

GIFTS, BENEFITS AND HOSPITALITY PROCEDURES

Implementation document for the Code of Conduct

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1 Policy statement

The Department of Education (the department) is committed to managing gifts, benefits and hospitality in a transparent manner to ensure the reputation and integrity of the department and its employees.

While gifts, benefits and hospitality may be offered as gestures of goodwill or a thank you for a job performed well, they may also be offered as an inducement or a form of influence and present a corruption risk to the department and integrity of employees.

The values and culture of the department establish an expectation that employees refuse any offer of a gift, benefit or hospitality that is not token in nature.

A register of gifts, benefits and hospitality for Public Service Senior Executives (PSSE) and nominated employees is maintained and published on the department's website on a quarterly basis to provide transparency to the community on the integrity of decision making by employees.

2 Purpose of these procedures

These procedures are intended to provide a framework to guide decision making and set out the professional behaviours, standards and ethics expected of all employees in reporting, registering and managing any offer of a gift, benefit or hospitality.

2.1 Scope and application

These procedures apply to all employees of the department including any person whether remunerated or not, employed on a permanent, temporary or casual basis, contractors, consultants, volunteers and committee members working with the department.

You must be aware of and comply with these procedures. If you are engaging or managing external consultants, contractors, volunteers or committee members, you must make them aware of the department's expectations around gifts, benefits and hospitality during the period of their engagement.

These procedures apply to an employee's conduct off-the-job or off-premises in relation to the acceptance of gifts, benefits or hospitality offered to them as an employee of the department.

3 Legal and policy framework

These procedures are part of a broader legal and policy framework constituted by:

- The [Independent Commission Against Corruption Act 1988](#) which defines corrupt conduct
- The [Crimes Act 1900](#) (NSW) which establishes bribery offences
- The department's [Code of Conduct](#) which sets a mandatory and enforceable code
- The [Public Service Commission's Behaving Ethically Guidelines 2014](#) which establishes the requirements and accountabilities required in this procedure

4 Employee requirements and responsibilities

4.1 Employee obligations

Employees must be open and transparent about offers of gifts, benefits or hospitality.

In most circumstances, employees are expected to refuse any offer of a gift, benefit or hospitality that is not token in nature, as this makes a clear statement about the value an employee places on their role as a public official. Where this is not possible, the gift, benefit or hospitality must be declared, registered and managed according to the standards set out in these procedures. You can use the GIFT test at section 5 of these procedures to help guide decision making.

4.1.1 Employees must:

- before accepting an offer of a gift, benefit or hospitality:
 - consider the intent of the gift, benefit or hospitality being offered and the public perception of receiving it, before accepting
 - request approval from their Principal and/or workplace manager
- immediately declare any gift, benefit or hospitality accepted that is over the value of \$50
- report, as soon as possible, any offer of an inappropriate gift, benefit or hospitality to their Principal and/or workplace manager.
- treat all persons equally and fairly, and not show preference to any individuals or organisations
- avoid and declare any real, potential or perceived conflicts of interest and manage those conflicts of interest that cannot be avoided

4.1.2 Employees must not:

- accept cash or negotiable instruments (e.g. cash vouchers, shares, cheques or money orders – see [section 8.3](#)).
- any gifts, benefits or hospitality that:
 - could be considered or perceived to be a bribe, such as cash or financial benefit
 - could be perceived by a reasonable person to influence the employee while carrying out official duties
 - constitutes an actual, potential or perceived conflict of interest
 - is intended to be given to family members, relations, friends or associates
- solicit any gift, benefit or hospitality from external persons or organisations in connection with official duties.
- create the impression that any person or organisation is influencing the department or the decisions of any of its employees.

These gifts, benefits and hospitality must be declined and declared to your Principal/workplace manager.

4.2 Principal and/or workplace manager responsibilities

Principals and/or workplace managers are expected to:

- regularly assess and monitor fraud and corruption risks relating to gifts, benefits and hospitality
- promote expected standards of conduct and behaviour and regularly remind employees of their responsibilities in relation to gifts, benefits and hospitality.

