**Gifts, Benefits and Hospitality Policy
Glen Huntly Primary School**

**Rationale:** The community expects high standards of integrity and impartiality from Victorian public sector employees and school councillors. These individuals must not accept gifts, benefits or hospitality from people seeking to influence their decisions unfairly. Whenever Department (DEECD) employees, school council employees or school councillors do accept gifts, they must always act fairly and objectively and maintain public trust by being honest, open and transparent.

This policy will guide all individuals as to what they need to do when considering whether to accept gifts, benefits and hospitality. It is underpinned by the integrity and impartiality values and principles specified in the *Public Administration Act 2004*, the *Code of Conduct for Victorian Public Sector Employees* and the *School Council Code of Conduct.*

**Definition of Terms:**

*Gifts* are the free or heavily discounted items, intangible benefits or hospitality exceeding common courtesy that are offered to employees or school councillors in association with their duties and responsibilities.

*Benefits* are the privileged treatment, privileged access, favours or other advantage offered to an individual.

*Hospitality* is the friendly reception and treatment of guests.

*Reportable gifts* are those that must be recorded, typically on a gift declaration form and/or gift register. At a minimum, reportable gifts include accepted gifts, benefits and hospitality that exceed a nominal value. They could also include gift offers of any value, whether they are accepted or not.

**Minimum requirements and accountabilities:**

The **minimum requirements** apply to all employees and school councillors. The **minimum accountabilities** also apply to the Department’s executive and executive class and principal class employees in the Teaching Service (excluding assistant principals).

The **minimum requirements** for individuals are that they:

* do not solicit gifts, benefits or hospitality
* refuse all offers of gifts, benefits or hospitality from people or organisations about which they are likely to make decisions, ie: tender processes, procurement, licensing or regulation, etc.
* refuse all offers of money or items easily converted to money, such as shares
* refuse bribes and report bribery attempts to their manager/principal
* seek advice from their manager/principal or other appropriate delegate if unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value.

The **minimum accountabilities** for the Department’s executive, executive class and principal class employees in the Teaching Service (excluding assistant principals) are that they:

* promulgate and establish awareness and compliance with the Gifts, Benefits, and Hospitality policy and Guidelines with all staff and school councillors
* reinforce to all employees and school councillors that a breach of gifts, benefits and hospitality procedures could constitute a breach of binding codes of conduct and result in disciplinary action
* ensure records are kept of accepted gifts, benefits and hospitality of more than nominal value and that such records are subject to regular scrutiny, including review by the audit committee.

**Accepting gifts, benefits and hospitality**

Individuals must exercise particular care in accepting gifts, benefits or hospitality if:

* the donor person, company or organisation is involved in a tender process with the Department or school, or the donor person or organisation is the subject of, or affected by, a decision within the Department or school’s discretionary power or significant influence
* the person, company or organisation is in a contractual relationship with the Victorian Government or school council, or
* the employee or school councillor has been offered gifts of any kind from the same donor more than once in the last year.

Employees or school councillors may accept benefits and hospitality, such as invitations to official functions or events of reasonable value, as long as they are related to the business of the Department or school, and provided that they do not involve a conflict of interest or create a perception that the employee or school councillor will be unduly influenced by accepting the benefit or hospitality.

Gifts of any value must never be accepted if:

* The donor or reasonable observer would perceive that acceptance would create an obligation to the donor, particularly if the value of the gift is disproportionate to the circumstances in which it is offered
* Gifts of seemingly excessive value should not be accepted. The only exception to this is when failure to accept the gift, benefit or hospitality is likely to cause embarrassment or insult to the donor.
* The gift is likely to influence an employee or school councillor in the course of their duties or where acceptance could cause a conflict of interest
* The gift is an offer of money or anything readily convertible into money (eg: shares), or
* The organisation or individual has a connection with a tender process or a decision over which the Department or the school could be perceived to have influence.

**The GIFT test**

The GIFT test is a good reminder of what to think about when deciding whether to accept or decline a gift, benefit or hospitality. Take the GIFT test and when in doubt, ask your manager or school principal.

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| **G**  | **Giver**  | **Who is providing the gift, benefit or hospitality and what is their relationship to me?** Does my role require me to select contractors, award grants, or determine policies? Could the person or organisation benefit from a decision I make?  |
| **I**  | **Influence**  | **Are they seeking to influence my decisions or actions?** Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?  |
| **F**  | **Favour**  | **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**  | **Would accepting the gift, benefit or hospitality diminish public trust?** How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends or associates think?  |

Another useful test is to consider if it would be embarrassing or difficult to publicly explain or justify the acceptance of a gift. If this is the case, or if there is any doubt, then the gift should be politely declined.

