

Gifts, Benefits and Hospitality Policy

1.0 PURPOSE

The purpose of this policy is to minimise gift offers made to, and accepted by, board members and employees. This helps to protect and promote public confidence in the integrity of Wannon Water.

Gift offers are discouraged and must never be accepted unless there is clear justification, consistent with the prohibitions in this policy, to do so.

2.0 SCOPE

This policy sets out Wannon Water's standards and procedures for responding to gift offers. It applies to all board members and employees, including 'in house' contractors and consultants.

3.0 KEY PRINCIPLES AND ACCOUNTABILITIES

3.1 Key Principles

The key principles are:

- (a) **Obligations:** board members and employees act in accordance with their respective obligations and with good public sector governance practice.
- (b) **Public interest:** board members and employees act in the public interest, in compliance with this policy.
- (c) **Culture of integrity:** Wannon Water fosters a culture of integrity. Board members and employees are supported to raise any unresolved gifts issues.
- (d) **Risk-based:** Wannon Water's risks in relation to gift offers are assessed, managed, and monitored.
- (e) **Processes:** Wannon Water's procedures are transparent and accountable. Processes are in place to ensure that board members and employees are aware of the requirements of this policy and how to comply with it.

This policy is consistent with the Department of Environment, Land, Water and Planning's ("the Department") model policy on *Gifts, benefits and hospitality – responding to gift offers*, which is published by the Department.

3.2 Key Principles

Board members and employees are responsible for ensuring that their own conduct meets the required standards of integrity. They place the public interest above their own interests when carrying out their official duties. This includes declaring all gift offers in accordance with this policy and refusing prohibited gifts.

The chair, the managing director and employees with direct reports are responsible for being aware of, and monitoring, the risks inherent in their team's work and functions. They model good practice and promote awareness of this policy and related processes.

4.0 DEFINITIONS

4.1 Gift offer

A gift offer is anything of monetary or other value that is offered by an external source (organisation or individual) to a board member or employee as a result of their role with Wannon Water. It includes free/discounted:

- (a) **items or services**, for example, items such as a Christmas hamper, desk calendar, box of chocolates, bottle of wine, commemorative object, 'door prize' at a function or services such as tree-logging or house painting.
- (b) **benefits** such as preferential treatment, privileged access, favours or other advantages or intangibles, for example, access to a discount or loyalty program, or the promise of a new job.
- (c) **hospitality that exceeds common courtesy**. 'Hospitality' is the friendly reception and treatment of guests. It includes offers of food, drink, travel, accommodation, events or activities (e.g. sporting, social, industry, arts, entertainment, or other events/activities). 'Common courtesy' is polite, basic and modest. It does not raise a conflict of interest. Whether an offer exceeds common courtesy depends on the circumstances (i.e. what is offered, by whom, to whom, when and why).

Example – does not exceed common courtesy

The following offers do not exceed common courtesy. They are not a gift offer and do not need to be disclosed under this policy:

- (a) a cup of coffee at another organisation's premises;
- (b) a modest working lunch, such as sandwiches and pastries, at another organisation's premises; or
- (c) a cup of coffee at a café (unless there is a conflict of interest).

Example – gift offer

The following offers exceed common courtesy. They are a gift offer and must be disclosed under this policy:

- (a) a 'fine dining and wines' working lunch at another organisation's premises;
- (b) an offer to pay for a working lunch at a café; or
- (c) an offer of a free spot at an industry golf day.

Direct or indirect

A gift offer may be direct or indirect. It may be made directly to a board member or employee or indirectly via an offer to their relative or close associate, including:

- (a) a member of their immediate family (e.g. spouse, partner, child, grandchild, parent, sibling);
- (b) a regular member of their household (whether or not they are related); or
- (c) another close associate (e.g. friend, business associate, other relative).

Is the gift offer 'token' or 'reportable'?