Additionally, principals and/or workplace managers should:

- sight and manage all declarations of gifts, benefits or hospitality that exceed \$50 or constitute a conflict of interest
- determine how the gift, benefit or hospitality should be treated
- record receipt of any such gifts, benefits or hospitality in the Workplace Gifts Register
- refer all reports of an offer of a bribe to Professional and Ethical Standards (PES)

Finally, the treatment options for Principals and/or workplace managers include that the gift, benefit or hospitality:

- be retained by the employee (or group of employees)
- be donated to a charity (e.g. Stewart House)
- be destroyed (e.g. a bottle of wine)
- be returned to the supplier (the supplier is contacted and politely advised that the department is unable to accept the gift and asked to arrange for collection)
- remains the property of the department

4.3 Risk management

Employees and their Principals/workplace managers must consider and appropriately manage any risks associated with accepting a gift, benefit or hospitality.

If you intend to accept a gift, benefit or hospitality you should consider whether:

- you, the school, or the integrity of the department will be compromised
- a perception of improper influence is created (e.g. perception of future obligation)
- whether an actual or perceived conflict of interest will exist
- a health and safety risk is created (e.g. consuming unsealed food or drink received from the community)
- a legal risk is created (e.g. items that could cause injury or damage such as faulty equipment or dangerous goods)

4.3.1 Conflicts of interest

A conflict of interest involves a conflict between an employee's official duties with the department and that of their personal views or private interests. To protect the integrity and reputation of the department and its employees, it is the responsibility of all employees to take reasonable steps to:

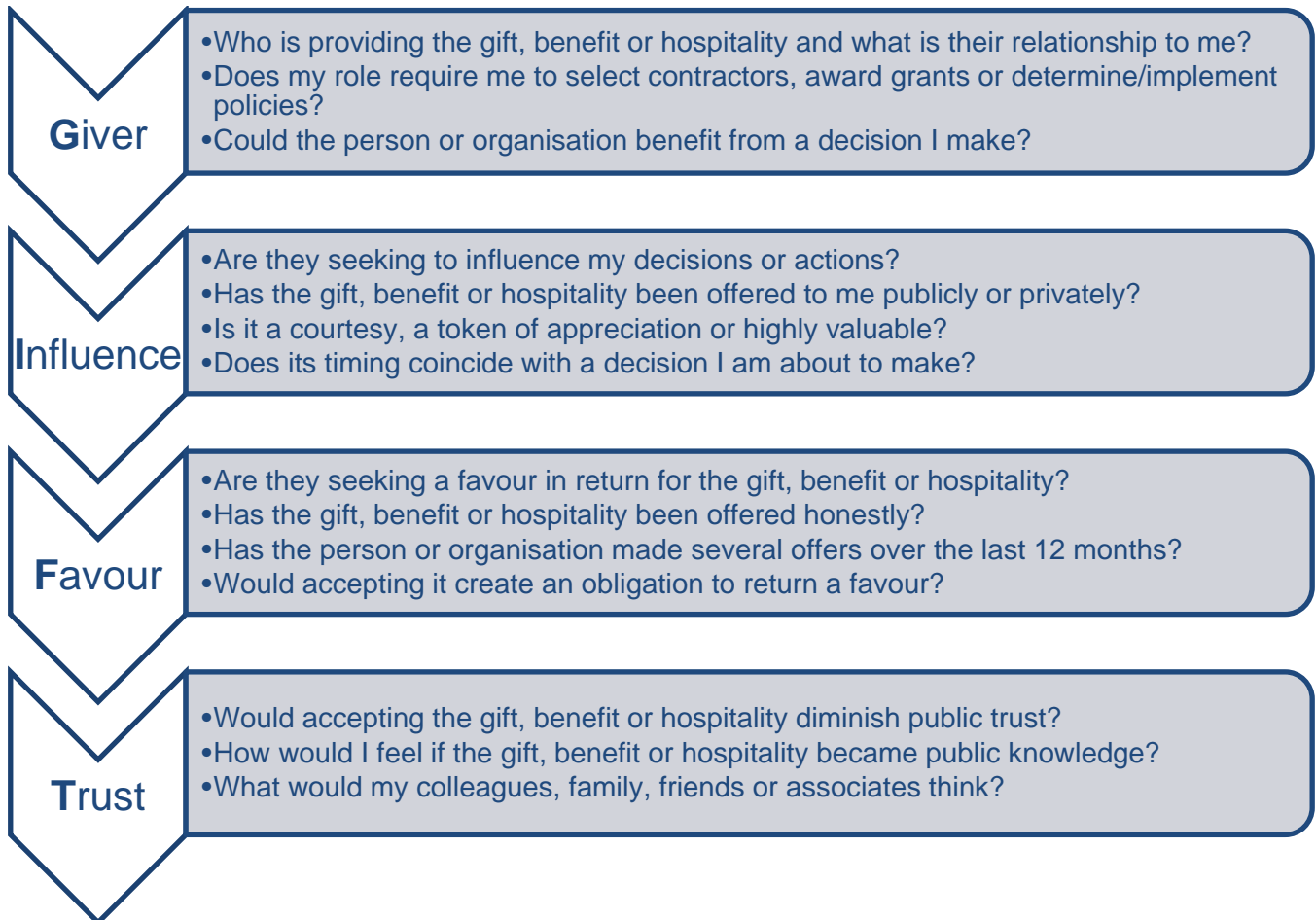
- identify and avoid actual, potential or perceived conflicts of interest
- report those conflicts of interest which cannot be avoided
- monitor, reassess and manage any conflict of interest

