

Contents

Contents.....	1
Overview	2
Who does this policy apply to?.....	2
Policy statement	2
Accepting gifts, benefits and hospitality.....	3
Providing gifts, benefits and hospitality	7
Consequences of breaching the policy	8
Accountability and review	8
Further Information	8
Making decisions under this policy.....	9
Legislation, standards and industrial agreements.....	9
Related departmental policies.....	9
Meaning of terms in this policy	9
Roles and responsibilities	11
Appendices.....	12
Case studies	12
Appendix A: Gifts, benefits and hospitality declaration form	14
Appendix B: Quick guide for accepting, declining and transferring gifts.....	16
Appendix C: Minimum accountabilities set by the Victorian Public Sector Commissioner.....	17

Overview

This policy applies to gifts or benefits that are given with the intention that they are kept or used by the recipient as an individual (or group of individuals) rather than the Mental Health Complaints Commissioner (the MHCC), the department or Victorian Government. It also provides information and guidelines on the provision of gifts and hospitality.

Guidelines are also provided for disclosure and for accepting or rejecting the offer of a gift, benefit or hospitality.

This policy has been adapted from the policy of the Department of Health and Human Services (*Gifts, benefits and Hospitality policy*, June 2015) and incorporates revised minimum accountabilities set by the Victorian Public Sector Commission in October 2016.

Who does this policy apply to?

This policy applies to all staff employed or engaged to assist the MHCC, including VPS employees, contractors and those on work experience and volunteers.

Exclusions

Gifts, benefits and hospitality in the following circumstances are excluded from the scope of this policy:

- to or from a relative, friend or acquaintance outside of the course of official duties and which do not give rise to or create the appearance of a conflict of interest in the public perception
- made in a will
- that form part of an approved assistance program such as a disaster relief arrangements do not fall within the scope of this policy.

Policy statement

The operating principles for the Gifts, benefits and hospitality policy are:

1. Employment in the public service involves public trust that requires employees to carry out their duties with impartiality and integrity. In accepting or providing gifts, benefits or hospitality, employees must always act fairly and impartially to maintain public trust by being honest, open and transparent.
2. For the purposes of this policy, a gift, benefit or hospitality has its common meaning and includes, but is not limited to:
 - a gift or benefit of money or shares
 - sponsored travel and accommodation
 - a gift or benefit of a physical object, that may include bottles of wine, manufacturers' samples or personal items, promotional materials, including clothing, books or compact discs, works of art, or memorabilia, or
 - indirect or concealed gifts or benefits such as:
 - the permanent or indefinite loan of money or property
 - the sale or transfer of property at less than full value, or
 - the provision of a benefit, which has a financial or commercial value for less than full value.

3. Employees can accept modest hospitality, tokens, mementos and small gifts of appreciation or benefits, such as invitations to official functions or events of nominal value, provided:
 - they are related to the business of the MHCC or the department, and
 - they do not involve a conflict of interest, or
 - they do not create a perception that the employee will be unduly influenced by accepting the gift, benefit or hospitality.
4. If personal interests make it difficult for employees to perform their duties impartially in the public interest, any resolution must always resolve the issue in favour of the public interest rather than their own interests.
5. Employees must decline offers of gifts, benefits or hospitality that fall outside the principles for accepting gifts, benefits or hospitality, by courteously explaining that acceptance would be against MHCC and departmental policy.
6. Any gift or benefit accepted by an employee is the property of the MHCC. The gift or benefit may be retained by the MHCC, or the MHCC may allow the employee to retain the gift or benefit.
7. Official gifts, namely gifts intended for the MHCC, the department, a Minister of the Crown or the Government of Victoria rather than the individual recipient(s), remain the property of the MHCC, the department or State.
8. All gifts of cultural or historical value must remain the property of the State.
9. When providing gifts or a hospitality, employees need to make sure that resources are used prudently; that there is a clear legitimate business purpose and a clear benefit to the government; and that it does not compromise the real or perceived integrity of recipients.
10. The giving and receipt of gifts, benefits or hospitality must be in accordance with the specific principles for acceptance and non-acceptance of gifts, benefits or hospitality and provision of gifts and hospitality requirements and principles set out below.