A gift offer that is made by an external source is either 'token' or 'reportable':

- (a) **Token** – the gift offer is trivial and inconsequential. The combined total of offers to the board member or employee from that source in the last 12 months does not exceed \$50.
- (b) **Reportable** – the gift offer exceeds the token value OR is of cultural, historic or other significance.

Example – exceeds token value

If a board member or employee is offered a \$20 bottle of wine three times by the same source in 12 months, the third offer makes a cumulative total of \$60. This exceeds the \$50 threshold. The third offer is therefore reportable, even if none of the offers are accepted. What counts is the total offered in the last 12 months.

Example – other significance

A gift offered by a visiting delegation, such as a delegation from another country, is reportable, regardless of its monetary value. Even if it is not of cultural or historic significance, it is of 'other' significance.

4.2 Conflict of interest

A 'conflict of interest' is a conflict between a board member's or employee's public duty to act in the best interests of Wannon Water and their private interests (financial or non-financial). A conflict exists whether it is:

- (a) **real** – it currently exists;
- (b) **potential** – it may arise, given the circumstances; or
- (c) **perceived** – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to Wannon Water, now or in the future.

4.3 Bribe

A 'bribe' is an offer of money or other inducement made with the intention to corruptly influence a board member or employee in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.

4.4 Legitimate business reason

A 'legitimate business reason' is a business purpose that furthers the official business or other legitimate goals of Wannon Water, the public sector, or the State. The following are not a 'legitimate business reason':

- (a) 'It would have been impolite to refuse';
- (b) 'Refusal would offend' – except in compelling circumstances that are in the public interest. These almost never exist for gift offers of hospitality and rarely exist for other gift offers;
- (c) 'Networking'; and
- (d) 'Maintaining stakeholder relationships'.

4.5 Responsible person

The 'responsible person' is the person whom the board member or employee notifies of any gift offers they receive, notifies of suspected bribery attempts and seeks advice from about this policy and how to comply.

Position	Responsible person
Chair	Deputy Chair
Director	Chair
Managing Director	Chair
General Manager	Managing Director
All other employees	Relevant General Manager or Managing Director

5.0 PROHIBITED GIFTS

A board member or employee must refuse any gift offer that:

- (a) is **money** or is similar to money (e.g. gift vouchers) or easily converted into money (e.g. shares);
- (b) is a **conflict of interest** (real, potential or perceived) – e.g. is offered by an external source with an interest in a decision that the board member or employee is likely to make or can influence, including in relation to:
 - procurement of goods or services;
 - tender processes;
 - awarding of a grant or sponsorship;
 - setting of policy;
 - enforcement, licensing or regulation; or
 - contracts;

- (c) could in any other way create a **reasonable perception** that it is offered to influence, or could influence, the judgement of the board member or employee (i.e. how he/she acts, or fails to act, now or in the future);
- (d) is inconsistent with **community expectations**; or
- (e) could in any other way bring their **integrity**, or that of the agency, into disrepute.

5.1 Gift offers of hospitality

To ensure compliance with the above requirements, board members and employees must be particularly cautious about accepting gift offers of hospitality (i.e. food, drink, travel, accommodation, events or activities). Gift offers of hospitality are often inconsistent with community expectations. There is also a high risk of conflict of interest. In such cases, the gift offer must be refused even if there is a legitimate business reason to accept. In particular, note that:

High risk events and activities

Invitations to attend or participate in a sporting, social, 'industry', arts, entertainment, or other event or activity are high risk. Examples of gift offers that must be refused include:

- (a) attend as a guest in a corporate box at the football or at a car or horse racing event;
- (b) attend a concert or theatre event;
- (c) attend an industry golf day or play golf at a reduced fee;
- (d) be 'shouted' a meal at a restaurant; or
- (e) accept complimentary or discounted tickets for a family member to attend the tennis.

