

Policy

Gifts and Benefits

February 2021

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1. Purpose of this policy

The Office of the Children’s Guardian (OCG) is committed to being a professional and ethical workplace.

Occasionally in the course of your role in the OCG you, or perhaps your family members, friends, or associates, may be offered gifts or benefits by suppliers, clients, other persons, or organisations.

Gifts and benefits may be offered out of gratitude and goodwill for a job well done. They can also be offered to create a favourable impression or to gain preferential treatment.

Regardless of why they are given, accepting a gift of benefit may create a sense of obligation that could compromise impartial and honest decision making. Acceptance or giving of any gifts and benefits may also impact the public perception of the integrity and independence of the OCG and its employees.

OCG employees must be able to demonstrate that they are not influenced in the performance of their duties by offers of gifts and benefits. This policy outlines what to do if you are in this situation.

2. Policy

As an OCG employee you must discuss any offers of gifts or benefits that you are considering accepting with your manager no matter what their monetary value. If you accept any gifts or benefits valued at \$50 or more, you must complete the Gifts and Benefits Declaration Form to register the details. Completing the form and registering an offer is also required in situations where you are offered but don’t accept a gift or benefit of significant value (for example more than \$300) or you believe the offer has been made to induce you to provide preferential treatment. In all situations you must be aware of and understand your role and responsibilities to protect your reputation and that of the OCG ensuring no negative consequences for the OCG.

Managers approving gifts or benefits for their employees must consider information and processes in this policy as well as the Code of Ethics and Conduct, and the OCGs values.

Accepting ‘Monetary/financial gifts or financial benefits’ is prohibited in all cases, because it is likely that such a gift or benefit would be perceived as bribery, which is an offence under the *Crimes Act 1900 (NSW)*.

3. Who must comply with this policy?

This policy applies to all ‘OCG employees’ including contractors and to any ‘Gifts and benefits’ including hospitality accepted from a ‘Third party’.

3.1 Definitions

The following definitions apply throughout this policy:

Gifts and benefits – any item, service, prize, hospitality, or travel provided by a customer, client, applicant, supplier, potential supplier, or external organisation, which has monetary value or worth to the recipient, member of their family, friend, or associate.

The receipt of a prize while engaging in official duties (e.g. a lucky door prize) is also considered a gift or benefit and will be dealt with in the same manner and in accordance with this policy.

OCG employees – all persons working with or on behalf of the OCG, including permanent, temporary, or term-basis employees, consultants, contractors, and casual employees.

Third party – any organisation or agency external to the OCG including other government agencies or authorities, State Owned Corporations, or private sector organisations.

Monetary/financial gifts or financial benefits – includes cash, cheques, money orders, gift vouchers or other financial benefit.

4. What to do if you're offered a gift or benefit

If you, or a family member, relation, friend, or associate, are offered a gift or benefit in association with your work at the OCG (regardless of whether you accept it):

1. In all situations where you are considering accepting a gift or benefit immediately advise and discuss with your manager that you have been offered a gift or benefit. In situations where refusing to accept a gift may cause a problem (e.g. offending the provider) you need to determine the value of the item within 5 working days of receipt.
2. On the rare occasion that you had to accept the gift or benefit prior to consulting your manager or gaining your manager's and the Manager, Corporate and Strategic Coordination's approval you must inform them as soon as practicable. In such cases that concern accepting a physical gift with a value of \$50 or more a decision will still be made by your manager and the Manager, Corporate and Strategic Coordination as to whether you can personally keep the gift or are required to surrender it to the OCG.
3. If the gift or benefit is under the nominal value of \$50 and appropriate, you will generally be permitted to keep it, provided it is not a monetary/financial gift or benefit, or being offered on a regular basis – your manager will advise you when you discuss with them.
4. If the value of the gift or benefit is \$50 or more and refusal is not an option and/or it is an event providing you with relevant professional development or networking opportunities, complete the Gifts and Benefits Declaration Form on the intranet and submit the form to your manager for approval. If approved by your manager, your manager will forward it to the Manager, Corporate and Strategic Coordination for approval who will then advise whether you may keep the item or attend the event.
5. In cases where you have not accepted a gift or benefit but the value of the gift or benefit is significant (for example greater than \$300) or if you believe the offer is being made to influence your work, also discuss the gift or benefit with your manager and complete the Gifts and Benefits Declaration Form for registering on the Gifts and Benefits Register.
6. Gifts and/or benefits accepted by the Children's Guardian require notification to and approval by the Manager, Corporate and Strategic Coordination. Gifts and benefits offered to the Guardian that fit point 5 above will need to be sent for notification.

5. Criteria for approval

Your manager and the Manager, Corporate and Strategic Coordination will take into account whether the gift or benefit was intended to influence you to act in the interest of the giver, either now or later.

6. My responsibilities

6.1 Employee

- As an OCG employee you must ensure that you act with integrity and demonstrate that you are not influenced in the performance of your duties. You must discuss with your manager in each case you, or a family member, relation, friend or associate, are considering accepting a gift or benefit offered in the capacity of your work that is \$50 or more in value and complete the Gifts and Benefits Declaration Form if your manager approves its acceptance. Please note there will be exceptions to this requirement of prior approval in cases such as a travel upgrade etc.
- Employees must not solicit gifts and benefits or accept inducements or cash.
- Employees are encouraged to accept offers that provide professional education and/or business networking opportunities.
- Gifts or benefits provided to a family member, relation, friend, or associate are also prohibited.
- Any OCG employee who accept a gift or benefit are responsible for any taxation obligations including Fringe Benefits Tax.

6.2 Managers

Approval of all reportable gifts or benefits declared to a manager must be considered in light of this policy, the Code of Ethics and Conduct and the OCGs values.