Accepting gifts, benefits and hospitality

Minimum requirements for all public officials

11. Employees:
 - must not, for themselves or others, seek or solicit gifts, benefits or hospitality
 - must refuse all offers of gifts, benefits and hospitality that:
 - 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 the MHCC, the department 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 the MHCC's register, and seek written approval from the Commissioner to accept any non-token offer
 - must refuse bribes or inducements and report inducements and bribery attempts to the Commissioner and
 - if unsure about how to respond to an offer of a gift, benefit or hospitality of more than \$50, must immediately seek advice from the Principal Legal Officer or Deputy Commissioner.

Modest hospitality

12. Tea or coffee offered in the course of a business meeting at the organisation's premises may be accepted. These will have been offered as a courtesy and to make guests feel welcome. Similarly, light refreshments such as finger food at an opening ceremony or sandwiches at a conference may be accepted.
13. Modest hospitality offered as part of official business is not a reportable gift.
14. In all cases the hospitality must be proportionate to the occasion. If the hospitality offered is lavish or above a nominal value then it becomes a reportable item. Examples may include the offer of free accommodation and travel or the upgrading of travel or accommodation arrangements.

Principles for accepting

15. There are limited circumstances in which a gift, benefit or hospitality may be accepted, and only if it complies with all of the following principles:
 - it does not influence, or have the potential to influence, an employee in such a way as to compromise or appear to compromise integrity and impartiality or to create a conflict of interest or perception of conflict of interest
 - it is normal in the donor's or recipient's culture and rejection of or not offering the gift or benefit could cause offence. Advice on conforming to international or cultural practice may be obtained through the Department of Premier and Cabinet
 - it is received or given in the course of the employee's duty and relates to the work of the employee or has a benefit to the Victorian community.
16. Attendance or participation in or at an event or function sponsored by the Victorian Government constitutes official business. Employees attending these events in an official capacity do not need to record details on the Gifts, benefits and hospitality register.
17. An employee is required to exercise particular care in accepting gifts, benefits or hospitality if:
 - the person, company or organisation is in a contractual relationship with the MHCC or the Victorian Government, or
 - they have been offered gifts or benefits of any kind from the same donor more than once in the previous year.

Principles for non-acceptance

18. The gift, benefit or hospitality must not be accepted if any of the following principles apply:
 - the donor or a reasonable observer would perceive that acceptance would create an obligation to the donor, particularly if the value of the gift or benefit is disproportionate to situation in which it is offered
 - the gift, benefit or hospitality is likely to influence an employee in the course of their duties or where acceptance could cause a conflict of interest
 - if the employee has had a role in a procurement exercise with the donor person as a bidder or any party associated with the bidder, even if direct involvement has ceased
 - if the employee has had a role in awarding grants, regulating or giving licenses to a donor person or organisation
 - if the organisation's primary purpose is to lobby Ministers, Members of Parliament or agencies
 - if the employee believes they are being offered a bribe or inducement
 - it is not offered openly, or
 - it is an offer of money or anything readily convertible to money, such as shares.

'Gift Test'

The Victorian Public Sector Commissioner has developed a 'Gift Test' to remind us of what to think about when considering whether to accept an offer of a gift, benefit or hospitality. Think about:

- **Giver** - who is providing the gift, benefit or hospitality and what is their relationship with me?
- **Influence** - are they seeking to influence my decisions or actions?
- **Favour** - are they seeking a favour in return for the gift, benefit or hospitality?
- **Trust** - would accepting the gift, benefit or hospitality diminish public trust?

