

Welcome to Term 2 2020

Gifts and Honorariums

The Committee is aware that at times schools may wish to provide gifts and honorariums to employees or volunteers of the school. A gift is something given to someone without obligation. An honorarium is an honorary payment made to someone without obligation in recognition of their professional service. Gifts and Honorariums are sometimes referred to by schools as 'ex-gratia' payments.

For gifts and honorariums, the main expectation is that they be of a token nature. The gift or honorarium should not provide a sizeable or significant personal benefit to the employee. Such a benefit would put the school at risk of breaching its not-for-profit compliance with the Education Act 1990 ('the Act') and, if the proprietor is a registered charity, of breaching ACNC governance standards.

What records and policies should schools maintain regarding gifts and honorariums?

To ensure that any gifts or honorariums are compliant with the Act (and other relevant legislation), schools and proprietors should institute a clear policy and maintain detailed records. Issues to consider in instituting such a policy are that:

- The policy should state the purpose of the gift or honorarium, how it differs from any legally obligated payments, the upper limit of the cost, gifts allowable and not allowable and the approval process for any such gift or honorarium;
- The policy should also establish clear criteria to govern gifts and honorariums eg only for exceptional service outside of normal duties; not based on service length or made generally on retirement; for services to the school not a related party; and reasonableness based on the financial resources and the size of the school;
- The policy is consistent with the ACNC's policy on gifts and honorariums;
- The gift or honorarium is one-off;
- There is proper recording of related-entity transactions in business/financial accounts; and

- Clear recording of Board minutes/approvals of the gift or honorarium.

Case Study 1

A Teacher of School A initiated a reading club two afternoons a week, after school, where she volunteers her own time to helping those students struggling with reading. The school board would like to show its appreciation to the teacher and have consulted the school's policy on providing gifts and honorariums. On this basis it was recommended a gift of a token nature be made. This gift is **consistent** with section 83C as the proprietor has documentation of the purpose of the payment, its approval by the board, it is in line with the school's gifts and honorariums policy and is of token value.

Case Study 2

School B provides an ex-gratia payment of \$1,500 as a gift of appreciation to the School's Bursar for work performed. An ex gratia payment is a payment made without legal obligation. The payment in this case appears to be for work normally expected and remunerated under an employment contract. No information is provided to support the payment and it is of a significant amount that would not be considered token in nature. This ex-gratia payment is **not consistent** with section 83C

Case Study 3

The administrator of School C is retiring after working at the school for fifteen years. The school wishes to show its appreciation by paying for an overseas holiday for the employee and her family. This transaction is **not consistent** with section 83C as it is a significant benefit to an individual and is not in recognition for exceptional service outside of normal duties. In this instance, it would be more appropriate for the school to organise a token gift of a less substantial nature made in accordance with the departing staff member's employment contract.

Case Study 4

A Maths teacher of School D has consistently achieved remarkable results for her students. The school wishes to reward this excellence in teaching with an honorarium of \$2,000. This transaction is **not consistent** with section 83C and would be more properly managed through a school's performance management processes. Moreover, the payment is of a significant nature that clearly provides a private benefit to the employee which is not consistent with either the Act or the ACNC governance standards.

Further Information and References

If you would like to receive notification of newsletters and advice as they are published please email all relevant contact details (name/position and email address) to NGS-Compliance@det.nsw.edu.au and you will be added to the newsletter & updates distribution list. We encourage you to share this information with senior staff, financial administrators, diocese representatives, board members and auditors.

Further information on the ACNC's guidance on gifts and honorariums can be found at <https://www.acnc.gov.au/tools/guides/gifts-and-honorariums>.

For further information about this newsletter or the requirements of Part 7, Division 3 of the Act, schools should contact the External Relations Policy Directorate in the NSW Department of Education on (02) 7814 1229 or by email at NGS-Compliance@det.nsw.edu.au. If you would like to suggest future issues or articles to be covered please also contact us by email.

The updated 2019 [Not-For-Profit Guidelines for Non-Government Schools](#) contain information to assist registered non-government schools in receipt of NSW Government funding to understand the not-for-profit funding requirements established by [Part 7, Division 3 of the Act](#).

Further information on the governance standards or any other school registration requirements for non-government schools, can be obtained from the **NSW Education Standards Authority on (02) 9367 8111**.

A copy of the Education Act, 1990 (NSW) can be accessed at www.legislation.nsw.gov.au.

A copy of the Australia Education Act, 2013 (Cwth) can be accessed at www.legislation.gov.au.

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