



## Otway Coast Committee

### Gifts, Benefits and Hospitality

#### Committee of Management & Employee Policy

### 1. Scope

This policy sets out the Committee's procedures for responding to, and recording, gift offers. It also sets out restrictions in relation to providing gifts and hospitality and incurring travel and out-of-pocket expenses. The policy applies to all Committee of Management members and employees at all times in the performance their duties.

### 2. Key principles

The Committee's reputation for integrity, impartiality, and accountability can only be maintained if the community is confident that Committee of Management members and employees cannot be bribed or influenced by gifts. The key principles are:

- a) **Relevant obligations:** the Committee of Management and employees operate in accordance with all relevant obligations.
- b) **Public interest:** the Committee of Management (collectively and individually) and employees act in the public interest at all times. All gift offers are dealt with in the public interest. Gifts and hospitality are only provided, and travel and out-of-pocket expenses are only incurred, if it is in the public interest to do so.
- c) **Procedures:** the Committee's procedures are transparent and accountable. Processes are in place to ensure that Committee of Management members and employees are aware of the requirements of this policy and how to comply with it in practice.
- d) **Culture of integrity:** a culture of integrity supports Committee of Management members and employees to raise their own gift issues and to speak up if they believe that another Committee of Management member or employee has unreported gift issues.

### 3. Relevant obligations

Committee of Management members and employees will respond to gift offers and incur expenses (if any) in accordance with all relevant obligations and with good public sector governance practice, including:

- the establishing Act, being Crown Land (Reserves) Act 1978;
- the public sector values in section 7 of the *Public Administration Act 2004*. These values are integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership.
- the requirement in section 81(1)(g) of the *Public Administration Act 2004* that an adequate gifts policy be in place for Committee of Management members;
- the Directors' Code of Conduct (issued by Victoria's Public Sector Standards Commissioner pursuant to section 63 of the *Public Administration Act 2004*), and similar requirements in section 79 of the *Public Administration Act 2004* and in the common law (e.g. to act honestly and legally);
- the Code of Conduct for Victorian Public Sector Employees (issued by Victoria's Public Sector Standards Commissioner pursuant to section 63 of the *Public Administration Act 2004*);
- the Gifts, Benefits and Hospitality Framework (issued by Victoria's Public Sector Standards Commissioner pursuant to section 63 of the *Public Administration Act 2004*);
- any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- government policy; and
- all other laws and obligations that bind the Committee.

## 4. Definitions

### 4.1 Gift

A **gift** is a free or heavily discounted item or service. It includes hospitality or benefits that exceed common courtesy. A gift may be enduring (e.g. a work of art) or consumable (e.g. a box of chocolates) and may be offered for a range of reasons.

- **hospitality** is the friendly reception and treatment of guests. It ranges from an offer of light refreshment at a business meeting to restaurant meals, sponsored travel, and accommodation;
- **benefits** include preferential treatment, privileged access, favours and other advantages and intangible benefits (e.g. an invitation to a sporting, cultural, or social event; access to a discount or loyalty program; the promise of a new job).

### Direct or indirect

A gift may be offered **directly** or **indirectly**. It may be offered directly to a Committee of Management member or employee or offered indirectly via an offer to his/her relative or close associate, including:

- a member of his/her **immediate family** (e.g. spouse, partner, parent, sibling, child);
- a regular member of his/her **household**; or
- another **close associate** (e.g. friend, relative, business partner).

### Nominal or reportable

A gift that is offered to a Committee of Management member or an employee by an external source is **nominal** or **reportable**:

- A gift offer is **nominal** if it totals less than **\$100** of gift offers from the same source (individual or organization) in the last 12 months.
- A gift offer is **reportable** if it exceeds the nominal value (or regardless of its monetary value if it is of cultural, historic or other significance).

## 4.2 Bribe

A **bribe** is an offer of money or other inducement that is made with an intention to **corruptly influence** a Committee of Management member or employee in the performance of his/her duties. Bribery or attempted bribery of a public official is a criminal offence punishable by up to 10 years imprisonment under the *Crimes Act 1958* (Vic).

## 4.3 Responsible person

The **responsible person** is the person who the Committee of Management member or employee:

- notifies of attempted bribes;
- notifies of gift offers and lodges his/her gift declaration form with; and
- seeks advice from in relation to gifts, benefits and hospitality, and incurring travel and out-of-pocket expenses.

The responsible person ensures that the required information is entered into the Gifts Register and, where appropriate, the Assets Register.

	Responsible Person
Employee	Line Manger
Committee of Management member or CEO	Chair
Chair	Deputy chair. The Chair may also seek advice from the Minister or DEPI.