Conferences and familiarisation tours

Gift offers in relation to conferences or familiarisation tours (e.g. sponsored attendance, participation, travel, or accommodation) must be declined unless there is:

- (a) **clear justification**, such as where the invitation is issued by a government department, or the event is funded by the Department, or, depending on the circumstances, the offeror is a peak body; and
- (b) **prior written approval**, that sets out clear reasons, is specifically granted by the managing director (for employees) or the responsible person (for the chair, board members, and managing director). The signed and dated approval must be attached to the gift offer declaration form and noted in the gifts register.

5.2 Recording prohibited gifts

To assist the agency to monitor the frequency and nature of prohibited gift offers, it is essential that all such offers are disclosed in accordance with the requirements for token or reportable gift offers.

5.3 Misuse of position

Accepting a prohibited gift offer may constitute misuse of a board member's or employee's position, a breach of this policy and/or a breach of the relevant code of conduct, and may result in disciplinary action. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

6.0 ATTEMPTS TO BRIBE

A board member or employee who receives a gift offer that he/she believes is an attempted bribe must refuse the offer. He or she must:

- (a) immediately notify the responsible person and lodge a gift offer declaration form, so that their refusal can be properly recorded; or
- (b) report the matter to the Independent Broad-based Anti-corruption Commission (IBAC) as a protected disclosure.

A board member or employee who believes that another board member or employee may have solicited or been offered a bribe which the other person has not reported must either notify the responsible person or report the matter to IBAC as a protected disclosure.

The managing director is required to be notified when a responsible person becomes aware of a bribery issue. The managing director must notify IBAC of any matter which he/she believes on reasonable grounds may be corrupt conduct or, if appropriate, notify the police of a suspected offence.

7.0 BAN ON SOLICITING GIFTS

Board members and employees must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position, a breach of this policy and/or a breach of the relevant code of conduct and may result in disciplinary action. It may also constitute corruption and lead to criminal prosecution.

8.0 TOKEN GIFT OFFERS

A board member or employee who is offered a gift of token value that is not a prohibited gift may:

- (a) refuse the gift offer; or
- (b) accept the gift offer and retain the gift as their own.

Disclosing token gift offers

Regardless of whether a token gift offer is accepted, it must be disclosed as soon as practicable to the responsible person. The board member or employee who receives the offer must send an email to the responsible person that sets out:

- (a) the date of the offer;
- (b) the source (organisation or individual) of the offer;
- (c) what was offered and why;
- (d) that it was a token offer, including an estimate of:
 - the value of the gift offered; and
 - the combined value of all gifts offered to them from that source in the last 12 months;
- (e) whether it was a prohibited gift and, if so, why; and
- (f) whether the offer was accepted or refused.

A gifts declaration form does not need to be completed. Nor does the gifts register.

Example – acceptance of token gift

‘On 16 July 2017, I received a gift offer from Berringer and Co. of a bottle of wine. It was offered to me as a thank you for presenting at their annual education forum, which I did as part of my official duties. I estimate the value of the bottle of wine to be \$30. I estimate the combined total of gift offers I have received from this source in the last 12 months to be \$45. I consider this to be a token gift offer. It was not a prohibited gift offer. I accepted the offer.’

Example – refusal of token gift

‘On 13 December 2017, I received a gift offer from Murks and Co. of a desk calendar. It was offered as ‘a Christmas good will gift’. I estimate the value of the desk calendar to be \$20. I estimate the combined total of gift offers I have received from this source in the last 12 months to be \$45. It was a prohibited gift as it is a conflict of interest – Murks is a prospective tenderer about whom I am likely to make or can influence a decision. I refused the offer and explained why to the rep.’

Keeping track of token gift offers

The board member or employee disclosing the token gift offer and the responsible person must each retain a copy of the email. An email record:

- (a) assists the board member or employee to fulfil their responsibility to keep track of whether offers made to them by that source exceed a combined value of \$50 in the last 12 months (i.e. the reportable threshold); and
- (b) assists the responsible person to monitor the risks inherent in their team's work and functions.

