

Abstract

<p>Purpose</p>	<p>This policy states VicHealth’s position on:</p> <ul style="list-style-type: none"> • responding to offers of gifts, benefits and hospitality; and • providing gifts, benefits and hospitality. <p>This policy is intended to support VicHealth and individuals to avoid conflicts of interest and maintain high levels of integrity and public trust.</p> <p>VicHealth recognises the importance and the legitimate business reasons that workplace participants attend industry and stakeholder events and/or functions to contribute to and/or develop a greater understanding of health promotion issues, trends and strategies. As a generalisation, attendance at these events will be considered and recorded in accordance with VicHealth’s Attendance at Official Business Events Policy.</p> <p>VicHealth has issued this policy to support behaviour consistent with the: Code of conduct for Victorian public sector employees; Code of Conduct for Directors of Victorian Public Entities and the Victorian Public Sector Commission’s Gift, Benefits and Hospitality Framework.</p>
<p>Scope</p>	<p>This policy applies to all workplace participants (refer definitions section).</p>
<p>Policy owner</p>	<p>Executive Manager Corporate Services on behalf of the VicHealth Board.</p>
<p>Effective date</p>	<p>1 September 2018</p>

Policy Statement

<p>Principles</p>	<p>This policy has been developed in accordance with requirements outlined in the minimum accountabilities for managing gifts, benefits and hospitality issued by the Victorian Public Sector Commission.</p> <p>VicHealth is committed to and will uphold the following principles in applying this policy:</p> <p>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.</p> <p>Accountability: individuals are accountable for:</p> <ul style="list-style-type: none"> • 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; and • the responsible provision of gifts, benefits and hospitality. <p>Risk-based approach: VicHealth, through its policies, processes and Finance Audit and Risk Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of</p>
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	<p>the risks inherent in their team’s work and functions and monitor the risks to which their direct reports are exposed.</p> <p>VicHealth’s default position in relation to offers of gifts, benefits and hospitality is to politely say “no thank-you”. The exceptions to this position are:</p> <ul style="list-style-type: none"> • protocol/cultural gifts • thank-you gifts where it is not practical to decline the offer • where there are strong business reasons in VicHealth’s and/or the public’s interest to accept.
<p>Events not covered by this policy</p>	<p>Many core business activities of VicHealth involve attending Official Business Events. Attendance at these events is not subject to this Policy.</p> <p>Workplace participants must declare and record the attendance an Official Business Event in accordance with the Attendance of Official Business Event Policy.</p>
<p>Exclusions</p>	<p>You need not declare or record hospitality accepted from other Victorian public-sector organisations if:</p> <ul style="list-style-type: none"> • it is offered for a legitimate business purpose; and • your reason for attending is consistent with your role at VicHealth.
<p>Minimum accountabilities</p>	<p>The Victorian Public Sector Commission has set binding minimum accountabilities for the appropriate management of gifts, benefit and hospitality. VicHealth has adopted these accountabilities which are:</p> <p>Individuals <u>offered</u> gifts, benefits and hospitality:</p> <ul style="list-style-type: none"> • do not, for themselves or others, seek or solicit gifts, benefits and hospitality • refuse all offers of gifts, benefits and hospitality that: <ul style="list-style-type: none"> – 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 • declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on VicHealth’s gift benefit and hospitality register, and seek approval from their manager or delegate to accept any non-token offer • refuse bribes or inducements and report inducements and bribery attempts to the Executive Manager Corporate Services (who will report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission). <p>Individuals <u>providing</u> gifts, benefits and hospitality:</p> <ul style="list-style-type: none"> • 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 VicHealth goals, or promotes and supports VicHealth policy objectives and priorities

	<ul style="list-style-type: none"> • ensure that any costs are proportionate to the benefits obtained for VicHealth, 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. This includes compliance with VicHealth’s Alcohol and Drugs Policy.
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Procedure

<p>Management of offers of gifts, benefits and hospitality</p>	<p>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 Board Chair, CEO or Executive Manager Corporate Services.</p> <p>Token offers</p> <p>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 or coffee offered during a meeting, thank-you box of chocolates, bottle or wine for presenting at a conference or similar, tickets to stakeholder event.</p> <p><i>Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside of VicHealth as influencing an individual raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50.</i></p> <p>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.</p> <p>Individuals may accept token offers of gifts, benefits and hospitality without approval or declaring the offer on the VicHealth Gifts, Benefits and Hospitality register.</p> <p>Individuals are to refuse all offers (excluding token hospitality, such as coffee or sandwiches over a meeting):</p> <ul style="list-style-type: none"> • made during a funding, procurement or tender process by a person or organisation involved in the process • are tobacco related products • from organisations directly involved with the tobacco, junk food or alcohol industry • from organisations subject to a VicHealth a contract performance review • from organisation subject to a legal dispute or matter with VicHealth. <p>Requirement for refusing non-token offers</p> <p>Individuals should consider the GIFT test at Table 1 and the requirements below to help respond to a non-token offer.</p> <p>Individuals are to refuse non-token offers:</p> <ul style="list-style-type: none"> • in the same circumstances as refusing token offers
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- likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest
- likely to be a bribe or inducement to make a decision or act in a particular way
- that extend to their relatives or friends
- with no legitimate business benefit
- of money, or used in a similar way to money, or something easily converted to money
- where, in relation to hospitality and events, VicHealth will already be sufficiently represented to meet its business needs [this should be assessed on a case by case situation but generally should not exceed 4 individuals]
- 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, VicHealth or public-sector agencies
- made in secret.

