



# Gifts, Benefits and Hospitality Information

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## Gifts, Benefits and Hospitality Supporting Information

### 1. Background

This Gifts, Benefits and Hospitality Supporting Information (the Information) assists the practical application of the *Gifts, Benefits and Hospitality Policy* (the Policy).

The management of offered gifts, benefits and hospitality is a critical part of good integrity governance systems for which organisations are accountable to manage their risks. Good integrity governance is achieved by creating an environment of transparency in, and accountability for, preventing, detecting and responding to fraud and corruption risks and integrity issues, to enable a culture of integrity to flourish.

Specifically the supporting information is intended to comply with the WA Health Code of Conduct (Code of Conduct) and Public Sector Commission *Good governance guide – Gifts, benefits and hospitality*, provide good practice guidance and assist the identification and management of integrity risks associated in dealing with gifts, benefits and hospitality.

The Information draws heavily on key points from the WA Integrity Coordinating Group's (ICG) good practice guide on gifts, benefits and hospitality.<sup>1</sup>

### 2. Dealing with the offer of gifts, benefits and hospitality

In complying with the Policy, Department of Health employees and Health Service Provider staff members must ensure that their personal interest does not conflict, nor appear to conflict, with their public duty. Dealing with offers of gifts, benefits and hospitality is not straightforward given the complex operating environment of the WA health system. Accordingly, decisions need to be authorised, appropriate, defensible and recorded accurately.

#### 2.1 Why are gifts, benefits and hospitality offered?

Gifts, benefits and hospitality are generally offered for a number reasons. They are frequently offered to express gratefulness for a 'well-performed' service. However Department of Health employees and Health Service Provider staff members, as public officers, are remunerated for performing their duties diligently, to a reasonably expected standard, and in accordance with the Code of Conduct, Department of Health employees and Health Service Provider staff members should not receive nor expect to receive additional compensation of any kind. As such, offers of gifts, benefits and hospitality need to be managed appropriately. Offers of gifts, benefits or hospitality may also be made to influence decision-making of Department of Health employees or Health Service Provider staff members which is not permissible under the Code of Conduct.

#### 2.2 What is meant by gift, benefit and hospitality?

Gift, benefits and hospitality are defined separately to enable Department of Health employees and Health Service Provider staff members to make well informed decisions about how to deal with such items.

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<sup>1</sup> 'Gifts, benefits and hospitality – A guide to good practice', The WA Integrity Coordinating Group (a group consisting of the Office of the Auditor General, the Commissioner for Public Sector Standards, the Corruption & Crime Commission and the Ombudsman of Western Australia), published 2016

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A benefit is an intangible item which relate to, or result in, an advantage to the Department of Health employee or Health Service Provider staff member such as preferential treatment, privileged access or favours. Examples include, but are not limited to, items such as personal service, job offers, access to discounts and loyalty programs, access to confidential information, and invitations to sporting or other events.

A gift is anything of value offered to a Department of Health employee or Health Service Provider staff member in addition to their normal salary or employment entitlements by a member of the public, customer, client, applicant, supplier, potential supplier or external organisation. Gifts are generally tangible and examples include, but are not limited to, items such as consumer goods (such as mobile phones, laptop computers, artwork, jewellery, alcohol consumables), promotional materials, items offered by a commercial organisation, samples, discounts on goods and services and cash.

Hospitality relates to entertaining of a Department of Health employee or Health Service Provider staff member by a member of the public, customer, client, applicant, supplier, potential supplier or external organisation. Examples include, but are not limited to, meals, invitations to events, catering of events<sup>2</sup>, personal service, job offers and invitations to sporting or other events, catering supplied for meeting or education sessions.