If an actual, potential or perceived conflict of interest exists in relation to an offer or acceptance of a gift, benefit or hospitality, the offer of the gift, benefit or hospitality should always be declined and declared.

5 The GIFT test

The GIFT test guides a decision to accept or decline a gift, benefit or hospitality and helps you assess the intent of the giver and public perceptions. Take the GIFT test and when in doubt ask your Principal and/or workplace manager or the Fraud Prevention team.

Diagram: The Gift Test



6 High risk and commercially sensitive areas

High risk areas of the department are more susceptible to the offer of gifts, benefits or hospitality due to the types of work undertaken, for example:

- making or advising on purchasing decisions
- evaluating tenders, quotes, proposals or applications
- administering or advising on grants or approvals
- managing contracts
- regulating or auditing individuals, organisations or industries
- hiring employees

Employees working in high risk areas need to be diligent in declining offers of gifts, benefits and hospitality and understand potential corruption risks associated with receiving them, such as:

- influence of gifts, benefits or hospitality and providing favourable treatment
- a perception that official decisions are open to influence and bribery

- a public official who accepts a gift, benefit or hospitality - even if they had no influence in the decision-making process being accused of accepting bribes
- a perception that contracts or work will only be offered if a gift, benefit or hospitality is supplied

A gift, benefit or hospitality that provides, or may be perceived to provide, an incentive for employees to seek the services of a particular supplier over others may either result in a conflict of interest, or be in contravention of the department's other policies. It may also be considered a bribe.

Employees involved in procurement decisions (e.g. a member of procurement team, tender evaluation panel or those involved in purchasing decisions) must decline gifts, benefits and hospitality from any supplier or prospective supplier of goods, work or services and must be declared.

Employees involved in allocating grants, subsidies or program funding should be aware of the corruption risks associated with this function and ensure that funding is not allocated outside of the proper process.

7 Categories of gifts, benefits and hospitality

7.1 Token

Token gifts are typically offered in business situations to an agency or public official representing an agency. Generally, these gifts are offered as a courtesy and not given to secure favour or affect the employee's integrity. Such gifts are often small office or business accessories (e.g. pens, calendars, folders) that contain the company logo and are usually mass-produced and not given as a personal gift.

7.2 Gratitude

These are gifts offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts offered to employees who speak at official functions as part of their duties are gifts of gratitude and include:

- a \$50 book shop voucher given to an employee at a conference
- a jewellery item from graduating students to a teacher at the end of year

Generally, where these gifts are over \$50 they should be declined. Where it is not possible to decline (e.g. presented at a public function), the gift may be accepted but must be declared. Your Principal and/or workplace manager will assess the circumstances and determine how the gift will be managed.

7.3 Ceremonial

These are gifts that are offered from one agency to another (e.g. delegates giving a plaque to a host agency when conducting official business). Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual. These gifts can be accepted and, if they are valued above \$50, must be declared and usually become property of the department.

7.4 Prizes

Sometimes employees might, in the course of their work, win a prize. For example, winning a computer as a door prize at a conference where your ticket and attendance was paid for by the department.

Prizes won in the course of employment are usually considered the property of the department. If you win a prize you must advise your Principal or workplace manager who will determine how the prize should be treated and recorded.

If the prize is of an estimated value greater than \$50, it must be declared.