**Keeping gifts**

Employees and school councillors may keep token gifts up to the value of $100, such as a box of chocolates, or a bottle of wine for the work they have done. These gifts do not need to be declared. If you require clarification on this aspect, please consult with the Principal or Assistant Principal.

In limited circumstances, employees and school councillors may be able to keep a gift worth $100 or more, but less than $500, **subject to the documented approval** of their Deputy Secretary or school council.

Gifts worth $500 or more must be surrendered to the State or school **under all circumstances**.

**Transferring gifts to Department or school ownership**

When an employee or school councillor is representing the Department or school at an event, and the Department or school has paid for their time, labour or accommodation to attend the event, any benefits accruing from this event belong to the Department or school. The employee or school councillor is then required to record any benefit accordingly, dependent upon the nominal value.

In the case of an international delegation offering ceremonial gifts on behalf of their country to an individual, school or the Department, these gifts (dependent on the nominal value) are to be recorded on the gift register and become the property of the Department or school.

**Recording the acceptance and/or keeping of a gift**

Acceptance of token gifts or reasonable hospitality does not need to be formally registered. Similarly, hospitality provided by other government departments or governments does not need to be recorded.

## School-based employees and school councillors

For school-based employees and school councillors, acceptance and offers of a gift worth more than $100 (nominal value) must be formally registered on the school’s gift register. Where a school gift register does not exist, principals are required to institute one and record the following information for each gift:

* recipient’s name
* donor’s name and organisation
* location of the gift
* description and estimated value
* date, time and place of offer
* decision taken on the gift
* principal’s or school council president’s signature.

The gift register is monitored by the principal and annually reviewed by the school council.

**Declining a gift, benefit or hospitality**

Some employees and school councillors perform roles that call for greater scrutiny.

Individuals may receive offers of sponsored travel and accommodation to attend a conference. Such offers should generally be declined because of the potential for conflict of interest. However, if attendance is considered to be in the public interest, then the Department or school could pay for the travel and accommodation instead.

If there is no public benefit to accepting a gift, benefit or hospitality, then it should be declined. This is particularly the case when acceptance could be perceived as an endorsement of the organisation or product.

***Repeat gifts and attempted bribery* –** if an individual considers they have been offered a bribe or inducement, the offer must be reported to the Secretary, school principal or their delegate immediately.

**Consequences of breaching the policy**

A breach of this policy may constitute a breach of:

* Victorian Public Sector Code of Conduct
* *Public Administration Act 2004* in relation to misconduct
* Directors’ Code of Conduct under the *Public Administration Act 2004*
* Ministerial Order 199
* School Council Code of Conduct.

In some circumstances, accepting a gift or benefit may constitute a breach of sections 175–179 of the *Crimes Act 1958*. This is an indictable offence that attracts a maximum penalty of ten years imprisonment.

Division 9A of the *Crimes Act 1958* also provides that common law bribery attracts a maximum penalty of ten years imprisonment.

**Gifts and Fringe benefits tax**

Therefore, gifts that are of an entertainment nature and/or any other gifts of $300 or more in value, accepted by an individual from an employer or associate of an employer, are subject to FBT.

The Department must keep records showing the taxable value of certain fringe benefits provided to its employees. If the total taxable value of reportable fringe benefits provided to an employee in an FBT year (1st April to 31st March) is more than $2000, the Department must record the grossed-up taxable value of those benefits on the employee’s payment summary for the corresponding income year (1st July to 30th June).

Any FBT liability in respect of school-based employees will be met by the Department and the cost of FBT will be passed on to the school. The school council may be responsible for any FBT liability in respect of gifts given to staff employed by it.

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**GIFT DECLARATION FORM**

*To be completed by the recipient of the reportable gift within 14 days of the offer*

Date offered: / /

Offered to:

Title/Role:

Division/Unit/School:

Offered by:

Title/Role:

Organisation:

Reason offered:

Description of gift:

Location of gift:

Estimated value:

Decision regarding gift:

Declined □ Retained □ Transferred to Department ownership □

Transferred to school ownership □

Signature of recipient: Date: / /

**Noted by authorised delegate:**

Name: Position: Date: / /

Signature:

 ***(On Completion - Please send to General Manager, Procurement Division or School Principal as appropriate)***

**Gift register updated:**

Name: Position: Date: / /

Signature:

 ***(General Manager, Procurement Division, or school principal as appropriate)***