## Responding to Gift Offers

### 5. Ban on soliciting gifts

Committee of Management members and employees must not seek (i.e. solicit) gifts for themselves or anyone else, in any form, in their role as a Committee of Management member or employee.

### 6. When a gift offer must be refused

To avoid any **conflict of interest** (real, potential or perceived), a Committee of Management member or employee must refuse any gift that:

- a) is offered by a person or organisation about whom he/she is likely to **make or influence a decision**, including in relation to:
- tender processes;
  - procurement;
  - enforcement;

- licensing; or
  - regulation.
- b) is **money** or items that can be easily converted into money (e.g. **shares**);
- c) could create a **reasonable perception** that it is offered to influence and/or could influence the judgement of the Committee of Management member or employee (i.e. how he/she acts, or fails to act, now or in the future); or
- d) could otherwise be reasonably perceived as undermining his/her **integrity** and **impartiality**, or that of the Committee.

## 7. Attempts to bribe

A Committee of Management member or employee who is offered a gift that he/she believes is, or may be, an attempted bribe will:

- refuse the offer;
- report the offer immediately to the 'responsible person'; and
- complete a gifts declaration form, so that his/her refusal can be recorded in the Gifts Register (see item 10).

The chair (for Committee of Management members and the CEO) and the CEO (for employees) will actively support the reporting to police of any attempted bribe.

### 7.1 Other Committee of Management members or employees

A Committee of Management member or employee who believes that another Committee of Management member or employee:

- solicited a bribe; or
- was offered a bribe but did not report it

will report the matter immediately to the 'responsible person'.

The chair (for Committee of Management members and the EO for employees) will actively support the reporting to police of any attempted/actual bribe or the solicitation of a bribe.

## 8. Nominal gift offers

A Committee of Management member or employee who is offered a gift of **nominal value** that he/she believes, on reasonable grounds, is not a bribe or a conflict of interest can choose whether to accept it.

If the Committee of Management member or employee **refuses** the gift, no further action is required.

If the Committee of Management member or employee **accepts** the gift, he/she will disclose it as soon as practicable to the 'responsible person', either verbally or by email. Disclosure by email is preferable if the Committee of Management member or employee may receive further gift offers from the source within a 12 months period. A gifts declaration form does not need to be completed. The Committee of Management member or employee may retain the gift as their own.

## 9. Reportable gift offers

A Committee of Management member or employee who is offered a **reportable** gift that he/she believes, on reasonable grounds, is not a bribe or a conflict of interest can choose whether to accept it.

Regardless of whether the Committee of Management member or employee accepts or refuses the gift offer, he/she will:

- disclose the offer to the 'responsible person' as soon as practicable; and
- within 14 days of the offer, sign and lodge a properly completed gifts declaration form.

### 9.1 Ownership of reportable gifts

A Committee of Management member or employee who accepts a reportable gift is doing so on behalf of the Committee. Ownership will remain with the Committee unless:

- the Committee of Management member or employee applies for it to be transferred to himself/herself; and
- the Committee of Management (for applications by Committee of Management members or the EO) or the EO (for applications by employees) determines that it is in the **public interest** to grant the application.

If a gift is of **cultural, historic or other significance** it will be offered to an appropriate public institution, such as the Melbourne Museum or the National Gallery of Victoria. Consideration will be given to donating other reportable gifts, or the proceeds from their sale, to a non-profit organization or public institution.

When determining whether it is in the **public interest** to grant an application to transfer ownership of a reportable gift to a Committee of Management member or employee, the application may only be approved where the gift is **not** of **cultural, historic or other significance**.

## 10. Gifts declaration form

The gifts declaration form for use by Committee of Management members and employees is set out in **Appendix 1** of this policy.

When a properly completed and signed gifts declaration form is lodged with the responsible person, he/she will:

- sign the form as the authorizing delegate; and
- initiate procedures for dealing with the matter, including an entry into the Gifts Register and, where appropriate, the Assets Register.

## 11. Gifts Register

An up-to-date *Gifts Register* will be maintained by the EO. The Register will include the information set out in **Appendix 2** of this policy

### 11.1 Scrutiny of Gifts Register

The Gifts Register and related records (e.g. gift declaration forms) will be:

- protected from unauthorized changes; and
- subject to regular scrutiny, including a quarterly review by the OCC.

### 11.2 Detection of non compliance

In addition to regular scrutiny of the Gifts Register, a regular review will be undertaken to detect and reduce **non-compliance** with this policy, in particular, failure to lodge gift declaration forms.

