

Gifts and Benefits Policy and Procedure



Version: 1.1

Last Amendment: June 2017

Approved by: Executive

Policy owner/sponsor: Manager, Human Resources

Policy Contact Officer: Manager, Human Resources

Policy No: PD/11 TRIM File No: 53872

Date approved: 06/06/2017

Next review: 06/06/2020

1. Summary

This policy states the State Library of NSW requirements regarding the management of gifts and benefits offered to staff. Procedures relating to the management of gifts and benefits are included.

(For management of gifts offered to the Library, please refer to '*Policy for the administration of gifts to the State Library of NSW Foundation*').

2. Policy statement

The State Library of New South Wales (the Library) is committed to being a professional and ethical workplace. This can only be achieved and maintained if the community is confident that employees are not influenced by gifts or benefits and they behave ethically in performing their duties. For employees there are many real and perceived risks associated with being offered or accepting gifts or benefits while on duty. This policy aims at protecting employees and their reputation and minimising potential negative consequences for employees, the Library and NSW government.

Employees must not give or accept gifts, benefits and entertainment that will compromise, or appear to compromise, their integrity and objectivity in performing their duties, or cause, or appear to cause a conflict of interest. The giving or acceptance of gifts or benefits may affect the public perception of the integrity and independence of the Library and its employees. Employees must be able to demonstrate that they cannot be improperly influenced in the performance of their duties by offers of gifts and benefits.

This policy applies to all staff, volunteers and contractors at the Library (collectively referred to in this policy and procedure as 'employees') and compliance is mandatory.

3. Legislative and Policy Framework

- *Crimes Act 1900*
- *Government Sector Employment Act 2013*
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 1994*
- Ethical Framework for the Government Sector
- NSW Justice Gift and benefits Policy and Procedure

- NSW Independent Commission Against Corruption (ICAC)
www.icac.nsw.gov.au
- NSW Ombudsman www.ombo.nsw.gov.au
- State Library Code of Ethics and Conduct

4. Responsibilities

4.1 Employees must not:

- accept any gift and/or benefit or entertainment if they are employed within procurement roles and/or negotiating and managing contracts for public/private partnerships and/or the delivery of products and services on behalf of the Library. Employees in these areas must refuse all offers from individuals or organisations directly related to these functions. An exception to this rule applies in limited circumstances as described in section 4.2.
- accept any cash, financial benefit or gift voucher as this could be considered a bribe, which is an offence under the *Crimes Act 1900*.
- solicit any gift, benefit or entertainment from clients in connection with your official duties as this may constitute corrupt conduct under the *Independent Commission Against Corruption Act 1988*.
- accept any gift, benefit or entertainment that is or could be perceived by a reasonable person to influence you when carrying out your official duties, or is or could be perceived by a reasonable person to be a conflict of interest.
- accept any gift or benefit if you are unsure whether you should.

4.2 Employees may:

- accept token gifts and benefits (other than those set out in 4.1 above) where the gifts and benefits are offered in business situations to all participants and attendees (i.e. seminars, conferences). These items are not given as a personal gift for use outside the business context and a reasonable person would not perceive token gifts/benefits as items designed to influence or win favours. Token gifts could include pen, cap, stationery, coffee mug, stress ball, mouse pad and memory stick. Employees do not need to declare token gifts.
- accept a gift/benefit for presenting at a conference, seminar, and business event following approval from their Manager using the declaration process.
- accept a ceremonial gift from another organisation on behalf of the Library. Ceremonial gifts belong to the Library. You must declare the item to your Manager.
- accept a gift/benefit given in gratitude when hosting business events or overseas delegations/missions only where refusal would be unreasonable and unnecessarily offensive. You must declare the gift to your Manager.
- accept tea, coffee, water and/or juice or a modest meal during a meeting or as a participant of a working group. This is not considered a gift or benefit, it is considered a basic courtesy and you do not need to declare to your Manager.
- accept published or original materials in the circumstances described in this section but must give them to the Manager, Collection Strategy and Development for addition to the collection or for donation to public libraries or other organisations as deemed appropriate. You must declare the gift to your Manager.
- accept on behalf of the Library any gift, benefit or prize that you may win as a result of entering a competition while engaged in official duties, such as winning a prize at a conference paid for by the Library, winning a prize as an incentive to complete a survey as an employee of the Library. These items are to become the property of the Library. You must declare the gift to your Manager.

