# Gifts, Benefits and Hospitality Policy

**Department:** People and Workplace Services

**Responsible Officer:** Associate Director, Advisory, Resourcing & Payroll

**Accountable Director:** Director, People and Workplace Services

**Effective date:** 1 July 2024

**Date of next review:** 1 July 2025

**Version:** 3

## Purpose and scope

The purpose of this policy is to confirm Victoria Legal Aid’s (VLA) position on gifts, benefits and hospitality, ensuring staff avoid conflicts of interest and that VLA maintains high levels of integrity and public trust.

This policy has been developed in accordance with requirements outlined in the [Minimum accountabilities for managing gifts, benefits and hospitality](https://vpsc.vic.gov.au/ethics-behaviours-culture/gifts-benefits-hospitality/minimum-accountabilities/) issued by the Victorian Public Sector Commission (VPSC).

VLA has issued this policy to support behaviour consistent with the [Code of conduct for Victorian public sector employees](https://vpsc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/) (the Code of Conduct). All employees are required under clause 1.2 of the Code of Conduct to comply with this policy.

This policy covers responding to and providing offers of gifts, benefits and hospitality, and applies to all staff and workplace participants, including VLA employees, contractors, consultants, agency onhire staff, students and volunteers.

## Definitions

| Definition | Meaning |
| --- | --- |
| Gift | Any free or discounted item or service and/or any item that would generally be seen by the public as a gift offered to or by employees in the course of their work. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates). Gifts may be given or received by individuals or by organisations, such as a token provided to a visiting delegation. |
| Benefit | Preferential treatment, privileged access, favours and/or other advantage offered. Benefits often take the form of free or discounted access to sporting events, entertainment tickets, loyalty programs or services. Benefits could also take the form of a job offer or the offer of future work or patronage. |
| Hospitality | The friendly reception and entertainment of guests, ranging from light refreshments at a business meeting to restaurant meals and sponsored travel and accommodation. Hospitality may be offered to employees or provided by the organisation in an official capacity. |
| Token Offer | A token offer is a gift, benefit or hospitality that is worth less than $50, considered of trivial value to both the person making the offer and the recipient (such as basic courtesy). If a joint offer is made by multiple people, the total value of the offer is used to determine its worth, not the value of each individual contribution. |
| Non-token Offer | A gift, benefit or hospitality that is worth $50 or more.  |
| Conflict of Interest | A conflict of interest exists if you have a private interest that could influence, or reasonably be seen to influence, how you perform your public duties. Conflicts may be:Actual*:* There is a real conflict between an employee’s public duties and private interests.Potential*:* An employee has private interests that could conflict 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. Perceived*:* The public or a third party could reasonably form the view that an employee’s private interests could improperly influence their decisions or actions, now or in the future.  |
| Gift register | A central register of all declarable gifts, benefits and hospitality whether accepted, received or declined. The gift register is maintained by the Payroll Services Manager |

## Objectives

The objectives of this policy are to support staff decision making, relating to gifts, benefits and hospitality, to ensure any actual, potential or perceived conflicts of interest are managed in line with the minimum accountabilities issued by the VPSC.

## Statement of the policy

All employees are required to act with integrity and impartiality, consistent with the Code of Conduct, when carrying out their work.

In the course of carrying out duties as a VLA employee, staff should not seek, accept or receive Gifts, Benefits or Hospitality offered to themselves or on behalf of others. Staff should apply the [GIFT test](#_GIFT_test) when considering how to respond to an offer.

VLA will not provide gifts, benefits or hospitality to others, including staff groups, without applying the [HOST test](#_HOST_test).

### Policy Principles

VLA supports a culture where offers are not accepted and where we help our external stakeholders to understand this position by discouraging offers of Gifts, Benefits and/or Hospitality. VLA is committed to and will uphold the following principles in applying this policy:

**Impartiality**

All staff have a duty to place the public interest above their private interests when carrying out their official functions. Staff must not solicit/seek any Gifts, Benefits or Hospitality for themselves or others, if the offer could reasonably be seen as connected to their employment with VLA.