### 2.3 Managing offers of gifts, benefits and hospitality

WA health entities must:

- make available information on the systems and processes which Department of Health employees and Health Service Provider staff members must follow;
- require Department of Health employees and Health Service Provider staff members to declare all gifts, benefits and hospitality offered;
- outline the risks associated with the acceptance of gifts, benefits and hospitality to Department of Health employees and Health Service Provider staff members;
- identify the authorised persons in the WA health system entities to make the decision to decline or accept gifts, benefits and hospitality;
- record the authorised person's decision regarding the offer;
- whenever practicable notify the provider of the gift, benefit or hospitality that their business/organisational name will be published;
- record all reported gifts, benefits and hospitality offered and the authorised person's decision using the System Manager Gift Declaration Registry database;
- conduct an audit of gifts, benefits and hospitality offered as a minimum every second year;
- manage conflicts of interest identified from offers of gifts, benefits and hospitality according to *Managing Conflicts of Interest Policy* MP 0113/19 and Department of Health *Managing Conflicts of Interest Policy*.

WA health entities are responsible for strategies to ensure that Department of Health employees and Health Service Provider staff members are complying with the Policy. This may include induction, ongoing specific and general strategies (such as Accountable and Ethical Decision Making Training), active staff management practices and performance management processes.

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<sup>2</sup> WA Health Staff Air Travel Policy MP 0017/16

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The most defensible approach from a risk perspective is not to accept any offers of gifts, benefits or hospitality. Dealing with the offer of gifts, benefits or hospitality is rarely straightforward and it is acknowledged that on some occasions, refusal may offend. Many Department of Health employees and Health Service Provider staff members will find gifts offered to them as a token of appreciation where there is no expectation which accompanies the offer, such as chocolates or flowers from a thankful patient on a ward.

However some gifts, benefits and hospitality may be in anticipation of reciprocity<sup>3</sup> from the provider of a reciprocal benefit which may not be openly stated. The concept of reciprocity is a fundamental psychological element of human interaction and requires careful management when it comes into play when a Department of Health employee or Health Service Provider staff member is offered something outside of their usual employment remuneration.

A comprehensive approach to the management of gifts, benefits and hospitality should include the following considerations:

- Integrity risks. These risks need to be identified and their effect on the reputation of the WA health entity and WA health system, carefully considered;
- Policy requirements;
- Department of Health employee and Health Service Provider staff member awareness of how to appropriately respond to offers of gifts, benefits and hospitality. Communication about this to Department of Health employees and Health Service Provider staff members, clients and providers is an important factor;
- Documented records of all offers. Mechanisms to ensure all offers are recorded in the System Manager Gift Declaration Registry. Such mechanisms need to be sufficient to support transparency and monitoring and review activities undertaken;
- Ongoing review of:
  - practices, records and registers,
  - identified trends, risks, unmanaged matters and conflicts of interest, and
  - actions taken to address any integrity risks identified.

Conflicts of interest must be considered when dealing with gifts, benefits and hospitality. Refer to the *Managing Conflict of Interest Policy* MP 0113/19 and Department of Health *Managing Conflicts of Interest Policy* for further information.

Public Sector agencies are expected to operate in an open and accountable manner. The integrity and accountability of public officers is evidenced through openness and transparency. Section 3 of the *Freedom of Information Act 1992* (the FOI Act) outlines the objects which are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public.

One of the most effective things agencies can do to achieve the objects of the FOI Act is to disclose information outside the FOI process unless there is a good reason not to do so. This can be done by the proactive publication of information or by providing information upon request, without the need for a formal FOI application.

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<sup>3</sup> Operation Jarek (full report), Chapter 4 'Corruption Prevention', page 108, Independent Commission Against Corruption, 2012

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The open and transparent publication of offered or accepted gifts and benefits is a proactive accountability strategy which is recognised and practiced by Western Australian public sector agencies such as the Office of the Information Commissioner, refer <https://www.oic.wa.gov.au/en-au/GiftStatement> and Local Government.

As best practice the WA health entity may consider publishing data related to all gifts, benefits or hospitality offered to Department of Health employees and Health Service Provider staff members on the WA health entity websites, suggested data may include:

- date;
- position of the Department of Health employee or Health Service Provider staff member;
- description of gift/benefit/hospitality;
- estimated value;
- from (name of business/organisation offering the gifts);
- purpose of gift (reason for gift);
- action (declined or accepted, what happened to gift, benefit or hospitality, and how was it used if accepted).