4.3 Employees will:

- a. place the public interest over their own personal interest and act professionally and with honesty, consistency and impartiality.
- b. advise their Manager immediately if they believe they have been offered a bribe. Where necessary ICAC and the police will be notified immediately.
- c. advise their Manager immediately if they believe they have been offered a gift aimed to influence decision making now or in the future.
- d. always consider the value and purpose of a gift or benefit, and relationship with the gift or benefit giver, before making any decisions about accepting it. As a guide, any gift of a value over \$50 should not be accepted. If the value is under \$50 you may accept it and source approval from your Manager regarding what action to take.
- e. declare all gifts and benefits within 5 working days of receiving the gift regardless of cost, excluding token gifts by following the procedures in section 6.1. This includes declaring any gift/benefit that is declined, returned or disposed of by you.
- f. actively discourage family, relatives, friends or associates from accepting gifts and benefits, which could give the perception of an indirect attempt to influence you.
- g. advise their Manager immediately if they believe another employee has been soliciting gifts or benefits.

4.4 Managers and Directors will:

- a. determine the appropriate course of action, in line with this policy and procedure, with managing the gifts and benefits offered to employees in their branch and division. Managers and Directors must consider whether acceptance of the gift or benefit creates an actual or perceived conflict of interest, can be justified in the terms of the public interest and can withstand public scrutiny.
- b. action gifts and benefits reported to them and advise the employee within 10 working days of receiving the declaration form. The possible actions include approving, declining, donating, destroying or returning the gift/benefit.
- c. forward the completed declaration of gifts and benefits to the Manager, Human Resources.
- d. lead the implementation of this policy including its conformity to legislative and other compliance requirements.
- e. promote conduct and provide advice and guidance which supports this policy and procedure and regularly remind employees of their responsibilities in relation to gifts and benefits.

4.5 Human Resources Branch will:

- a. update the Library's Gifts and Benefits Register with the declarations of gifts and benefits received from Managers.
- b. review declarations received and, where any concern is identified, escalate the matter to the relevant Director and/or State Librarian.
- c. file the declaration on a TRIM file.
- d. review the register annually and present findings to Executive to enable the identification and management of any emerging risks. For instance, if a particular company/organisation is presenting a significant number of gifts to various

employees or if companies/organisations are offering frequent and substantial hospitality to employees.

- e. regularly review policy and procedures.
- f. raise awareness of the gifts and benefits policy and procedures across the Library through education and training programs.
- g. provide advice and guidance to employees on adhering to this policy and procedure.

5. Reporting requirements

The Gifts and Benefits Register will be open to inspection by internal and external auditors and may be viewed by the public on application. The register will be reviewed annually to check for compliance with the Gifts and Benefits Policy and Procedures and for instances of serial or cumulative gift giving, frequent and substantial hospitality. The outcome of the review will be reported to the Executive. Any breaches of the policy identified will be discussed at the Executive and appropriate action taken thereafter.

6. Procedures

6.1 What to do if offered a gift and/or benefit

Employees must complete the electronic version of the [Gifts and Benefits Declaration form](#) within 5 days of receiving/or being offered the gift, benefit or entertainment.

On this electronic form you must:

- a. detail:
 - the date the gift or benefit was offered
 - the name and organisation of the person offering the gift or benefit, including your relationship with that organisation or person
 - a description of, and estimate for the value of the gift or benefit. The value reflects the value of the item and may be estimated by a web search
 - the context in which the gift or benefit was offered
- b. explain what you intend to do with the gift or benefit by selecting an option from a drop down list as follows:
 - I am seeking direction on what to do with the gift or benefit
 - I intend to return the gift or benefit
 - I intend to donate the gift or benefit to charity
 - I intend to share the gift or benefit with other employees in the workplace
 - I intend to donate the gift or benefit to the Social Club
 - I intend to keep the gift or benefit
 - I intend to give the gift of published or original materials to the Manager, Collection Strategy and Development for evaluation for the Collection
 - I intend to destroy the gift or benefit

- c. send your completed electronic form by email to your Manager and wait for response to action your suggestion.

