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| Gouburn Ovens Institute of TAFE Procedure no. PRHR-153 <i>(Copy on public web site)</i> | Title: Gifts, Benefits and Hospitality Procedure Executive approved: 21/10/2014, 11/11/2016 Reviewed: 5/06/2017 Board Workforce and Culture Committee approved: 19/06/2018 Responsible Officer: Executive Manager Human Resources Authorising Officer: CEO Review: Annually in May (19th June 2019) |
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Gifts, Benefits and Hospitality Procedure

1. PURPOSE

- To establish the minimum accountabilities expected of employees engaged by GOTAFE relating to the receipt of or provision of Gifts, Benefits and Hospitality.
- This procedure is intended to support individuals and GOTAFE to avoid conflicts of interest and maintain high levels of integrity and public trust.
- GOTAFE issues this procedure to support behaviour consistent with the *Code of conduct for Victorian public sector employees* (the Code), which all GOTAFE employees must comply with..

2. SCOPE

This procedure applies to all GOTAFE’s employees, labour hire employees, contractors, volunteers and Board members.

3. DEFINITIONS

| Term | Definition |
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| Benefits | Are the preferential treatment, privileged access, favours or other advantage offered to an employee. They may include invitations to sporting or cultural events, social events or promises of a new job. While their value may sometimes be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence their behaviour. Employees are to be aware that the use of personal loyalty, discount and/or rewards cards when making purchases on behalf of GOTAFE, are considered to be a 'benefit'., |
| Bribes | Are money or other inducements given or promised to employees to corruptly influence the performance of their role. |
| Business associate | an external individual or entity which GOTAFE has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality |
| Conflict of interest | Occurs when an employee’s private interests conflict with their public duty. Employees have a duty to always resolve a conflict in the public interest, not their own. This may mean that they decline a gift or transfer the gift to their employer’s ownership if this is identified as being in the public interest. Any actual, potential or perceived conflict of interest matters, as defined, are to be referred to the GOTAFE Conflict of Interest Policy (POHR8) and Conflict of Interest Procedure (PRHR-163). |
| Corruption | Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses their position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. Conduct that may be considered an act of 'fraud' or 'corruption', as defined above, are to be referred to the GOTAFE’s Fraud and Corruption Management Procedure (B-P109) . |

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| Direct or indirect | A gift may be offered directly or indirectly. It may be offered directly to a Board member or employee or offered indirectly via an offer to his/her relative or close associate, including, a member of his / her immediate family, a regular member of his / her household, or another close associate (eg. friend, relative, business partner). |
| Fraud | Dishonest activity causing actual or potential financial loss to any person or entity of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately after the activity. This includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position. Conduct that may be considered an act of 'fraud' or 'corruption', as defined above, are to be referred to the GOTAFE's Fraud and Corruption Management Procedure (B-P109) . |
| Fringe Benefits Tax (FBT) | Is a tax payable by an employer in respect of fringe benefits provided to an employee or their associate (eg. an employee's spouse) from 1 April to 31 March. |
| Gifts | Are free or heavily discounted items, that are offered to employees in association with their work. 'Gifts' may be enduring such as a work of art, consumables such as a box of chocolates, or an offer of a reward, discount or loyalty card or similar item that <i>provides</i> either a direct or indirect 'benefit'. |
| Hospitality | Is the friendly reception and entertainment of guests. Hospitality can range from offers of light refreshment at a business meeting or conference program to restaurant meals and sponsored travel and accommodation. In all cases the hospitality should be proportionate to the occasion. Modest hospitality offered as part of official business is not a reportable gift. |
| Nominal Value | Refers to the value of a gift, benefit or hospitality offer and is set at \$50 for the 12 month period from 1 April to 31 March, and includes multiple offers from a single source. It is used to determine whether an offer, if accepted, is a reportable gift. |
| Legitimate business benefit | Is gifts, benefits and hospitality accepted or provided for a business purpose that is consistent with GOTAFE's functions and objectives, and an individual's role. Examples include the CEO or Board members may be asked to accompany a Minister on official business or individuals may be asked to attend the official opening of a government sponsored project or to take part in a study tour. These activities constitute official business, do not have a private benefit and would not ordinarily be recorded as a reportable gift. |
| Register | is a record, preferably electronic, of all declarable gifts, benefits and hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance |
| Value | Is the estimated or actual value of a gift in Australian dollars. It is also the cumulative value of gifts offered by the same individual or organisation within a 12-month period from 1 April to 31 March. Significant gifts may warrant independent valuation. |
| Token offer | is an offer of a gift, benefit or hospitality that is offered as a courtesy or is 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 which would be considered a basic courtesy, such as light refreshments offered during a meeting. Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50. (Individuals may accept token offers of gifts, benefits and hospitality without approval or declaring the offer except if token offers are made often by the same person or organisation, the cumulative value of the offers, or the perception that they may influence the recipient, may result in the offers becoming non-token). |