### 2.4 Gifts, benefits and hospitality and ‘decisions’

Public officers are entrusted with making decisions which are in the public interest. All decisions and actions that are undertaken by public officers must be justifiable and able to be transparently explained. An important element to this is ensuring that decisions are impartial and unbiased and that actions are fair and just.

The kinds of decisions which public officers commonly are required to make include, but are not limited to such things such as procurement and contracting, use of public resources, policy/legislation, engagement with internal and external stakeholders and development and maintenance of relationships and recruitment and employment. Public officers are frequently charged with considerable discretion when making decisions. The offer of a gift, benefit or hospitality may, or may be seen to influence decisions. For any public officer who makes decisions which will or may benefit or disadvantage an organisation or individual, the following considerations will assist in managing any offers of gifts, benefits and hospitality:

- What decisions does my role involve me making?
- What authority to make decisions do I have?
- Are there formal or informal delegations and what do those delegations mean?
- What authority do the informal or formal delegations provide me when I make decisions?
- Are there mandated or ‘good practice’ processes I need to follow and what are they?
- Have I considered and managed any conflicts of interest in relation to the offer of the gift when making my decision, for example:
  - Do I have personal or private interests that may conflict, or be perceived to conflict with my decisions?
  - Could there be benefits for me now, or in the future, that could cast doubt on the objectivity of my decisions?

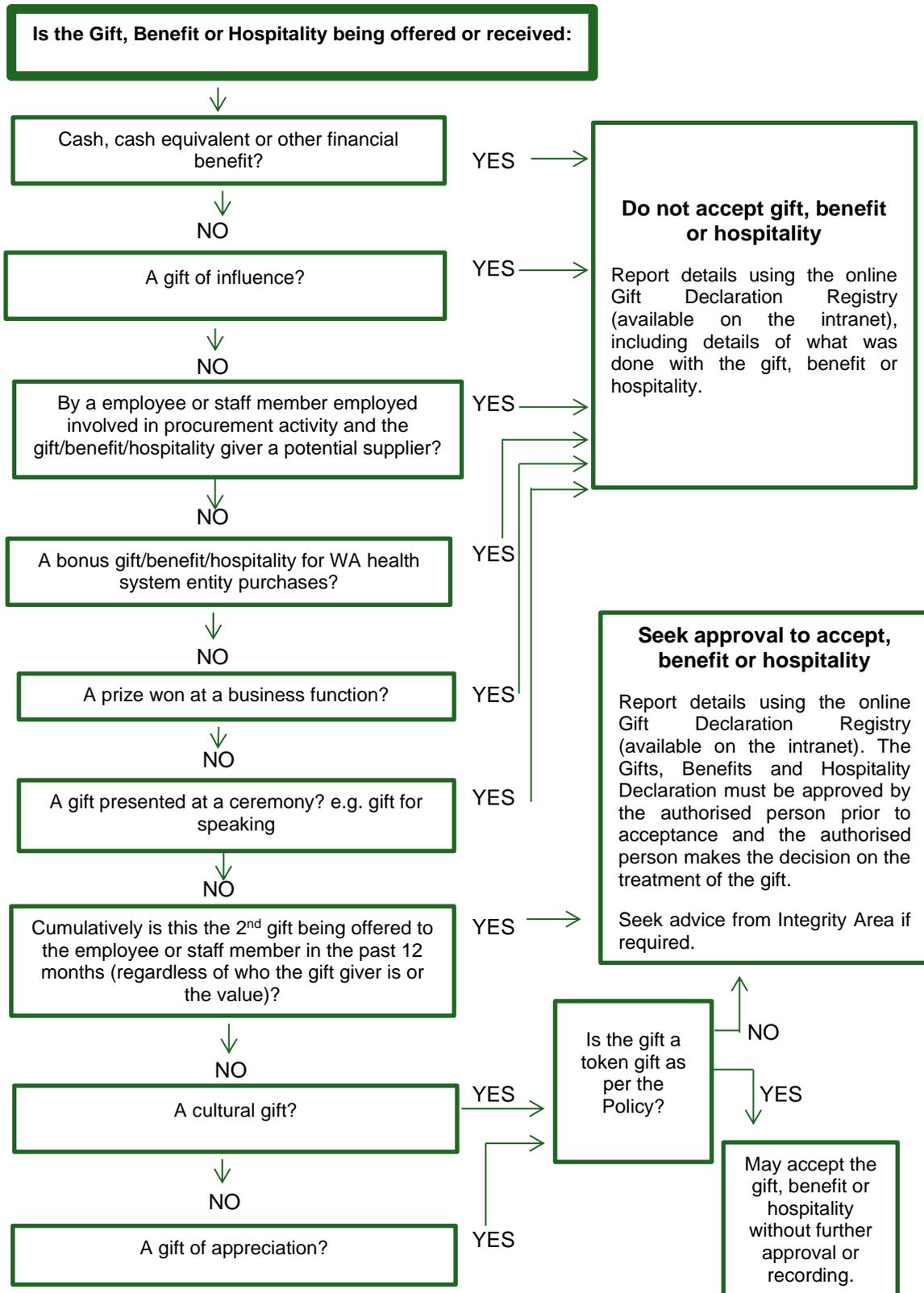
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- Does my involvement in the decision appear fair and reasonable in all the circumstances?
  - What if my decision or my involvement in the decision was questioned publicly?
  - Have I made any promises or commitments to anyone associated with the offer/gift, which may influence my decision?
- How might I explain or demonstrate the impartiality of my decision?