9.0 REPORTABLE GIFT OFFERS

A board member or employee who is offered a reportable gift must, regardless of whether the gift is accepted:

- (a) verbally disclose the offer to the responsible person as soon as practicable; and
- (b) within five working days of the offer, sign and lodge a properly completed gift offer declaration form.

A gift offer must not be accepted if it is a prohibited gift.

9.1 Ownership of reportable gifts

A board member or employee who accepts a reportable gift does so on behalf of Wannon Water. Wannon Water is the owner of the gift.

9.2 Dealing with accepted gifts

The following processes are required to be followed for the receipt and use or disposal of reportable gifts by Wannon Water.

(a) Gifts of cultural, historic or other significance

Consideration will be given to donating gifts of cultural, historic or other significance to an appropriate public institution, such as the Melbourne Museum, State Library, or National Gallery of Victoria at the discretion of the managing director.

(b) Donating other reportable gifts

Consideration will be given to donating other reportable gifts, or the proceeds of their sale, to a non-profit organisation or public institution at the discretion of the Managing Director.

(c) 'Public interest' approval for use of gift by board member or employee

Occasionally, it will be in the public interest for approval to be given for a board member or employee to use a reportable gift 'as their own' at the behest of Wannon Water.

Applications for 'public interest approval' will be determined by the board (for board members and the Managing Director) or the Managing Director (for employees) in accordance with the following criteria:

- (a) approval is required to avoid the person being in breach of this policy through no fault of their own; or
- (b) prior written approval has been granted, in accordance with of this policy, for sponsored hospitality to be accepted in relation to a conference or familiarisation tour.

10.0 GIFT OFFER DECLARATION FORM

The process for the lodging and processing of gift offer declaration forms is set out below:

- (a) Offer of gift, benefit or hospitality made to employee.
- (b) Employee completes the gift offer declaration form and seeks approval in accordance with this policy.
- (c) Employee forwards the completed gift offer declaration form to the Board Secretary.
- (d) The Board Secretary enters the details on the gift offer declaration form into the gifts register.

11.0 GIFTS REGISTER

A register of responses to reportable gift offers ('gifts register') will be maintained by the Board Secretary that includes a record of:

- (a) all reportable gift offers and responses (based on completed gift offer declaration forms); and
- (b) if the gift offer was accepted, how the gift will be used or disposed of by Wannon Water.

The Board Secretary is responsible for ensuring that the register is up-to-date, is protected from unauthorised changes and is published on Wannon Water's external website.

In addition:

(a) Employees

The Board Secretary is responsible for ensuring that employees are provided with regular reminders of the need to lodge gift offer declaration forms.

(b) Board members

Consistent with Wannon Water's Conflict of Interest Board Policy, at the start of each board meeting, the chair must ask all board members present to state whether their entries in the gifts register are complete and correct. If there are no changes, the minutes will note that:

'All board members present confirmed that their entries in the Register of responses to reportable gift offers are complete and correct.'

If changes are declared, these will be noted in the minutes, together with the board member's undertaking to lodge a gift offer declaration form within five working days.

11.1 Publishing of gifts register on external website

A copy of the gifts register that complies with privacy obligations set out in this policy will be published on Wannon Water's external website and will be updated at least every six months. Entries will remain on the website for at least the current and previous financial year.

12.0 PRIVACY PROTECTION

Wannon Water will ensure that it complies with the *Privacy and Data Protection Act 2014* when collecting, using, and disclosing personal information in relation to gift offers (token and reportable). This includes ensuring that:

- (a) identifying information is deleted from the copy of the gifts register that is published on Wannon Water's external website; and
- (b) a Privacy collection statement – gift offers is published on the website that is consistent with the template statement issued by the Department.

13.0 MONITORING COMPLIANCE

The administration and quality control of Wannon Water's policy and processes, including the gifts register and gift offer declaration forms, are subject to regular scrutiny.

Annual report by Managing Director to Audit and Risk Management Committee

The Managing Director must provide a report at least annually to the Audit and Risk Management Committee that includes the matters set out in **Appendix 1** in relation to:

- (a) risk analysis;
- (b) steps taken to improve compliance; and
- (c) recommendations for improvement.

