting them with flowers to recognise their pro-bono time and contribution to project or presentation.

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 in that it 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 the State, 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); and
- it does not raise an actual, potential or perceived conflict of interest.

Table 2. 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 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?

Containing costs

Individuals should contain costs involved in the provision of gifts, benefits and hospitality wherever possible. The following questions may be useful to assist individuals to decide the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Will the gift, benefit or hospitality create a conflict of interest (actual, potential or perceived) for the recipient?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

Breaches

Disciplinary action, including dismissal, may be taken consistent with the relevant industrial instrument and legislation, where an individual fails to adhere to this guideline. 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 Eastern Health's Conflict of Interest Standard and this guideline.

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

- breaches of the binding *Code of conduct for Victorian public sector employees*, such as sections of the Code covering conflict of interest (section 3.7), public trust (section 3.9) and gifts and benefits (section 4.2); and
- individuals making improper use of their position.

Eastern Health will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those whose actions are inconsistent with this guideline may be subject to contract re-negotiation, including termination.

Speak Up

Individuals who consider that gifts, benefits and hospitality or conflicts of interest within Eastern Health may not have been declared or are not being appropriately managed should speak up and notify their manager or the relevant Executive Director or HR Connect.

Eastern Health 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 the acceptance of a gift, benefit or hospitality, or the application of this policy, should ask their manager or the relevant Executive Director or HR Connect for advice. Managers who are unsure of the advice to give an employee or whether to approve acceptance of a gift, benefit or hospitality should contact the relevant Executive Director or HR Connect for advice.

5. Scope

This guideline applies to all Eastern Healthstaff, Board Directors, contractors, consultants, volunteers and any individuals or groups undertaking activity for or on behalf of the Eastern Health.

6. Measures

Measure	Target	Date Target Due	Person (role) responsible for collection	Person (role) accountable for target	Reporting line (committee)
Breaches of this Guideline	Zero	Ongoing	Associate Director HR Connect	Executive Director People and Culture	Risk and Audit Committee Board
All declarations followed up upon receipt to ensure nil breach of this Guideline	100%	Ongoing	Associate Director HR Connect	Executive Director People and Culture	Risk and Audit Committee Board
Agreed education content development in 2018 provided to staff annually via a variety of means	100%	Annually	Associate Director HR Connect	Executive Director People and Culture	Risk and Audit Committee Board
Eastern Health's online Register is reviewed and approved for accuracy and completeness prior to hosting on website	100%	At least annually	Associate Director HR Connect	Chief Finance Officer	Risk and Audit Committee Board
Eastern Health's Register is published on the Eastern Health website each year	100%	At least annually	Associate Director HR Connect	Chief Financial Officer	Risk and Audit Committee

7. Tools & Techniques

- Gifts, Benefits and Hospitality Declaration Form
- Minimum Accountabilities for the Management of Gifts, Benefits and Hospitality

8. Level of Supporting Evidence Available

[Victorian Public Sector Commission 'Gifts, Benefits and Hospitality Resources Suite'](#)

[Victorian Public Sector Commission 'Gifts, Benefits and Hospitality Minimum Accountabilities'](#)

9. References

- Minimum accountabilities for the management of gifts, benefits and hospitality (*see Instructions supporting the Standing Directions of the Minister for Finance*)
- Eastern Health's Conflict of Interest Standard
- *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*.

REMINDER: Charter of Human Rights and Responsibilities Act 2006 – All those involved in decisions based on this guideline have an obligation to ensure that all decisions and actions are compatible with relevant human rights

10. Development History

- Policy first developed in December 2009
- Reviewed August 2013
- Reviewed August 2015
- Reviewed September 2015
- Revised November 2015
- Revised February 2017
- Revised November 2018