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

Requirements for accepting non-token offers

There will be some exceptions where there is a legitimate business reason for accepting a non-token offer. All accepted non-token offers must be approved by the individual's manager or Executive Manager Corporate Services, 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, VicHealth 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).
- 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 VicHealth, public sector or the state.

Individuals may be offered a gift or hospitality where there is no opportunity to seek 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.

Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be recorded in VicHealth's gifts, benefits and hospitality register. The business reason for accepting the 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 VicHealth's, public sector or state.

	<p>Ownership of gifts offered to individuals</p> <p>Non-token gifts accepted by an individual for their work or contribution may be retained by the individual where their manager has provided approval.</p> <p>Employees must transfer to VicHealth official gifts or any gift of cultural significance or significant value. Additionally, it might be appropriate to distribute a gift amongst other VicHealth employees.</p>
<p>Declaration of Gifts, Benefits & Hospitality</p>	<p>Individuals must record the offer or provision all non-token gifts, benefits or hospitality in VicHealth’s register</p> <ul style="list-style-type: none"> • as soon as practical after receiving the offer and prior to acceptance/declination or • within 5 days if acceptance/declination is required at the time of offer. <p>Managers must either approve or decline the individual’s declaration in a timely manner.</p>
<p>Management of the provision of gifts, benefits and hospitality</p>	<p>This section sets out the requirements for providing gifts, benefits and hospitality.</p> <p>Requirements for providing gifts, benefits and hospitality</p> <p>Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further VicHealth and public-sector business outcomes and to celebrate achievements.</p> <p>When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:</p> <ul style="list-style-type: none"> • any gift, benefit or hospitality is provided for a business reason in that it furthers the conduct of official business or other legitimate VicHealth goals, or promotes and supports VicHealth or 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) • it does not raise an actual, potential or perceived conflict of interest. <p>Containing costs</p> <p>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:</p> <ul style="list-style-type: none"> • 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 providing the gift, benefit or hospitality be viewed by the public as excessive?

	<p>Other factors</p> <p>Expenditure for the provision of gifts, benefits or hospitality should be done taking into consideration other relevant VicHealth policies, eg Delegations, Catering Guidelines, Drug and Alcohol Policy.</p>
<p>Breaches</p>	<p>Disciplinary action consistent with the VicHealth enterprise agreement, employment contract and legislation, including dismissal, may be taken where an individual fails to adhere to this policy.</p> <p>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 the VicHealth’s Conflict of Interest Policy.</p> <p>Actions inconsistent with this policy may constitute misconduct under the Public Administration Act 2004, which includes:</p> <ul style="list-style-type: none"> • 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) • individuals making improper use of their position. <p>VicHealth 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.</p>
<p>Reporting to the Finance Audit and Risk Committee</p>	<p>VicHealth’s Finance, 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.</p> <p>The report will include analysis of VicHealth’ gifts, benefits and hospitality risks, risk mitigation measures and any proposed improvements.</p>
<p>External Reporting</p>	<p>VicHealth will publish on its website:</p> <ul style="list-style-type: none"> • the Gifts, Benefits and Hospitality Policy • an extract of the Gifts, benefits and hospitality register. The published register will cover the current and the previous financial year.

Responsibilities

<p>Workplace participants</p>	<ul style="list-style-type: none"> • Comply with the requirements of this policy • Declare/record any offers or provision of non-token gifts, benefits or hospitality • Speak Up: Individuals who consider that gifts, benefits and hospitality or conflict of interest within VicHealth may not have been declared or is not being appropriately managed should speak up and notify their manager or Executive Manager Corporate Services. (VicHealth will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.)
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<p>CEO via the Executive Manager Corporate Services</p>	<ul style="list-style-type: none"> • Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities. • 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. • 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. • 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 VicHealth’s policy. This must take into consideration any whole of Victorian Government supplier codes of conduct. • Report at least annually to the organisation’s Finance Audit and Risk committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register (as outlined above). • Publish the organisation’s gifts, benefits and hospitality policy and register on the organisation’s public website (as outlined above). • Demonstrate leadership with the application of this policy.
<p>Managers</p>	<ul style="list-style-type: none"> • 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. • Either approve or decline the individual’s declaration.