Annual report by Audit and Risk Management Committee to Board

The Audit and Risk Management Committee must submit a report at least annually to the Board that takes into account the Managing Director's report and includes any other information or recommendations that the Audit and Risk Management Committee chooses to include.

14.0 PROMOTING AND IMPROVING COMPLIANCE

To promote and improve compliance with this policy:

14.1 Business rules

Suitable business rules, processes, and record-keeping requirements will be in place for the practical implementation of this policy.

14.2 Induction and refresher training – board members and employees

The chair (for board members and the Managing Director) and the Managing Director (for employees) must ensure that all board members and employees receive **induction training** and annual **refresher training**, including:

- (a) information about the aim, principles, accountabilities, and requirements of this policy;
- (b) practical guidance on how to comply with it; and
- (c) advice that a breach of this policy may constitute a breach of a binding code of conduct and may result in disciplinary action and, in the case of corrupt conduct, criminal prosecution.

A copy of Wannon Water's policy and related practical guidance must be provided to each board member and employee when they commence their term of appointment/employment. Updates to the policy and related guidance must be provided as soon as practicable after they occur.

14.3 Gifts hub – board members and employees

The position of Board Secretary acts as a 'gifts hub' to provide responsible persons and other board members and employees with a central point from which to obtain expert advice and guidance materials.

14.4 Contracts for 'in house' contractors and consultants

All contracts for 'in house' contractors and consultants (including those engaged through an employment agency) must explicitly state that the contractor or consultant is bound by this policy and by the Code of Conduct for Victorian Public Sector Employees.

14.5 External stakeholders (tenderers, suppliers, external contractors, etc.)

All contracts for suppliers and external contractors must ensure that the contract can be revoked (or renegotiated) by Wannon Water if the supplier or external contractor offers a prohibited gift to a board member or employee.

External stakeholders must be provided with ready access to information that explains the prohibitions and restrictions in this policy. This includes ensuring that:

- (a) an up-to-date copy of this policy is published on the agency's external website; and
- (b) suitable guidance material is:
 - included in information packages for prospective tenderers and suppliers;
 - provided directly to all suppliers and external contractors, with regular reminders thereafter; and
 - published on Wannon Water's website.

14.6 Remedial action

Where patterns of frequent or prohibited gift offers are identified, where appropriate, remedial action is taken – e.g. a letter is sent to the source of the offers explaining why such offers must not be made.

15.0 CULTURE OF INTEGRITY

It is essential that board members, employees, and external stakeholders are supported to raise queries and issues about gift offers, including queries and issues relating to their own conduct or that of others.

Assistance with making decisions

A board member or employee who is uncertain how to comply with this policy should seek advice from their responsible person. They can also seek advice from the Board Secretary. This does not abrogate their responsibility to make the right decision.

Possible breach of this policy

A board member or employee who may have breached this policy must immediately notify the responsible person and remedy any breach.

Speaking up

A board member or employee who believes that another board member/employee may have breached this policy must:

- (a) approach the other person, to give them the opportunity to notify the responsible person and remedy any breach; or
- (b) notify the responsible person directly.

If the matter involves corruption or serious misconduct, the board member or employee can choose to instead report the matter to IBAC as a protected disclosure.

Decisive action, including possible disciplinary action, will be taken against any board member or employee who discriminates against or victimises a person who speaks up in good faith about a possible breach of this policy.

16.0 OBLIGATIONS AND GOOD PRACTICE

Board members and employees must act in accordance with their respective obligations and with good public sector governance practice, including:

- (a) the *Water Act 1989*;
- (b) the *Public Administration Act 2004*;
- (c) binding codes and accountabilities issued by the Victorian Public Sector Commission, in particular:
 - Code of Conduct for Directors of Victorian Public Entities ('Directors Code of Conduct');
 - Code of Conduct for Victorian Public Sector Employees; and
 - Victorian Public Sector Commission's "Minimum accountabilities for managing gifts, benefits and hospitality" (numbers 1 to 4 and 8 to 13);
- (d) government policy;
- (e) any directions, guidelines and/or statements of obligation or expectation issued by the Minister; and
- (f) all other laws and obligations that bind Wannon Water.