## 12. Additional requirements – accepting travel and hospitality

Committee of Management members and employees will be cautious about accepting offers of travel or hospitality. A Committee of Management member or employee will only accept an offer of travel or hospitality if it is clearly in the **public interest** to do so. In addition to the other requirements in this policy, when responding to offers of travel or hospitality:

- The Victorian Public Sector Travel Principles issued by the Department of Premier and Cabinet will be complied with (e.g. 'non-state government funded travel should only be approved where there is **no conflict of interest** or perception of improper influence' - Principle 21)
- An invitation to attend a private (i.e. non business-related) function in an official capacity will usually be declined especially where attendance could be perceived as an endorsement of a company or product.
- Offers of sponsored travel and accommodation to attend a conference or participate in an industry familiarization tour will usually be declined unless assessed as a real benefit to the Committee.
- Consistent with the Victorian Government Purchasing Committee of Management's policy on Conduct of Commercial Engagements, unusual or exceptional invitations from any party with a declared or known interest in a project will be declined.

- Unless the offer of travel or hospitality is consistent with all legal and policy obligations and with community expectations, the offer will be declined.

A Committee of Management member or employee who is the recipient of travel or hospitality will demonstrate professional conduct at all times and will uphold his/her obligation to extend a duty of care to other participants.

## Providing Gifts and Hospitality and Incurring Expenses

### 13. Reasonable business expense

A Committee of Management member or employee will only incur expenditure for gifts, benefits and hospitality or for travel and out-of-pocket expenses if it is clearly in the **public interest** to do so. A reasonable business expense is:

- incurred for a **business purpose** (a business purpose is one that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities);
- **proportionate** to the benefits obtained for the Committee and would be considered reasonable in terms of **community expectations**. There should be a clear line of sight between the hospitality or gift provided and the benefit to the organisation, the government and, ultimately, the community;
- consistent with the Committee's **legal, policy and other obligations** and its procedures for business expenses; and
- not a compromise (real or perceived) to the **integrity** of the giver or the recipient.

All expenditure will be recorded and reported in accordance with this Policy.

### 13.1 Providing gifts

Further to the requirement that any gift provided on behalf of the Committee must be a reasonable business expense:

- gifts to external individuals or organizations will normally be symbolic, rather than financial, in value;
- gifts to Committee of Management members or employees (e.g. to recognise significant work achievements or service milestones) will be token. Personal celebrations (e.g. birthdays, marriages, birth a child) will not be funded using public monies.

### 13.2. Providing hospitality (hosting)

The requirement that hospitality provided by the Committee must be a reasonable business expense applies to both:

- **official hospitality** – the hosting of official guests (e.g. foreign government officials, community representatives, people from the private or academic sectors); and
- **internal (general) hospitality** – the hosting of functions, often in the workplace, for members of the Victorian public sector (e.g. Committee of Management meetings, staff meetings, lunch at a workshop, a retirement function for a long standing staff member, a celebration to mark a major work milestone).

Further to this requirement:

- It will not usually be in the public interest for **alcohol** to be consumed at Committee of Management meetings or at meetings between employees and/or Committee of Management members.
- A Committee of Management member or employee who participates in the provision of hospitality will demonstrate professional conduct at all times and will uphold his/her obligation to extend a duty of care to other participants.

### 13.3 Incurring travel expenses and out-of-pocket expenses

Further to the requirement that travel and out-of-pocket expenses must be a reasonable business expense, all expenditure will be consistent with:

- for Committee of Management members, this Policy and related obligations; and
- for employees, the contract of employment and related obligations.

## Related Requirements

### 14. Assistance with making decisions

A Committee of Management member or employee who is uncertain how to comply with this policy will seek advice from the 'responsible person'. This does not abrogate his/her responsibility to make the right decision.

Where appropriate, DEPI will be contacted by the Committee of Management member or employee for advice.

### 15. Possible breach of this policy

A Committee of Management member or employee who believes that he/she may have breached this policy will immediately notify the 'responsible person' and remedy any breach.

A Committee of Management member or employee who believes that another Committee of Management member or employee may have breached this policy will immediately notify the 'responsible person' (unless he/she first approaches the other Committee of Management member or employee, who then notifies the responsible person).

The main objective is to reduce non-compliance.

## 16. Accountabilities of the CEO

The EO has a duty, which will be monitored by the Committee of Management, to:

- promote awareness and compliance with this policy (e.g. induction and refresher training);
- reinforce that a breach of this policy could constitute a breach of a binding code of conduct and may result in disciplinary action;
- support the Committee of Management in the regular review of this policy; and
- establish and regularly review processes (e.g. business rules) that facilitate the implementation of this policy and provide practical guidance on how to comply with it, for example:
  - set out where a gifts declaration form can be obtained;
  - provide guidance on refusing gifts without causing offence;
  - specify work areas where employees are at high risk of being offered compromising gifts due to the nature of their duties, and how this is to be addressed.