Keeping gifts or benefits

19. Employees may keep token gifts or benefits (with value of less than \$50) subject to the verbal approval of the Commissioner or Deputy Commissioner in accordance with the principles outlined above. In limited circumstances, employees may be able to keep a gift worth \$50 or more, but less than \$500, subject to the documented approval of the Commissioner.
20. The Commissioner may also consider offering the employee the option of purchasing a gift worth up to \$500 at market value.
21. Gifts worth \$500 or more must be surrendered to the State under **all** circumstances. Employees may purchase a gift worth more than \$500 from the State with the Secretary's written approval, provided that no other public entity (Museums Victoria) has expressed interest in retaining the gift and it is not of historic or cultural significance.
22. In certain circumstances it may be difficult to either return or refuse a gift or benefit, or the giver may ignore the refusal. It may also cause embarrassment to refuse a gift or benefit in circumstances where it may have been offered in a public way, for instance, to a guest speaker at a conference. If the gift has a nominal value of \$50 or greater, the gift must be transferred to become the property of the MHCC (unless the Commissioner has decided the employee can keep the gift as outlined above) and must be declared and recorded in the Gifts, benefits and hospitality register within 14 days of the offer. Gifts of less than \$50 that could be seen as creating a conflict of interest perception must also be declared and recorded on the gifts register.
23. Gifts or benefits must never be accepted in connection with a tender process or a decision over which an employee, the MHCC or the department could be perceived to have influence.
24. Accepted gifts may attract fringe benefits tax (FBT). Please contact the Tax Unit for further information.

Valuation of gifts or benefits

25. The value of a gift or benefit is assessed according to the wholesale price in the country of origin.
26. Any disputes as to the value of a gift must be resolved by independent valuation.
27. Valuations are to be obtained by valuers who are competent to value in the field, or selected from a list of accredited valuers issued by the Commissioner for Taxation Incentives in the Arts (<http://arts.gov.au/cgp>).
28. The MHCC or the department will pay any costs of valuation.

Recording the offer and/or acceptance of gifts, benefits or hospitality

29. Acceptance of tokens, mementos and small gifts of appreciation, for example chocolates, reasonable hospitality or benefits, such as invitations to official functions that are related to the business of the MHCC do not need to be declared or registered.
30. Attendance or participation in an event or function that is sponsored by the Victorian Government constitutes official business. In such cases, attendance or participation does not need to be

registered on the Gifts, benefits and hospitality register. Similarly, hospitality provided by government departments or governments does not need to be recorded.

31. Gifts, benefits and hospitality with a nominal value of less than \$50 may be kept subject to the approval of the Commissioner or Deputy Commissioner. These gifts only need to be formally declared and registered if they raise a possible conflict of interest perception.
32. Offers and/or acceptance of gifts, benefits or hospitality of \$50 or more are reportable gifts and must be formally declared and registered on the MHCC's Gifts, benefits and hospitality register within 14 days of the offer. This can be done by requesting a copy of the form from the Principal Legal Officer.
33. The Gifts, benefits and hospitality form records the following information:
 - recipient's name, classification and role
 - donor's name, role and organisation
 - description and estimated value
 - first time offer or previous offers within last twelve month's details
 - date and reason offered
 - decision taken by employee (such as accept, decline)
 - Commissioner's decision (such as retain, transfer, dispose)
 - authorised delegate details.

Disposal of gifts or benefits

34. Gifts or benefits must be retained for one year before they are subject to the disposal process. The Commissioner must approve any exception to this rule. All disposals of gifts require the approval of the Commissioner.
35. Gifts that are the MHCC's or department's property may be:
 - transferred in title to Victorian Government departments and agencies, and repositories of collections, including museums, galleries, libraries, archives and special interest collections, education and community institutions
 - donated to a nominated non-profit organisation or charity at the discretion of the department
 - purchased by the recipient (subject to documented approval), or
 - disposed of in accordance with the department's policies on disposal of departmental assets.
36. Public entities, such as the National Gallery of Victoria, State Library of Victoria and Museums Victoria, retain a right of first claim over any gifts to be disposed that are deemed to be of historical or cultural significance.
37. Disposal of gifts or benefits must be in the public interest. Disposal of gifts or benefits to individuals other than by way of purchase by the original recipient is not permitted, and disposal of gifts or benefits to private sector organisations should be avoided.
38. The following details of disposal must be entered in the Gifts, benefits and hospitality register:
 - description of the gift or benefit
 - date of disposal
 - recipient of disposal
 - original donor
 - reason for the disposal, and
 - authorised delegate details.