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| Non-Token offer | is an offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register |
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4. PROCEDURE

4.1 The following minimum accountabilities apply to all employees and Board members offered Gifts, Benefits and/or Hospitality:

- Requirement 1 - Do not seek or solicit gifts, benefits or hospitality for themselves or others.
- Requirement 2 - Refuse all offers of gifts, benefits or hospitality that:
 - > are money, items used in a similar way to money, or items easily converted to money (eg shares, gift cards with monetary value);
 - > give rise to an actual, potential or perceived conflict of interest;
 - > may adversely affect their standing as a public sector employee or Board member or which may bring GOTAFE or the public sector into disrepute;
 - > are a non-token offer that extend to their relatives or friends or are without a legitimate business benefit
 - > are made by a person or organisation about which they will likely make a decision eg a current or prospective supplier, or where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions
 - > are made during a procurement or tender process by a person or organisation involved in the process
 - > are made by a person who may be seeking favourable study results or a qualification certificate to be issued to them
 - > in relation to hospitality and events, GOTAFE will already be sufficiently represented to meet its business needs
 - > made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or GOTAFE or other public sector agencies
 - > are made in secret.

see also 4.7 GIFT test

- Requirement 3 - Declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on the Gifts, Benefits and Hospitality Declaration form for inclusion on the register, and seek written approval from their manager or organisational delegate to accept any non-token offer
- Requirement 4 - Refuse bribes or inducements and report inducements and bribery attempts to the CEO or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission)

4.2 The following minimum accountabilities apply to all GOTAFE employees and Board members providing Gifts, Benefits and/or Hospitality:

- Requirement 5 - Ensure that any gift, benefit or hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports GOTAFE's or government policy objectives and priorities.

- Requirement 6 - Ensure that any costs are proportionate to the benefits obtained by GOTAFE, and would be considered reasonable in terms of community expectations.
- Requirement 7 - Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

see also 4.8 HOST test

4.3 Nominal value

The nominal value of gifts, benefits or hospitality is to be no greater than \$50 within a 12 month period from 1 April to 31 March, and includes multiple offers from a single source.

4.4 Acceptance of Token Gifts, Benefits and Hospitality below a nominal value

Gifts, benefits and hospitality in accordance with the definitions of a Token offer, and below the nominal value of \$50 in any 12 month period from 1 April to 31 March, may be accepted by individuals.

Gifts, benefits and hospitality below the nominal value are not required to be reported on the Gifts, Benefits and Hospitality Declaration form.

If uncertain, GOTAFE employees are to raise any queries or concerns with their manager or the Financial Controller. If the matter relates to an Executive Manager or General Manager, they are to refer it to the CEO for authorisation.

4.5 Non-Token Gifts, Benefits and Hospitality offered or offers with a value in excess of the nominal value

In the event that a gift, benefit or hospitality is a Non-Token offer or is in excess of the nominal value of \$50 in any 12 month period from 1 April to 31 March, a GOTAFE [Gifts, Benefits and Hospitality Declaration Form \(FHR-80\)](#) must be completed, signed by the individual and their relevant manager, or by the Board member, and lodged with the Office of the CEO within fourteen days of the offer.

Non-Token offers, whether accepted or not, and gifts, benefits and hospitality in excess of the nominal value are to be recorded on the register for these. The business reason for accepting any non-token offer must be recorded in the register and provide sufficient detail to link the acceptance to the individual's work functions and benefit to GOTAFE.

Examples of acceptable and unacceptable levels of details include:

Unacceptable: "Networking"; "Maintaining stakeholder relationships"

Acceptable: "Individual is responsible for evaluating and reporting outcomes of GOTAFE's sponsorship of Event A. Individual attended Event A in an official capacity and reported back to GOTAFE on the event."

"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, written approval was subsequently obtained for the gift, which became GOTAFE's property." .

Note: Non-token gifts accepted by an individual for their work or contribution may be retained by the individual where their manager or organisational delegate has provided written approval. Employees must transfer to GOTAFE official gifts or any gift of cultural significance or significant value (over \$50).