Definitions

<p>Workplace participants /individuals</p>	<p>Workplace participants includes: Board members, Board Committee members, executives, employees, agency employees, advisory/assessment panel members, taskforce members, contractors¹, consultants and any individuals or groups undertaking activity for or on behalf of VicHealth.</p> <p>In the context of this Policy, the term ‘individuals’ it used to mean all workplace participants as defined above.</p>
<p>Business Associate</p>	<p>An external individual or entity which VicHealth has, or plans to establish, some form of business relationship, or who may seek commercial, funding or other advantage by offering gifts, benefits or hospitality.</p>
<p>Benefit</p>	<p>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.</p> <p>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.</p>

¹ Note the application of clause 1.4 of the Code of conduct for Victorian public-sector employees to the engagement of contractors and consultants. Contractors and consultants are only bound by the code if explicitly required by their contract for services

<p>Conflicts of interest</p>	<p><u>Actual conflict of interest:</u> There is a real conflict between an individual’s VicHealth’s duties and private interests.</p> <p><u>Potential conflict of interest:</u> An individual has private interests that could conflict with their VicHealth 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.</p> <p><u>Perceived conflict of interest:</u> The public or a third party could form the view that an individual private interests could improperly influence their decisions or actions, now or in the future.</p>
<p>Gifts</p>	<p>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), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities</p>
<p>Hospitality</p>	<p>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.</p>
<p>Legitimate business benefit</p>	<p>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</p>
<p>Official Business Event</p>	<p>VicHealth’s business activities span programs, projects and campaigns that require workplace participants to interact other public sector and non-public sector organisations in the pursuit of VicHealth’s objective to promote good health.</p> <p>Much of this activity involves attending events where the reason for attendance is consistent with the VicHealth’s functions and objectives, and is consistent with the roles of VicHealth’s persons attending.</p> <p>Refer to the Attendance at Official Business Event Policy for more details.</p>
<p>Public official</p>	<p>Has the same meaning as under section 4 of the <i>Public Administration Act 2004</i>. This includes:</p> <ul style="list-style-type: none"> • public sector employees; • statutory office holders; and • directors of public entities
<p>Public Sector Organisation</p>	<p>Other Victorian Government department, agency or public body as defined in the Financial Management Act. An organisation that is in receipt of VicHealth funding is not necessarily (and most often is not) a public-sector organisation.</p>
<p>Register</p>	<p>Is a record, 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.</p> <p>For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.</p>
<p>Token offer</p>	<p>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.</p>

	<p>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.</p> <p>Consideration should be given to cumulative offers from the same source over a 12-month period).</p>
Non-token offer	<p>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.</p> <p>All offers worth \$50 or more are non-token offers and must be recorded on a gift, benefit and hospitality register, regardless of whether they are accepted or declined.</p>

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, 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 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?</p> <p>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 2: Host Test

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>

Contacts

- Executive Manager, Corporate Services
- People and Culture Business Partner

Related Documentation

Legislation	VicHealth policies & related documents
<i>Public Administration Act 2004</i>	Attendance at Official Business Events Policy
<i>Tobacco Act 1987</i>	Attendance at Official Business Events & Gifts Benefits and Hospitality Guidelines
Standing Directions under the <i>Financial Management Act (2016)</i>	Managing Conflict of Interest Policy
Victorian Public Sector Commission documents	Prevention and Management of Fraud Policy
Code of conduct for Victorian public-sector employees 2015	Protected Disclosures Policy
Code of conduct for Directors of Victorian public entities 2016	Drug and Alcohol Policy
Gifts, Benefits and Hospitality Framework and related documents (July 2018).	Employee Culture Charter

Document Management

Policy Number	[Refer to quality system numbering]
Policy Name	Gifts, Benefits and Hospitality Policy
Location	Resources/Policies
Date for Review	September 2019

Document History

Issue date	Version	Details of changes	Author
Jan 2017	3.5 -3.8	Update of policy to reflect VPSC Commissioner updated Gifts, Benefits and Hospitality Framework	Deloitte & D Mitchell
February 2017	4.0	Approved by the Finance, Audit and Risk Committee and presented to the Board.	D Mitchell
July 2018 & Aug 18	4.1 & 4.2	Amendments to reflect changes (July 2018) to VPSC Gift, Benefits and Hospitality Framework and development of VicHealth Attendance Official Business Event Policy. Review by FAR Committee. Policy approved at the August Board meeting.	D Mitchell