Providing gifts, benefits and hospitality

Minimum requirements for all public officials

39. Employees must make sure that:
- gifts, benefits and hospitality provided are for business purposes in that it furthers the conduct of official business or promotes and supports government policy objectives and priorities
 - costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations
 - if hospitality is provided, employees demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

Principles for providing gifts or hospitality

Victorian Public Sector Commissioner – ‘Host Test’

The public sector commissioner has developed a ‘Host Test’ to help us decide whether to provide hospitality or gifts to staff or stakeholders. Think about:

- **Hospitality** – to whom is the gift or hospitality being provided?
- Consider whether the recipients are external stakeholders or employees of the department?
- **Objectives** – for what purpose will hospitality be provided?
- Consider whether the provision of gifts or hospitality will promote and support government policy objectives and priorities and official business and whether it will contribute to staff wellbeing and workplace satisfaction?
- **Spend** – will public funds be spent?
- Consider the type of hospitality to be provided - how modest or expensive; will alcohol be provided; Are the costs proportionate to and less than the benefits obtained?
- **Trust** – will public trust be enhanced or diminished?
- Is it reasonable to provide gifts or hospitality and could you publicly explain the rationale? Will the event be conducted in a manner which upholds the reputation of the department? Are records in relation to the gift or hospitality being kept?

Providing gifts to staff

40. Reward and recognition programs serve to recognise and thank significant employee achievements and to make employees feel valued and motivated to achieve set goals.
41. The departmental policy provides that total value of formal local recognition purchases is capped at 0.1 per cent of total salary budget for each Division or Branch. The value of recognition purchases must not exceed \$50 for each individual being recognised and approval of a deputy secretary or executive director or director is required. Purchasing guidelines must be followed.
42. Celebrations of events such as birthdays, marriages or the birth of children are not to be funded using public monies.

Catering, events and hospitality

43. Official hospitality is to be provided at events that are in the interests of the State and for a legitimate business purpose. When provided, the overall cost is to be modest and prudent.
44. The department’s ‘Hospitality and Conference Expenses’ Guideline **must** be referred to when organising events – on or off site.
45. For example, the guideline covers conferences, seminars, training and meetings and information relating to approvals, catering and alcohol.

46. As a general principle, catering for lunch during training, work place meetings (on or off site) is not appropriate. Breaks should be scheduled so that employees in attendance have an opportunity to organise their own lunch.
47. The provision of alcohol at an event can lead to increased risks, such as anti-social behaviour and may impact on the reputation of the department and the individual.
48. Decisions relating to the provision of alcohol are to be made on a case by case basis and require the prior approval of a deputy secretary or executive director.
49. If alcohol is to be provided at an event, it is recommended that the event be no more than 2 hours in duration and held at a time which minimises the risk of employees returning to work impaired by alcohol. For example, late afternoon or early evening.
50. No more than two standard drinks per person should be served and the provision of alcohol should be incidental to the overall level of hospitality provided.

Official hospitality

51. Official hospitality refers to the hosting or co-hosting of diplomatic and foreign government officials, community representatives and/or people from the private and academic sectors by public sector organisations, and state sponsored events.

Recording and reporting the provision of hospitality

52. Records relating to the provision of hospitality such as approval forms and records relating to procurement and expenditure must exist.

Consequences of breaching the policy

53. A breach of this policy may constitute:
 - a breach under the department's discipline policies
 - a breach of the Code of Conduct for the Victorian Public Sector Employees, and
 - misconduct or serious misconduct under the Public Administration Act 2004 (Vic).
54. In some circumstances, accepting a gift or benefit may constitute a breach of the secrecy provisions of the *Crimes Act 1958* (Vic). This is an indictable offence that attracts a maximum penalty of 10 years imprisonment.