Staff must not accept Gifts, Benefits or Hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment or compromise the public’s trust in the impartiality of our organisation. Staff must not accept offers from those about whom they are likely to make business decisions.

**Accountability**

All staff are accountable for:

1. declaring all offers of Gifts, Benefits and Hospitality even if the offer was declined;
2. declining non-token offers of Gifts, Benefits and Hospitality, or where an exception applies under this policy, seeking approval to accept the offer; and
3. the responsible provision of Gifts, Benefits and Hospitality.

Managers (i.e. individuals with direct reports) are accountable for:

1. overseeing the management of their direct reports’ acceptance or refusal of non-token Gifts, Benefits and Hospitality;
2. modelling good practice; and
3. promoting awareness of Gifts, Benefits and Hospitality policies and processes.

**Integrity**

All staff should strive to earn and sustain public trust through providing or responding to offers of Gifts, Benefits and Hospitality in a manner that is consistent with community expectations. Staff must refuse any offer that may lead to an actual, perceived or potential conflict of interest.

**Risk-based approach**

VLA through its policies, processes and audit committee, will ensure Gifts, Benefits and Hospitality risks are appropriately assessed and managed. Managers must ensure they are aware of the risks inherent in their team’s work and functions and monitor the risks to which their direct reports are exposed.

## Managing offers of Gifts, Benefits and Hospitality

This section sets out the process for accepting, declining and recording offers of Gifts, Benefits and Hospitality. Any exceptions to this process must have the prior written approval of the relevant Director/Executive Director.

When deciding whether to accept an offer, individuals should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

### GIFT test

**G – Giver**

Consider:

* Who is providing the gift, benefit or hospitality and what is their relationship to me?
* Does my role require me to select suppliers, award grants, regulate industries or determine government policies?
* Could the person or organisation benefit from a decision I make?

**I – Influence**

Consider:

* Are they seeking to gain an advantage or influence my decisions or actions?
* Has the gift, benefit or hospitality been offered to me publicly or privately?
* Is it a courtesy or a token of appreciation or a valuable non-token offer?
* Does its timing coincide with a decision I am about to make?

**F – Favour**

Consider:

* Are they seeking a favour in return for the gift, benefit or hospitality?
* Has the gift, benefit or hospitality been offered honestly?
* Has the person or organisation made several offers over the last 12 months?
* Would accepting it create an obligation to return a favour?

**T – Trust**

Consider:

* Would accepting the gift, benefit or hospitality diminish public trust?
* How would the public view acceptance of this gift, benefit or hospitality?
* What would my colleagues, family, friends or associates think?

### Accepting or refusing offers of Gifts, Benefits and Hospitality

Individuals should consider the GIFT test above and the requirements below to help decide whether to refuse an offer.

Individuals must always **refuse** a gift, benefit or hospitality offer (token or non-token) where any of the following circumstances apply:

* an offer of money, or used in a similar way to money, or something easily converted to money (for example, gift vouchers);
* the offer is likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest;
* the offer could compromise the public’s trust of the individual’s, VLA’s, or the public sector’s impartiality, or where the offer could bring them, VLA or the public sector into disrepute;
* accepting the offer would not be consistent with community expectations;
* the offer is likely to be a bribe or inducement to make a decision or act in a particular way;
* any non-token offer, unless there is a legitimate business reason to accept the offer (i.e. it furthers the conduct of official business or VLA’s goals), and you have prior written approval;
* the offer is made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing);
* the offer is made by a current or prospective supplier;
* the offer is made during a procurement or tender process by a person or organisation involved in the process;
* offers that extend to the individual’s relatives or friends;
* offers where, in relation to hospitality and events, the organisation will already be sufficiently represented to meet its business needs;
* offers where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
* offers made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector organisations; or
* offers made in secret.