4.6 Gifts, Benefits and Hospitality and the Fringe Benefits Tax

The FBT legislation provides that certain benefits that are less than \$300 in value and infrequently provided may qualify as a 'minor benefit', which is exempt from FBT. However, the minor benefit exemption does not extend to gifts of an entertainment nature. Consequently, all entertainment gifts will be subject to FBT regardless of their value.

Entertainment is specifically defined in tax legislation as entertainment by the way of food, drink, recreation, accommodation or travel associated with the provision of food, drink or recreation. All 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, associate of an employer, or third party are subject to FBT.

GOTAFE will keep records showing the taxable value of certain fringe benefits provided to its employees. If the total taxable value of reportable fringe benefits (RFBs) provided to an employee in an FBT year (1 April to 31 March) is more than \$2,000, GOTAFE must record the grossed-up taxable value of those benefits on the employee's payment summary for the corresponding income tax year (1 July to 30 June).

If unsure about the application of this part, individuals must always seek guidance from their relevant manager, or the Financial Controller. All matters relating to an Executive or General Manager are to be referred to the CEO.

4.7 GIFT Test

The GIFT test is the GOTAFE's endorsed 'ready-reckoner' to assist employees to decide whether to accept or decline a gift, benefit or hospitality.

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| G | Giver | <p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select contractors, award grants, scholarships or qualifications, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p> |
| I | Influence | <p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or valuable non-token offer? Does its timing coincide with a decision I am about to make or endorse a product or service?</p> |
| F | Favour | <p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?</p> <p>Would accepting it create an obligation to return a favour?</p> |
| T | Trust | <p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p> |

When in doubt employees should ask their manager for direction, or the Financial Controller.

4.8 HOST Test

Gifts, benefits and hospitality may be provided to welcome guests, facilitate the development of business relationships, further GOTAFE public sector business outcomes and to celebrate achievements.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:

- any gift, benefit or hospitality is provided for a business reason in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;
- that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations (see 'HOST' test below); and

it does not raise an actual, potential or perceived conflict of interest

The HOST Test is the GOTAFE's endorsed 'ready-reckoner' to assist employees to decide whether or not to provide hospitality or gifts to employees or stakeholders.

When in doubt, employees should ask their immediate manager for direction. If required, and if the relevant manager is not available, it is to be raised with the General Manager or Executive Manager. For general guidance, please contact the Financial Controller.

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| H | Hospitality | <p>To whom is the gift or hospitality being provided?</p> <p>Will recipients be external business partners, or individuals of the host organisation?</p> |
| O | Objectives | <p>For what purpose will hospitality be provided?</p> <p>Is the hospitality being provided to further the conduct of official business? Will it promote and support GOTAFE and government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?</p> |
| S | Spend | <p>Will public funds be spent?</p> <p>What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained?</p> |
| T | Trust | <p>Will public trust be enhanced or diminished?</p> <p>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 the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?</p> |

4.9 Breaches and consequence of non-compliance

Censure or disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, may be taken where an individual fails to adhere to this procedure.

Individuals who consider that gifts, benefits and hospitality or conflict of interest within GOTAFE may not have been declared or is not being appropriately managed should speak up and notify their manager or the Executive Manager: People, Capability & Culture. GOTAFE will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

GOTAFE will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

4.10 Minimum accountabilities of the CEO, who shall:

- Accountability 1 – Establish, implement and review policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address the minimum accountabilities set in 4.1, 4.2 and 4.10..
- Accountability 2 – Establish and maintain a register for gifts, benefits and hospitality offered to GOTAFE employees and Board members that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities. .
- Accountability 3 - Communicate and make clear within the organisation that a breach of this gifts, benefits and hospitality procedure may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
- Accountability 4 - Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for a business associate acting contrary to GOTAFE's position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
- Accountability 5 - Report at least annually to the Audit Committee on the administration and quality control of its gifts, benefits and hospitality procedure and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
- Accountability 6 – Publish the organisation's gifts, benefits and hospitality procedure and register on the organisation's public website. The published register should cover the current and the previous financial year.

5. DOCUMENTATION

- [Gifts, Benefits and Hospitality Declaration Form – FHR-80](#)
- [Employee Code of Conduct policy – POHR14](#)
- [Conflict of Interest Policy – POHR8](#)
- [Conflict of Interest Procedure – PRHR-163](#)
- [Fraud and Corruption Management Procedure – B-P109](#)
- **Public Administration Act 2004**
- **Code of conduct for Victorian public sector employees 2015**
- **Code of conduct for Directors of Victorian public entities 2016**
- **Victorian Public Sector Commission's *Gifts, benefits and hospitality policy framework*.**