17.0 REGULAR REVIEW OF THIS POLICY

The board will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy and other requirements.

18.0 DOCUMENTATION

- (a) *Water Act 1989*.
- (b) *Public Administration Act 2004*.
- (c) Code of Conduct for Directors of Victorian Public Entities;
- (d) Code of Conduct for Victorian Public Sector Employees;
- (e) Conflict of Interest Board Policy; and
- (f) Victorian Public Sector Commission's "Minimum accountabilities for managing gifts, benefits and hospitality".
- (g) Providing Gifts, Benefits and Hospitality Policy.

19.0 DOCUMENT CONTROL



Gifts, Benefits and Hospitality Policy

Only the Board may authorise development and approval of Board policies. The policy development and approval process is coordinated and documented in the agenda and minutes of the Board. For document control purposes, the approver detailed below is the relevant employee responsible for managing the Policy on behalf of the Board.

Custodian	Branch Manager Retail Services
Approver	Branch Manager Retail Services
Status	Approved
Version	4
Approved Date	21/04/2017
Review Due Date	21/04/2020

Appendix 1 – Annual Report to the Audit and Risk Management Committee

The Managing Director's annual report to the Audit and Risk Management Committee must, at a minimum, include the following information:

A. Risk analysis

Sources, type, and targeting of gift offers (patterns and anomalies)

Reportable gifts: an analysis of patterns and anomalies in the gifts register, including an overview of:

- (i) *Gifts offered:* the types and value range of gifts offered, in particular:
 - main sources (organisations and individuals) of high value and/or frequent offers;
 - which areas of Wannon Water and which positions (chair, board member, MD, other employee positions) were subject to high value and/or frequent offers; and
 - patterns in areas identified by the Audit and Risk Management Committee for high scrutiny (e.g. tendering and procurement).
- (ii) *Prohibited gifts:* the level, nature and sources of prohibited gifts offers.
- (iii) *Acceptance of gifts:* the total number, value, and percentage of gift offers accepted versus refused.
- (iv) *Use and disposal:* how Wannon Water used or disposed of the gifts it received.
- (v) *Bribes:* any reports of suspected bribery attempts.

Token gifts: to the extent, if any, that the Audit and Risk Management Committee requires, an analysis of token gift offers - e.g. some or all of (i) to (iii) above - in particular, prohibited token gift offers.

Level of compliance with policy

An overview of the estimated level of compliance with this policy, including:

- (i) Whether there are fewer entries in the gifts register than would reasonably be expected given the size and functions of Wannon Water.
- (ii) Based on research conducted (e.g. surveys and focus groups with board members and employees; random and targeted spot checks with current/recent suppliers and external contractors, etc.), the estimated level of failure to:
 - disclose reportable gifts by lodging a gift offer declaration form;
 - disclose token gifts by emailing the responsible person;
 - refuse prohibited gifts.

B. Steps taken to improve compliance (risk mitigation measures)

An overview of steps taken in the last year to improve compliance with this policy, including:

- (i) substantive changes to business rules, processes and record-keeping requirements;
- (ii) activities to promote awareness of, and improve compliance with, this policy, noting who the activities were directed to (i.e. board members, employees and/or external stakeholders);
- (iii) remedial action taken to address patterns of frequent or prohibited gift offers (e.g. letters to those making gift offers); and
- (iv) progress in implementing any recommendations made to, and accepted by, the Audit and Risk Management Committee and/or board.

C. Recommendations (future improvements)

New recommendations, if any, for:

- (i) improving compliance with this policy; and/or
- (ii) updating this policy and related business rules, processes and record-keeping requirements.