Accountability and review

55. The MHCC Leadership Group will review the MHCC's policy, processes and register on an annual basis to identify risks and opportunities for improvement.
56. This policy and the register will also be published on the MHCC website.

Further Information

57. For further information and advice consult the MHCC's Principal Legal Officer.

Making decisions under this policy

58. Authority to approve provision and acceptance of gifts, benefits and hospitality is delegated under section 20(1) of the *Public Administration Act 2004* (Vic) by the Secretary, Department of Health & Human Services to the Commissioner.
59. The Commissioner has sub-delegated the power to approve employees accepting gifts of a nominal value less than \$100 to the Deputy Commissioner. In October 2016 the Victorian Public Sector Commission issued revised guidelines that reduced the estimate of a gift of nominal value from \$100 to \$50. Accordingly this policy provides that the Deputy Commissioner can approve employees accepting gifts, benefits or hospitality with an estimated value up to \$50.

Legislation, standards and industrial agreements

Legislation

- *Public Administration Act 2004* (Vic) - Sections 20(1), 66(5) and 66(6)
- *Crimes Act 1958* (Vic) - Section 175
- *Financial Management Act 1994* (Vic)
- *Public Administration Act 2004* (Vic) - Public sector values and employment principles
- *Charter of Human Rights & Responsibilities Act 2006* (Vic).
- *Equal Opportunity Act 2010* (Vic)

Standards

- Victorian Public Sector Commissioner, *Gifts, benefits and hospitality - policy framework* - revised October 2016
- *Code of Conduct for Victorian Public Sector Employees 2015*
- Public Sector Standards Commissioner Conflict of Interest Policy Framework

Industrial agreements

- VPS Agreement Victorian Public Service Enterprise Agreement 2016

Related departmental policies

- Gifts, benefits and hospitality policy
- Hospitality and conference expenses guideline (Financial Services Branch)
- Managing performance and conduct in disability services policy
- Managing unsatisfactory work performance and misconduct policy – Victorian Public Service
- Purchasing and funding e-guide (Financial Services Branch)
- Reward and recognition implications policy (Financial Services Branch)
- Reward and recognition program.

Meaning of terms in this policy

Term	Meaning
Bribes	Bribes are monies or other inducements given or promised to employees to corruptly influence the performance of their role. Bribery of a public official is an offence punishable by a maximum of 10 years imprisonment.

Conflict of interest	<p><i>Actual conflict of interest:</i> There is a <u>real conflict</u> between an employee's public duties and private interests.</p> <p><i>Potential conflict of interest:</i> an employee has private interests that <u>could conflict</u> 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.</p> <p><i>Perceived conflict of interest:</i> the public or a third party could <u>form the view</u> that an employee's private interests could improperly influence their decisions or actions, now or in the future.</p>
Disposal	<p>Gifts or benefits that are the property of the MHCC may be transferred, donated, purchased by the recipient or disposed in accordance with the department's policies on disposal of assets.</p>
Gifts, benefits, hospitality	<p>The term 'gifts' encompasses free or heavily discounted items, intangible benefits or hospitality exceeding common courtesy that are offered to employees in association with their work.</p> <ul style="list-style-type: none"> • Gift items may include bottles of wine, manufacturers' samples or personal items; promotional materials, including clothing, books or compact discs, works of art, memorabilia, cash or shares. They range in value from nominal to significant and may be given for different reasons. • Benefits are the preferential treatment, privileged access or other advantage offered to an employee. It may be hard to define and difficult to quantify in monetary terms in the same way that a tangible gift can be valued. A benefit is believed to be of some value to the receiver. Examples include access to a private spectator box at a sporting event, a new job or promotion, preferential treatment, or access to confidential information. • Hospitality is the friendly reception and treatment of guests. It is hospitable to offer light refreshments in the course of a business meeting or as part of a conference program. Hospitality can range from offers of light refreshment at a business meeting to restaurant meals and sponsored travel and accommodation.
Gifts, benefits and hospitality register	<p>All reportable gifts, benefits and hospitality of nominal value (\$50) or more are declared and registered and publicly available against the name of the recipient.</p>
Host	<p>The host is the person, office holder or organisation which authorises, organises and pays for an event.</p>
Intangible	<p>Gifts or benefits that have no lasting value, and may include food and drink as part of a meeting, conference, restaurant meals or invitations to official events and entertainment.</p> <p>An intangible gift or benefit is one which cannot be dealt with as property of the department for accounting purposes.</p>
Nominal value	<p>Nominal value refers to the value of a gift offer. It is used to determine whether an offer if accepted, is a reportable gift. Gifts, benefits or hospitality of a nominal value are those that usually do not create a sense of obligation in the receiver that will influence, or appear to</p>