7.5 Cumulative or serial gifts

Regular offers of gifts, benefits or hospitality by a particular individual or organisation is a cumulative gift. Alone they may be token or given as gift of gratitude, however the cumulative value and frequency by which they are being offered may be perceived as influencing strategy which may compromise the recipient and the department.

Any offer of cumulative or serial gifts, benefits or hospitality that, combined, are valued above \$50 must be declared. Your principal/workplace manager will determine the most appropriate treatment of the gift.

7.6 Influence

These gifts are generally intended to ingratiate the giver with the recipient for favourable treatment in the future, regardless of the value. Sometimes, the intention of the giver may not be clear or obvious.

Examples include:

- a travel company offers free tickets, trips or junkets to a school to secure future business
- a parent offers a donation to a school to purchase sports gear on condition their child is selected for the sports team
- a parent offers a teacher money before end of year exams
- at the end of term 2, a parent gives a teacher an envelope containing \$150 and says, "I hope this will help you enjoy your holiday. Have a dinner on me."
- a supplier who has, or is seeking, a business relationship with the department offers an invitation to the procurement officer for Christmas lunch and drinks at a restaurant
- a supplier submitting a tender to the department offers free attendance at a conference to the employee responsible for approving the contracts for which the supplier tendered
- an organisation offers free tickets to employees to a sporting event as a reward for future favourable treatment

Any offer of gifts, benefits or hospitality of influence must be declined and declared.

Gifts, benefits and hospitality offered to family members of employees may be perceived as attempting to influence the behaviour of the employee and must be declined and declared.

7.7 Bribes

An attempt to bribe an employee, or acceptance of a bribe by an employee, is an act of corrupt conduct and must be reported to PES. Accepting a bribe as a public official is a serious matter and could result in laying of criminal charges and or disciplinary action including termination of employment.

If an employee is offered a bribe they must refuse it, explain to the giver why it is inappropriate and immediately declare the offer. In some instances, the offer of a bribe will need to be reported to the police and the Independent Commission Against Corruption.

8 Types of gifts

8.1 Alcohol

Gifts of alcohol can create a risk and must not be accepted unless it is offered as a gift of gratitude. Any gift of alcohol, regardless of intent, valued at over \$50 must be declined. However, if accepted it must be returned, and declared.

In circumstances where alcohol is offered as a ceremonial gift and/or cannot be returned, it must be declared and be stored securely while management determines how it is to be managed.

8.2 Cash vouchers and gift cards

Cash vouchers are any vouchers that can be 'universally' used in the same way as cash. For example, a pre-paid debit card is a 'cash' voucher. The acceptance of cash vouchers is prohibited by these Procedures. See [section 8.3](#) for further information.

Gift cards are non-cash vouchers that must be used at specific retailers and cannot be converted to cash. Gift cards must not be accepted unless they are offered as a gift of gratitude.

8.3 Money and negotiable instruments

It is inappropriate to accept an offer of money, either in the form of cash or negotiable instruments such as cash vouchers, 'pre-paid cash' and 'EFTPOS' cards, Electronic Funds Transfer (EFT), shares or money orders. This includes any acceptance of money or benefit by way of loan, or similar funding, including for any function performed, or not performed.

Personal loans (regardless of whether interest is applied or not) exchanged between employees and/or potential or actual providers of services to the department may be considered a gift or benefit, and could result in actual, potential or perceived conflict of interest.

Any offer of money or negotiable instruments must be declined and declared.

8.4 Donations, bequeathments or offers of charity

Employees must never solicit donations of money, property, or charity, individually or on behalf of the department.

Gifts, donations or offers of charity, such as property, vehicles, equipment or money should, where possible, be declined. If this is not possible, it must be declared.

8.5 Benevolent fundraising for employees

There are often occasions when employees raise funds for colleagues solely for benevolent purposes, for example on retirement, to mark 20 years' service, bereavement, or to cover significant medical costs.

The *Charitable Fundraising Act 1991* regulates fundraising. Under section 5(3) of this Act, certain types of appeals are not considered 'fundraising appeals' for the purposes of the Act. Specifically, section 5(3)(d) states:

'appeals conducted exclusively or predominantly among persons sharing a common employer or place of work by one of those persons (being an appeal for a charitable purpose connected directly with another of those persons or any such other person's immediate family) and the receipt of money or a benefit from any such appeal.'