**Please note**: If an individual considers they have been offered a bribe or inducement, the offer must be reported to their line manager who must report this to the Chief Executive Officer. Any actual or suspected corrupt conduct should be reported in line with [VLA’s Fraud and Corruption Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/Pages/fraud-and-corruption-policy.aspx).

If unsure about how to respond to an offer of a Gift, Benefit or Hospitality, seek advice from your Director/Executive Director, your manager or your People Business Partner.

#### Token offers

A token offer is an offer of a gift, benefit or hospitality that is worth less than $50 and generally of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting. A token offer can be accepted under some circumstances, as long as it does not create a conflict of interest or lead to reputational damage or include any of the circumstances listed above. Where a token offer is inconsequential and generally considered to be a basic courtesy, this does not need to be declared.

Individuals who accept token offers (other than those considered to be a basic courtesy) must declare the offer on VLA’s gift, hospitality and benefits register. For example a staff member may accept a gift of a box of chocolates, but this must be declared. You do not need to declare a token offer which was not accepted.

#### Non-token offers

Individuals can only accept non-token offers (worth $50 or more) if they have a legitimate business benefit. All non-token offers must be declared in writing, even if the offer is refused, and must be recorded in the gifts, benefits and hospitality register.

All non-token offers must be refused, unless the individual has prior written approval from their manager, and accepting the offer is consistent with the following requirements:

* it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual, VLA or the public sector into disrepute or include any of the circumstances listed above; and
* there is a legitimate business reason for acceptance - it is offered in the course of the individual’s official duties, relates to the individual’s responsibilities and has a benefit to VLA, the public sector or the State (i.e. it furthers the conduct of VLA’s official business or goals).

#### Refusing offers

Individuals may be offered a gift or hospitality where there is no opportunity to refuse the offer or seek written approval from their manager prior to accepting. For example, they may receive a gift in the mail, or be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must still declare the offer and seek approval from their manager to accept the offer within five business days.

Where the gift does not meet the above criteria for accepting the offer, the individual should return the gift. If it represents a conflict of interest for you, VLA should either return the gift or dispose of it, along with sending an explanation and rejection to the sender where appropriate, or alternatively transfer ownership to the organisation to mitigate this risk.

### Declaring offers of Gifts, Benefits and Hospitality

All token offers (other than those considered to be a basic courtesy) which are accepted, and all non-token offers (whether accepted or declined), must be declared within 14 days of the offer, and recorded in the gifts, benefits and hospitality register. The business reason for accepting the offer must be recorded in the register with sufficient detail to link the acceptance to the individual’s work functions and benefit to VLA, the public sector or State.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included in the register when recording the business reason.

**Example 1**

* Unacceptable declaration details: Networking
* Acceptable declaration details: Individual is responsible for evaluating and reporting on the outcomes of VLA’s sponsorship of Event A. Individual attended Event A in an official capacity and reported back to VLA on the event.

**Example 2**

* Unacceptable declaration details: Maintaining stakeholder relationships
* Acceptable declaration details: Individual presented to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated $200. Declining the gift would have caused offence. The gift was accepted on behalf of VLA.

To declare an offer of gifts, benefits and/or hospitality, individuals must complete the [Gift declaration for VLA employees](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/employment-conditions/code-of-conduct/Pages/gifts-benefits-and-hospitality-policy.aspx) form. The completed form should be sent to the Payroll Services Manager in People and Workplace Services (via payroll@vla.vic.gov.au) who will maintain the gifts, benefits and hospitality register.

Key information from the gift register is required to be publicly available, and as such will be published on the VLA website in a public register. The public register will contain a subset of the information detailed in the internal register.

VLA’s Audit Risk and Compliance Committee will receive a report at least annually on the administration and quality control of the Gifts, Benefits and Hospitality policy, processes and internal register. The report will include analysis of VLA’s Gifts, Benefits and Hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

### Generic offers

Individuals may on occasion receive generic offers of non-token gifts or benefits., such as emails targeting VLA employees with offers to attend a seminar or webinar at a discount rate. You do not need to declare a generic non-token offer if you refuse it.