	<p>influence their official duties.</p> <p>The threshold to determine nominal value is currently \$50.</p> <p>All reportable gifts, benefits and hospitality of \$50 or more must be declared and registered.</p>
Official business	Work that is consistent with the MHCC's functions and objectives, and an employee's role. Official business does not have a private benefit.
Official gifts	Gifts intended for the department, a Minister of the Crown or the Government of Victoria.
Public duty	A public service employee has a duty to carry out government business impartially and with integrity.
Public perception	<p>The perception of a fair-minded person in possession of the facts. 'Public perception' is an important consideration when evaluating the receipt of gifts, benefits or hospitality, particularly in terms of conflict of interest.</p> <p>The consequences of creating a perception that the MHCC's impartiality can be compromised might be as damaging as an actual compromise.</p>
Reportable gifts	These are gifts that must be recorded on the gifts register. At a minimum, reportable gifts include accepted and non-accepted gifts, benefits and hospitality offers of nominal value or more.
Tangible	Gifts or benefits of lasting value and may include bottles of wine, manufacturers' samples or personal items, promotional materials, including clothing, books or compact discs, works of art, or memorabilia.
Token gifts or benefits	Gifts or benefits with a value of less than \$50 that do not need to be formally registered but the recipient must advise the Deputy Commissioner.

Roles and responsibilities

Employees

60. Exercise particular care in accepting gifts or benefits and only accept if it complies with all the stated principles in this policy for accepting gifts, benefits or hospitality.
61. Advise the Deputy Commissioner of the acceptance of gifts or benefits with a nominal value less than \$50.
62. Report to your manager and the Deputy Commissioner immediately you receive an offer of a gift, benefit or hospitality with a nominal value of \$50 or more. This should be followed up with formal registration on the MHCC's Gifts, benefits and hospitality register within 14 days of the offer using the Gifts, benefits and hospitality register form (available from the Principal Legal Officer).
63. Report to your manager and the Deputy Commissioner immediately you receive offers of gifts or benefits where you believe it is an attempt to induce favoured treatment (bribe or inducement). This should be followed up with a formal advice to the Commissioner and registration on the MHCC's Gifts, Benefits and Hospitality Register using the Gifts, Benefits and Hospitality Register form.

64. Transfer the gift (with a nominal value of \$50 or more) to become property of the department if it may be difficult to refuse a gift, or the giver may ignore the refusal.
65. If providing gifts and hospitality, make sure:
 - that resources are used prudently
 - that there is a clear legitimate business purpose and a clear benefit to the government, and
 - that it does not compromise the real or perceived integrity of recipients.
66. Follow requirements and processes as outlined in the department's Hospitality and Conferences Expenses Policy issued by Finance Services Branch.

Managers

67. Model appropriate behaviours.
68. Establish employee awareness and compliance with gifts, benefits and hospitality policy.
69. Make employees aware of the requirement to complete the Gifts, benefits and hospitality register form within 14 days for gifts, benefits and hospitality with a nominal value of \$50 or more.
70. Support employees to determine whether a gift, benefit or hospitality may be accepted and make sure matters are addressed in a timely manner.
71. Encourage an environment that if employees raise their concerns, that they know their action will be taken seriously and there are safe and effective mechanisms for reporting ethical dilemmas.
72. Seek valuations on any gifts or benefits received to support process under the policy.
73. Brief the Commissioner and report to Victoria Police on any person or organisation that may have offered a bribe to a MHCC employee.
74. If providing or approving gifts and hospitality, make sure:
 - that MHCC resources are used prudently
 - that there is a clear legitimate business purpose and a clear benefit to the government, and
 - that it does not compromise the real or perceived integrity of recipients.
75. Follow requirements and processes as outlined in the department's Hospitality and Conferences Expenses Policy issued by Finance Services Branch.