Such appeals are therefore not governed by requirements governing fundraising appeals in the Act.

Fundraising activities should be transparent with appropriate record-keeping, and the gift where possible should not be made in cash directly to the employee. On receipt of the gift, the recipient should make a declaration if it is over \$50 in value.

9 Gifts accepted on behalf of the department

Gifts presented to an individual recipient on behalf of the department or a school remain the property of the department or school and must be declared.

Gifts to the department are usually made as part of a formal presentation, and accepted by the Secretary or another member of the Executive. Generally, gifts must not be accepted by any other employees on

behalf of the department unless the Secretary or another member of the Executive has agreed in advance to the acceptance.

Gifts to schools may be offered in the form of a donation (e.g. BBQ offered by the P&C as a result of fundraising; surplus sports equipment offered by a local business), usually directly to the school Principal or another member of the school leadership.

In circumstances where it is considered that the gift offered cannot reasonably be refused, for example if it might cause cultural offence, it may be accepted on behalf of the department.

Such gifts may be accepted where it is also clear that the gift:

- would not be seen as a bribe or corrupt conduct
- would not create a sense of obligation
- is not likely to have been offered to influence a decision of the conduct of an employee

Where a gift is accepted on behalf of the department or school, the giver of the gift should be informed that it accepted on behalf of the department or school, not an individual. The gift must also be declared.

Items suitable for display at a department or school office or other work location may be kept by the workplace which received them. In these cases, the display location will be noted in the Gifts, Benefits and Hospitality register. These gifts remain corporate property of the department.

If suitable, all other items should be donated to an appropriate charity. A receipt should be obtained from the charity and sent for recording in the Gifts, Benefits and Hospitality register.

10 Types of benefits

Benefits are things that are of value to a recipient, but are less tangible than a gift. They can include meals, discounts, seats or access to corporate boxes at sporting events, upgrades on flights, new jobs or promotions, preferential treatment, or access to confidential information.

10.1 Corporate discounts

Generally, offers of a corporate discount should be declined. This includes:

- free entry into, or free marketing and promotional material from, events and shows for employees and/or their families
- hotel discounts or special accommodation rates not connected with official duties
- discounted meals at restaurants, cafes and fast food outlets (including coffee loyalty cards)
- discounts or free offers of clothing or sports gear
- memberships to clubs
- discounted or free tickets to employees accompanying students on trips or excursions

10.2 Loyalty, rewards and points schemes

Employees should not accept or accrue any type of frequent flyer points, shopping points, or any other points/rewards as an employee. This includes:

- booking corporate travel and accruing personal frequent flyer points
- making purchases on a department issued purchasing card and accruing shopping points, rewards, docketts, discount petrol or school vouchers for personal use

10.3 Sponsorships

Seeking and entering into sponsorship or partnership arrangements are acceptable government agency activities but not if offered to an employee to influence future sponsorships or official decisions.

Seeking and managing sponsorship arrangements with external organisations, individuals or businesses must be in accordance with the department's [Sponsorship policy](#). Employees involved in sponsorships or partnerships should be aware of the corruption risk involved in this function.

11 Hospitality

11.1 High Risk Hospitality

Accepting hospitality from individuals or organisations that have, or are seeking, a business relationship with the department may be perceived as an attempt to create an obligation on employees and win the donor favourable treatment.

It may be appropriate for employees to accept hospitality at an event sponsored by an organisation that has, or is seeking, a business relationship with the department if the role of the employee at the event includes the marketing and promotion of the department's services and products in order to build commercial and business relationships for the department.

Employees must not accept hospitality that is perceived to be high risk. Examples include:

- restaurant meals
- invitations to corporate boxes or marquees
- invitations to lunches, dinners or other events to 'seal the deal', or to 'celebrate' finalisation of a procurement process or the signing of a contract, invitations to functions held in private homes
- invitations which extend to family members, relations, friends and associates

11.2 Low Risk Hospitality

Hospitality which includes light refreshments or a modest meal where the hospitality is incidental to the meeting, conference, networking event or official business-related function, for example while attending as a department representative at a professional body or industry conference. These are examples of low risk hospitality which may be accepted.

12 Approving gifts, benefits and hospitality

If you wish to accept a gift, benefit or hospitality, you must obtain approval in advance from your Principal and/or workplace manager whenever possible. You do not need prior approval if you are declining the gift, benefit or hospitality.