### Ownership of gifts offered to individuals

Usually, an accepted non-token gift will belong to VLA and it will generally not be yours to keep. Non-token gifts with a legitimate business benefit that have been accepted by an individual for their work or contribution may be retained by the individual where:

* the gift is not likely to bring them or VLA into disrepute;
* there is no conflict of interest (actual, potential or perceived); and
* where their manager has provided written approval.

### Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Individuals should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

### Official or ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of VLA.

The receipt of ceremonial gifts should be recorded on VLA’s internal gift register (regardless of whether these are token or non-token offers) but this information does not need to be contained in the public register.

### Offers provided by Victorian public sector organisations

Victorian public sector organisations may provide non-token gifts, benefits and/or hospitality to stakeholders, as part of their functions. When offers are from a Victorian public sector organisation, individuals should consider the requirements of the minimum accountabilities.

Accepted non-token offers from a Victorian government department, administrative office or the VPSC as part of official business do not need to be declared where the reason for the acceptance is consistent with VLA’s functions and objectives and with the individual’s role. Where the offer doesn’t meet the requirements for acceptance, it must be refused and declared.

Non-token offers from another Victorian public sector organisation, such as a public entity, whether accepted or refused, must be declared.

Offers from public sector organisations that are part of a different state or part of the Commonwealth public sector should be treated in the same way as any other organisation that is not a Victorian public sector organisation.

## Managing the provision of Gifts, Benefits and Hospitality

This section sets out the requirements for providing Gifts, Benefits and Hospitality. Individuals should consider the HOST test below when deciding whether the provision of gifts, benefits or hospitality is appropriate.

### HOST test

**H – Hospitality**

Consider:

* To whom is the gift or hospitality being provided?
* Will recipients be external business associates, or individuals of the host organisation?

**O – Objectives**

Consider:

* For what purpose will hospitality be provided?
* Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities?
* Will it contribute to staff wellbeing and workplace satisfaction?

**S – Spend**

Consider:

* Will public funds be spent?
* What type of hospitality will be provided? Will it be modest or expensive?
* If alcohol is being provided, is this being purchased by the host of the event (note: VLA funds must not be used to purchase alcohol)?
* Will the costs incurred be proportionate to the benefits obtained?

**T – Trust**

Consider:

* Will public trust be enhanced or diminished?
* Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of VLA? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

### Requirements for providing Gifts, Benefits and Hospitality

Gifts, Benefits and Hospitality may be provided when welcoming guests, to facilitate the development of stakeholder relationships, further public sector business outcomes and to celebrate significant staff work achievements (for example, via VLA’s reward and recognition program).

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide (e.g. token or non-token), individuals must ensure:

* any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;
* it does not raise an actual, potential or perceived conflict of interest;
* that any costs would be considered reasonable and proportionate to the benefits obtained, and consistent with community expectations (the [HOST test](#_HOST_test) is a good reminder of what to think about in making this assessment);
* that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants;
* that VLA funds are not used to purchase alcohol for Gifts, Benefits and Hospitality;
* that where it is appropriate for alcohol to be served, this may be purchased by the individuals hosting the event, but it will not be reimbursed by VLA;
* any gifts to employees should be in line with VLA’s reward and recognition program and have the approval of the relevant Director/Executive Director. Gifts provided to staff as part of the reward and recognition program must be less than the value of $50; and
* any catering for employees and for office functions should only occur in exceptional circumstances and with prior approval from the relevant Director/Executive Director (refer to the *Guidance Note: Gifts, Benefits and Hospitality* for further guidance).

### Containing costs

Individuals should contain costs involved with providing Gifts, Benefits and Hospitality wherever possible, and should comply with the financial probity and efficient use of resources guidance outlined in the Code of Conduct. The following questions may be useful to assist individuals to decide on the type of gift, benefit or hospitality to provide:

* Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
* Is an external venue necessary or does the organisation have facilities to host the event?
* Is the proposed catering or hospitality proportionate to the number of attendees?
* Does the size of the event and number of attendees align with intended outcomes?
* Is the gift symbolic, rather than financial, in value?
* Will providing the gift, benefit or hospitality be viewed by the public as excessive?