Overall, the EO will act consistently with the minimum accountabilities (Note 3) in **Appendix 3**.

## 17. Regular review of this policy

The Committee of Management will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc.

This Policy is effective from July 1 2013.

This policy was last reviewed in November 2014.

Any changes to this policy will meet or exceed the minimum requirements and accountabilities (Notes 1 to 3) in **Appendix 3**.

## 17. Related Policies

- Conflict of Interest
- Code of Conduct

## 19. Further information

**On Board** ([www.dse.vic.gov.au/onboard](http://www.dse.vic.gov.au/onboard)), in particular, the *Gifts, Benefits and Hospitality* support module, which has a range of resources, such as direct links to the topic on the SSA website ([www.ssa.vic.gov.au](http://www.ssa.vic.gov.au)).

## Appendix 1 – Gifts Declaration Form

### To be completed by the recipient of a reportable gift offer

Date offered:

Offered to: *[name and position title]*

Offered by: *[name, title and organisation]*

Reason gift was offered:

Description of gift:

Estimated value of gift: \$

First time offer  OR previous offer(s) received from this source (individual or organisation) in the last 12 months

Estimated cumulative value of gifts offered by this source (individual or organisation) in the last 12 months: \$ .....

Do you believe that the gift may be of cultural, historic or other significance?  
Yes  No

The gift offer was: declined  OR accepted on behalf of Committee

If the gift was accepted, are you applying for transfer of ownership to yourself in the public interest? Yes  No

Signature of board member or employee:

Date:

### Noted by authorised delegate:

Signature of authorised delegate:

Name:

Role:

Date:

### Gifts Register updated:

Signature of authorised delegate:

Name:

Role:

Date

## Appendix 2 – Gifts Register

Date offered	Offered to	Offered by	Reason offered	Description of gift	Estimated value <sup>1</sup>	Estimated cumulative value <sup>2</sup>	Decision <sup>3</sup>	Decision authorised by
	- name - position title/no.	- name - title - organisation						- name - title

<sup>1</sup> Estimated cumulative value of gift offers from this source in the previous 12 months

<sup>2</sup> Estimated value of this gift offer (Note: if the gift may be of cultural, historic or other significance, indicate this here).

<sup>3</sup> Decision regarding gift: (1) gift declined, (2) gift accepted on behalf of Committee, OR if an application was made for transfer of ownership, in the public interest, (3) Transfer granted, (4) Transfer not granted. Include whether the gift will be entered into the Assets Register or if not what will happen to it- e.g. to be donated to Melbourne Museum.

## Appendix 3 – Changes to the Committee of Management’s policy

Any changes to this policy will meet or exceed the minimum requirements and accountabilities issued by the Public Sector Standards Commissioner listed in Notes 1 to 3 below.

### Note 1: minimum requirements – accepting gifts, benefits and hospitality

Individuals:

1. Do not solicit gifts, benefits or hospitality.
2. Refuse all offers of gifts, benefits or hospitality that could be reasonably perceived as undermining the integrity and impartiality of their organization or themselves.
3. Refuse all offers of gifts, benefits or hospitality from people or organizations about whom they are likely to make decisions involving tender processes, procurement, enforcement, licensing, or regulation.
4. Refuse all offers of money or items easily converted to money such as shares.
5. Refuse bribes and report bribery attempts to the head of the public sector organization or their delegate and to Victoria Police.
6. If unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value, seek advice from a manager or other appropriate organizational delegate.

### Note 2: minimum requirements – providing gifts and hospitality

Individuals:

1. Ensure that any gift or hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organizational goals, or promotes and supports government policy objectives and priorities.
2. Ensure that any costs are proportionate to the benefit obtained for the State, and would be considered reasonable in terms of community expectations.

3. 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.

**Note 3: minimum accountabilities for heads of public sector organizations**

Heads of public sector organizations:

1. Establish and regularly review policies and processes to respond to offers of gifts, benefits and hospitality, including multiple offers from the same source.
2. Establish and regularly review policies and processes to provide guidance on the provision of gifts or hospitality, both internally to staff and externally to business partners and other stakeholders.
3. Promulgate and establish awareness and compliance with gifts, benefits and hospitality policies from all members of the organization – from front line employees to Committee of Management directors and chief executives.
4. Reinforce to all members of the organization that a breach of gifts, benefits and hospitality policies could constitute a breach of binding codes of conduct and result in disciplinary action.
5. Ensure that records are kept of accepted gifts, benefits and hospitality of more than nominal value and that such records are subject to regular scrutiny, including review by the organization's audit committee.
6. Ensure that hospitality expenditure is recorded and reported in accordance with whole of government financial management, accountability and reporting requirements.