Appendices

- Appendix A: Gift, Benefit and hospitality register form
- Appendix B: Quick guide for accepting, declining and transferring gifts
- Appendix C: Minimum accountabilities set by the Victorian Public Sector Commissioner

Case studies

Case Study 1: The world's a stage

Matthew has spent the past week composing and then rehearsing his presentation for a conference. As Matthew makes his closing remarks, the audience applauds and the Meeting Coordinator (MC) steps forward to thank him for an engaging presentation, and presents him with a bottle of moderately priced wine.

What should Matthew do?

The MC is presenting Matthew with a bottle of wine to say thanks for his presentation. Refusing the wine could embarrass the MC. The offer is being made publicly. The gift is categorised by the

department as being of nominal value and does not require it to be recorded on the gifts register. Matthew can accept the wine.

Case Study 2: All in the family

Nicole is a project manager who is just about to advertise a major public tender. Her partner David receives an invitation for him and a guest to attend the AFL Grand Final in the Biz Inc Corporate Box. Biz Inc is likely to submit a tender in response to Nicole's advertisement.

What should Nicole do?

The gift is being extended to Nicole as David's guest. The gift is of significant value. Accepting the gift could compromise Nicole and the tender process. Nicole should politely decline the offer. David can choose not to attend, or to attend alone or with another guest.

Case Study 3: Trade event door prizes

Jack attends a number of trade events as a consequence of his procurement role for the department. These events often have prize opportunities. For example, door prizes or business card draw prizes. Jack's business card has been drawn and he has won a laptop computer.

What should Jack do?

Jack should declare the prize by informing his manager and completing the online Gifts, benefits and hospitality form. As the laptop is valued over \$500 it must be surrendered to become the property of the MHCC. Jack may purchase the laptop from the department with the Commissioner's written approval.

If employees attend a conference or trade event, they are representing the MHCC. The employer has paid for the employee's costs, their time, labour and accommodation. Any benefits accruing from the employee's activities belong to the MHCC. This includes door prizes, fees for speaking and financial grants.

Case Study 4: Christmas gift

Jill is a Resolutions Officer and has been offered a box of chocolates by a consumer at Christmas.

What should Jill do?

Jill may accept the gift as it is of nominal value (valued at less than \$50) and it complies with the principles for accepting gifts or benefits and is directly related to her work in the MHCC.

Case Study 5: Christmas luncheon

Michael has received an invitation from a supplier to attend a Christmas luncheon to celebrate Christmas.

What should Michael do?

Michael can accept the benefit, as long as it is of nominal value (valued at less than \$50) and complies with the principles for accepting hospitality. If it is valued at \$50 or more and meets the acceptance principles, approval to attend must be obtained from the Commissioner.

Appendix A: Gifts, benefits and hospitality declaration form

Use this form to declare gifts, benefits and hospitality. Provide the completed form to the Principal Legal Officer who will record the information on the Gifts, benefits and hospitality register.

Section A: Employee Declaration

I have received a:					
Gift less than \$50 that could be seen as creating a conflict of interest perception	<i>Mark with an 'X' as applicable</i>	Yes		No	
Gift between \$50 and \$500	<i>Mark with an 'X' as applicable</i>	Yes		No	
Gift greater than \$500 (any gifts worth more than \$500 must be surrendered to the State)	<i>Mark with an 'X' as applicable</i>	Yes		No	
Name of recipient:					
Classification / Role:					
Date, time and place of offer:					
Reason the gift was offered:					
Offered by:					
Donor's name:					
Role:					
Organisation:					
Description of the gift, benefit or hospitality:					
Estimated nominal value:					
First time offer or	<i>Mark with an 'X' as applicable</i>	Yes		No	
Previous offer (s) within last 12 months by donor	<i>Mark with an 'X' as applicable</i>	Yes		No	
Cumulative value of gifts offered by the donor within the last 12 months					

Section B: Assessment and decision

This section can be completed by the Deputy Commissioner for gifts and benefits valued at \$50 or less; in all other cases to be completed by the Commissioner.