## Roles and responsibilities

Individual staff and their manager(s) must adhere to the policy requirements and complete the [Gifts declaration for VLA employees](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/a-z-forms/Documents/Gift%20declaration%20for%20VLA%20staff.pdf)form where a reportable gift is received or accepted.

Managers are expected to be aware of the gifts, benefits and hospitality risks inherent to their work area, and promote good practice with regards to this policy. Managers must seek advice from their Director/Executive Director or People Business Partner where they are unable to determine appropriate action in relation to staff receiving or providing gifts, benefits or hospitality.

VLA will not use public funds to purchase alcohol, either for VLA events or as part of a meal reimbursement when travelling or working overtime. Public funds will not be used to purchase gifts (e.g. flowers) to recognise personal events.

This Gifts, Benefits and Hospitality Policy supports VLA’s *Purchasing Card policy* and *Procurement and Contract Management policy* and all relevant internal approval procedures and financial delegations.

The Payroll Services Manager must maintain the gifts, benefits and hospitality register.

The Director, People and Workplace Services is the policy owner and is responsible for monitoring the gifts, benefits and hospitality register and any associated breaches of the policy.

The Chief Executive Officer must model good practice, foster a culture of integrity, and fulfill their obligations under the [minimum accountabilities](https://vpsc.vic.gov.au/ethics-behaviours-culture/gifts-benefits-hospitality/minimum-accountabilities/) issued by the VPSC.

## Failure to comply with this policy

All VLA employees are encouraged to speak to their manager if they identify a potential breach of this policy has occurred or may occur or are unsure about anything covered in this policy. VLA will actively support and protect employees who speak up in good faith about a possible breach of this policy, and any victimisation will not be tolerated.

VLA will respond to alleged breaches of this policy in a fair, reasonable and proportionate manner. An established failure to comply with this policy may be considered a breach of the Code of Conduct and may result in action under the Unsatisfactory Work Performance or Misconduct provisions of the [Enterprise Agreement](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/our-enterprise-agreement/Pages/about-our-enterprise-agreement.aspx). Possible disciplinary outcomes may include performance management, counselling, warnings, or the termination of employment.

## Approval

This policy was approved by the Director, People and Workplace Services on 10 July 2024.

## Related documents

* *Public Administration Act 2004*
* Code of Conduct for Victorian Public Sector Employees
* [Minimum accountabilities for managing gifts, benefits and hospitality in the Victorian Public Sector](https://vpsc.vic.gov.au/ethics-behaviours-culture/gifts-benefits-hospitality/minimum-accountabilities/)
* Victoria Legal Aid Enterprise Agreement
* [VLA’s Fraud and Corruption Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/Pages/fraud-and-corruption-policy.aspx)
* [VLA’s Financial Delegation Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/finance/Pages/financial-delegation.aspx)
* [VLA’s Procurement and Contract Management Policy](https://viclegalaid.sharepoint.com/sites/ProcurementandContract-MT/Shared%20Documents/Forms/AllItems.aspx?id=/sites/ProcurementandContract-MT/Shared%20Documents/0.%20Policy/Procurement%20and%20Contract%20Management%20Policy%20-%20approved%20by%20CEO%2029092020.pdf&parent=/sites/ProcurementandContract-MT/Shared%20Documents/0.%20Policy)
* [VLA’s Purchasing Card Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/finance/Pages/purchasing-card-policy.aspx)
* [Guidance Note - Gifts, Benefits and Hospitality Policy](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/employment-conditions/code-of-conduct/Pages/gifts-benefits-and-hospitality-policy.aspx#download-materials)

## Keywords

Gifts - Benefits - Hospitality - Catering - Gift Register