Managers must:

- Send their primary approval to the Manager, Corporate and Strategic Coordination for secondary approval and recording of the gift or benefit in the Gifts and Benefits Register.
- Notify the Manager, Corporate and Strategic Coordination of any gifts or benefits being offered to your employees about which you have concerns as to why it is being offered and ensure a Gifts and Benefits Declaration Form is completed in this case even if the gift or benefit is not accepted.

Managers and the Manager, Corporate and Strategic Coordination are responsible for actioning gifts and benefits reported to them within 5 working days of receiving the declaration form.

Approval of acceptance of a gift or benefit must be unanimous, otherwise it is not approved.

6.3 Manager, Corporate and Strategic Coordination

- Maintains the Gifts and Benefits Register recording all employee requests for acceptance of gifts and benefits in excess of \$50 including decisions to not accept offers that are significant in value or influential in nature.
- Reviews the Gifts and Benefits Register on a regular basis and provides guidance and assistance to managers and employees on the application of this policy.
- If a gift or benefit receives primary approval from the employee's manager and is deemed appropriate, the Manager, Corporate and Strategic Coordination will provide secondary approval and advise the employee in writing that the gift or benefit has been formally approved. Where the Manager, Corporate and Strategic Coordination considers it appropriate, they will refer it to the Director, Business and Executive Services for further consideration.
- The Manager, Corporate and Strategic Coordination will periodically analyse the declarations recorded in the Gifts and Benefits Register to identify trends or anomalies, e.g. numerous gifts and benefits being received from the same organisation or by an

individual employee.

The Gifts and Benefits Register and trends/anomalies will be reviewed by the OCG Board annually.

6.4 Children's Guardian

The Children's Guardian has an obligation under the *Independent Commission Against Corruption Act 1988* to inform the Independent Commission Against Corruption (ICAC) of any matter which they suspect may concern corruption, including bribery.

7. The giving of gifts and benefits by OCG employees

On occasion, the OCG may host an event and/or present to delegates/dignitaries. It may be deemed appropriate to give guest presenters and/or delegates a token gift or provide hospitality.

Employees providing a gift or benefit should ensure:

- It is provided for a business purpose. It should assist the conduct of official business or other legitimate organisational goals or promote and support the OCGs policy objectives and priorities.
- Any costs are proportionate to the benefits obtained for the OCG and would be considered reasonable in terms of community expectations.
- The gift or benefit is purchased through a transparent and equitable process, particularly if they are ongoing and the selected vendor(s) can end up with a competitive industry advantage.

8. Hospitality giving by OCG employees

Any expenditure by employees on official hospitality and/or entertainment must be in accordance with the following principles:

- It is provided for an official business purpose. It should assist the conduct of official business or other legitimate organisational goals or promote and support government policy objectives and priorities.
- The expense must be correctly and accurately documented.
- The expense must generate direct benefits for the OCG. The hospitality and/or entertainment must result in, or be reasonably expected to contribute to, achieving the OCGs objectives and should not be used merely for social occasions.
- When hospitality is provided, employees involved must demonstrate professionalism in their conduct and uphold their obligation to extend a duty of care to other participants.

9. Approval of hospitality and/or entertainment expenditure

Authority to approve expenditure for official hospitality and/or entertainment is consistent with the OCGs Financial Delegations. Managers are authorised to approve expenditure on official hospitality and/or entertainment up to the limit of their delegation (refer to the OCG Financial Delegations).

Approval for any official hospitality and/or entertainment expenditure should be obtained prior to

the cost being incurred. In exceptional cases, it may be necessary to seek approval as soon as possible after the expenditure has occurred, if prior approval was not possible. Managers and employees are jointly responsible for ensuring this is not a regular occurrence.

Fringe Benefits Tax (FBT) may apply to the employee component of hospitality and/or entertainment expenditure. Employees are to obtain advice from the OCG Finance team.

10. Disposal of gifts

Usually gifts valued over \$50 will be surrendered to the Manager, Corporate and Strategic Coordination. The Manager, Corporate and Strategic Coordination, in consultation with the Director, Business and Executive Services, will make a decision regarding disposal method, such as an internal raffle by employees with the proceeds going to an OCG supported charity.

Depending on the value and/or type of gift, however, there may be occasions when the manager and the Manager, Corporate and Strategic Coordination agree that it is acceptable for the gift to be kept by the employee.

In the case of perishable gifts such as chocolates or food hampers, etc. an appropriate method for disposal of the gift could be to share or distribute the gift amongst employees, or alternatively donate the gift to a charity.

Where it is decided that the gift will be shared amongst employees, then physical surrender of the gift to the Manager, Corporate and Strategic Coordination is not required. However, the gift must be declared with the method of disposal stated and recorded on the Gifts and Benefits Register.

The Manager, Corporate and Strategic Coordination will keep the OCG Finance team informed of the disposal of gifts as these may constitute a reportable valuable benefit.

11. Consequences of breaching the policy

Failure to declare an accepted gift and/or benefit with a value of \$50 or more may result in disciplinary action.

Behaviour contrary to this policy is considered contrary to the Code of Ethics and Conduct and to the ethical framework for the government sector. Such behaviour can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder customer service delivery and damage public trust in the OCG and/or the broader government sector.

12. Further guidance

Contact your manager to discuss the specific situation and offers made to you. For further advice and assistance contact the Manager, Corporate and Strategic Coordination.

The Gifts and Benefits Declaration Form is available from Objective or the intranet.

Policy metadata (Table 1)

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Appendices

Appendix 1 – Gifts and Benefits Declaration Form

Office of the Children’s Guardian

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