For further guidance or advice on managing gifts, benefits or hospitality Department of Health employees, Health Service Provider staff members and authorised persons are encouraged to contact the WA health system entity's Integrity Area.

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## Decision Flowchart for gifts, benefits and hospitality



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### 2.5 Registering of offers of gifts, benefits and hospitality

Declarations of offered gifts, benefits and hospitality are to be recorded in the System Manager Gift Declaration Registry (COIR). It is important that all fields are completed with as much information as possible. This will assist the WA health system entity, the Department CEO and the System Manager in performing oversight and assurance activities such as monitoring, compliance reporting and analysis of information.

Detailed recording of data and consistent management of records will also assist in reporting to the Minister and in answering annual Parliamentary Questions on gifts, benefits and hospitality. Historically, the information required in such Parliamentary Questions has been similar to or the same as the required fields specified in the Policy however, this is subject to change at the discretion of the Minister. Complete, accurate, up-to-date records can assist when answering Parliamentary Questions.

### 2.6 Record keeping

Records must be maintained in accordance with the WA health system entity Record Keeping Plan and retained for the periods in the available retention and disposal schedules.

Where a specific sentence does not exist that covers the records, the records must be retained until such time as a sentence is created and approved that would authorise disposal.

## 3. Breaches of the Gifts, Benefits and Hospitality Policy

Any breach of this Policy by Department of Health employees could constitute a breach of discipline and may be subject to the process prescribed by Part 5 of the *Public Sector Management Act 1994*. If the breach of discipline relates to a suspected act of misconduct it will be reported and managed appropriately.

Any breach of this Policy by Health Service Provider staff members could constitute a breach of discipline and a possible act of misconduct, refer to WA Health [Discipline Policy MP 0127/20](#) and [Notifiable and Reportable Conduct Policy MP 0125/19](#) which outlines the relevant processes that may be followed if misconduct is suspected.

## 4. Further information and guidance

The WA Integrity Coordinating Group's 'Gifts, benefits and hospitality – A guide to good practice' provides further detail and guidance on the key points in these Guidelines.

Contact the Integrity Area in the relevant WA health system entity.

The System-wide Integrity Services can also be contacted for advice.