The options include:

- return the gift or benefit to the donor
- advise the donor you are unable to accept the gift or benefit
- donate the gift or benefit (e.g. to charity, staff social club)
- give the gift of published or original materials to the Manager, Collection Strategy and Development for evaluation for the Collection
- keep the gift and benefit
- destroy the gift or benefit
- share the gift or benefit with other employees in the workplace

On receipt of your declaration form, the Manager will consider the information provided in terms of the Gifts and Benefits Policy, complete the declaration with the appropriate course of action to take and send this completed electronic form by email to you and to the Manager, Human Resources.

6.2 What to do if offered a bribe

If an employee believes they have been offered a bribe they must:

1. immediately reject the offer, terminate the interaction with the person, make a record of the event and immediately report the incident to their Director.
2. provide a copy of the record of the event to the Director for filing on a TRIM file. The Director is to interview the employee immediately and inform the State Librarian and CE who will report the matter to the Independent Commission Against Corruption (ICAC) and/or the NSW Police as appropriate. The Director or State Librarian and CE will discuss with the employee exactly how future relations with the person who offered the bribe should be conducted.
3. decline any gifts that may not be outright bribes but are nevertheless suspected of being offered for the purposes of influencing an employee's behaviour in his or her official capacity. In such circumstances the Director must be notified of the incident. The matter is then reported to the State Librarian and CE who will consider whether to make a section 11 (ICAC Act 1988) report to ICAC.

7. Definitions

- **Bribe** is a gift or benefit offered to or solicited by a public official to influence that person to act in a particular way or to induce the public official to act in a way that is contrary to the known rules of honesty and integrity.
- **Bribery** includes offences committed under the *Crimes Act 1900*, involving acts of offering or soliciting a corrupt commission or reward to or by a public official to influence that person in a particular way.
- **Ceremonial Gift** is an official gift from one organisation to another organisation. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency and therefore the gift is considered to be for the organisation, not a particular individual.

- **Conflict of interest** means if a conflict of interest exists, is perceived to exist or has the potential to exist where an employee has personal interests which could improperly influence the performance of their official duties including not only their own personal, professional or business interests but also those of their family, friends or associates.
- **Corruption** means the abuse of public office, that is, 'public trust' for private or personal advantage.
- **Cumulative gifts** are also referred to as serial gift giving, involving a series of gifts or benefits given to employees by an organisation over a period of time.
- **Gift and benefit** is an item, service, prize, hospitality or travel, provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and / or a value to the recipient, a member of their family, relation, friend or associate. For example meals, discounts, seats at sporting events, access to corporate boxes at sporting venues, upgrades on flights, new job or promotion, preferential treatment, favours or access to confidential information. Gifts may be offered as an expression of gratitude with no obligation to repay in kind, or given to create a feeling of obligation. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed.
- **Gifts and Benefits Register** is the official State Library record that details gifts and benefits received by employees and how they were managed.
- **Gift of Gratitude** is a gift that is offered to an individual or an agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to employees who speak at official functions would be considered gifts of gratitude.
- **Nominal Value** is the monetary limit of acceptable gifts. By accepting the gift, there would be no obligation, perception or expectation for reciprocation or providing preferential treatment.
- **Public Official** is an individual who carries out public official functions or acts in the capacity of a public official.
- **Token Gift** is a gift that is offered in business situations to an agency or public official representing an agency. Such gifts are in the nature of small office or business accessories that contain the company logo. They are usually products that are mass-produced and not given as a personal gift for use outside the business context. A token gift has no significant or lasting value for example - an inexpensive pen, tie, scarf, coffee mug or plaque, a showbag given to all participants at seminars or conferences.

8. Breach of this policy and procedure

Behaviour contrary to this policy and procedure and to the *Ethical framework for the government sector* can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder client service delivery, and damage public trust in the Library or the broader government sector.

Actual or perceived breaches of this policy and procedures will be dealt with in accordance with the Code of Ethics and Conduct. Serious breaches of the policy and procedure may constitute unsatisfactory performance or misconduct and be dealt with under sections 68 or 69 of the *Government Sector Employment Act 2013* respectively.

9. Approval and Implementation

This policy was approved by Executive on 18 August 2015 for immediate implementation.

10. Document History and Version Control

Version	Date approved	Approved by	Brief description
1.0	18/08/2015	Executive	First release
1.1	06/06/2017	State Librarian and CE	Minor wording update for clarification of application to staff as opposed to gifts offered to the Library through the Foundation.