Assessment of Commissioner or Deputy Commissioner					
Does it influence, or have the potential to influence, an employee in such a way as to compromise or appear to compromise integrity and impartiality or to create a conflict of interest or perception of conflict of interest?	Mark with an 'X' as applicable	Yes		No	
Is it normal in the donor's or recipient's culture and rejection of or not offering the gift/benefit could cause offence?	Mark with an 'X' as applicable	Yes		No	
Is it received or given in the course of the employee's duty and relates to the work of the employee or has a benefit to the Victorian community?	Mark with an 'X' as applicable	Yes		No	
Recommendation in respect of the retention:					
Employee keeps	Mark with an 'X' as applicable	Yes		No	
Decline	Mark with an 'X' as applicable	Yes		No	
Transfer	Mark with an 'X' as applicable	Yes		No	
NB: If the recommendation is to transfer please specify reason					
Location of the Gift or Benefit					
Asset number (where applicable)					
Signature of recipient:		Date			
Decision-maker's name:					
Decision-maker's signature:		Date			

NB - Upon completion please forward original form to the Principal Legal Officer.

Appendix B: Quick guide for accepting, declining and transferring gifts

This table provides guidance to employees and staff of the Mental Health Complaints Commissioner as to when to use the declaration form and the process for decision-making.

Value	Requirement to declare and register	Assessment & decision	Action by decision-maker
Less than \$50 – no conflict of interest	Do not need to complete Gift, benefit or hospitality declaration and approval form	Employee may keep the gift, benefit or hospitality if verbal approval provided by Commissioner or Deputy Commissioner	
Less than \$50 - possible conflict of interest perception	Must complete Gift, benefit or hospitality declaration and approval form	Commissioner or Deputy Commissioner decides action by assessing the criteria and ticking the approval box: <input type="checkbox"/> Employee to keep <input type="checkbox"/> Decline <input type="checkbox"/> Transfer	Send completed form to Principal Legal Officer. If transferred , gift must accompany form. If declined , return gift to original giver.
Between \$50 and \$500	Regardless of perception of conflict of interest must complete Gift, benefit or hospitality declaration and approval form	Commissioner recommends action by assessing the criteria and ticking the approval box: <input type="checkbox"/> Employee to keep <input type="checkbox"/> Decline <input type="checkbox"/> Transfer	Send completed form to Principal Legal Officer. If transferred , gift must accompany the form. If declined , return gift to original giver.
Greater than \$500. Under NO circumstances can the employee keep the gift, benefit or hospitality. The gift should only be accepted if declining the gift may cause offence or embarrassment. In this circumstance the gift will be transferred to the MHCC or department	Regardless of perception of conflict of interest must complete Gift, benefit or hospitality declaration and approval form	Must be surrendered to the State, therefore Commissioner can only select: Transfer	Send completed form to Principal Legal Officer. Transferred gift must accompany the form.

Appendix C: Minimum accountabilities set by the Victorian Public Sector Commissioner

Public officials offered gifts, benefits and hospitality:

1. Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
2. Refuse all offers of gifts, benefits and hospitality that:
 - 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.
3. Declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

Public officials providing gifts, benefits and hospitality:

5. 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 organisational goals, or promotes and supports government policy objectives and priorities.
6. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
7. 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.

Heads of public sector organisations:

8. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
9. 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.
10. 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.

11. 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 the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
12. Report at least annually to the organisation's audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
13. Publish the organisation's gifts, benefits and hospitality policy and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.