12.1 Acceptance without prior approval

There may be circumstances where it is not possible to obtain prior approval before acceptance or it may be inappropriate or not possible to refuse the offer. For example:

- it may cause cultural offence to decline
- the gift was given publicly (e.g. to a guest speaker at a conference) and to refuse it might cause embarrassment
- the gift was not been personally delivered (e.g. it came through the mail)

In these circumstances the gift, benefit or hospitality may be accepted and must be declared.

13 The declaration process

Unless stated otherwise, employees must declare:

- all accepted gifts, benefits and hospitality valued above \$50 to their Principal and/or workplace manager.
- any offer of a gift, benefit or hospitality that has been declined due to a conflict of interest (whether perceived, actual or potential), regardless of value.

Declarations must be made immediately using the Declaration Form available on the department's intranet. Once made and approved by a Principal and/or workplace manager, it must be recorded.

There are two processes for declarations depending on the employee's category:

- PSSE or nominated employees are bound by the requirements sent out in 13.1.
- all other employees are bound by the requirements set out in 13.2

13.1 Declarations by PSSE and nominated employees

The Director, Fraud Prevention maintains a central Gifts, Benefits and Hospitality Register (the register) to record all declarations of gifts, benefits and hospitality made by the following employees:

- Public Service Senior Executives (PSSE), and
- employees nominated by PSSE who are responsible for high risk activities that attract greater public scrutiny, for example:
 - procurement and competitive tender processes including tender evaluations
 - regulatory activities such as inspections and assessments of service providers
 - purchase or sale of government assets
 - contractual relationships with the private sector
 - selective schools placement

These employees must make a declaration using the Declaration Form available on the department's intranet, obtain approval from their Principal and/or workplace manager and forward their completed declaration form, along with supporting documentation, to the Director, Fraud Prevention by email to corruption.prevention@det.nsw.edu.au.

13.1.1 Nominating employees in high risk roles

Public Service Senior Executives must nominate any employee who is responsible for high risk activities that attracts public scrutiny for inclusion on the department's Gifts, Benefits and Hospitality Register. Employees or roles that have been nominated should be reviewed regularly, and in any case, annually to ensure transparency.

To nominate an employee, forward the name, contact details and position title of the nominated employee to the Director, Fraud Prevention, by email to corruption.prevention@det.nsw.edu.au.

13.1.2 Gifts, Benefits and Hospitality Register

The Gifts, Benefits and Hospitality Register is regularly reviewed by the Director, Fraud Prevention. Trends or areas of concern will be reported regularly to the department's Executive and to the Audit and Risk Committee.

To ensure increased accountability and transparency, the Gifts, Benefits and Hospitality Register is updated quarterly and published on the department's website.

13.2 Declarations by other employees

All other employees must also declare any gifts, benefits and hospitality accepted, or declined due to the presence of a conflict of interest. Senior management is responsible for establishing and maintaining a local [Workplace Gifts Register](#) similar to the Gifts, Benefits and Hospitality Register for employees in their area of responsibility who are not included in the Gifts, Benefits and Hospitality Register. These locally maintained registers are not required to be published on the department's website or to be maintained by the Director, Fraud Prevention.

The Executive of each portfolio will determine the most appropriate location in their area to maintain their local register. This register may be maintained at a Network level, or Directorate level. For example, it may be appropriate for school principals to forward any gift, benefit or hospitality declarations to their Director Educational Leadership for inclusion in the register maintained at the network.

Senior management responsible for maintaining local registers must review their registers regularly to ensure that gifts, benefits and hospitality are accepted under the appropriate circumstances in accordance with these procedures. These registers must also be made available for review by the Director, Fraud Prevention upon request.

14 Monitoring and review

The Fraud Prevention team are responsible for monitoring compliance with these procedures using the Gifts, Benefits and Hospitality Register to ensure a record of all associated activities. Trend and analytical reports are periodically provided to the department's Audit and Risk Committee.

These procedures will be reviewed at least annually in the absence of any significant changes or more frequently where required, taking into account legislative or organisational changes, risk factors and consistency with other supporting documents.

15 Training and support

Information regarding the application of these procedures is available from the Fraud Prevention team or by viewing the [fraud and corruption prevention intranet site](#). Training can be requested by contacting the Director, Fraud Prevention.

16 Procedural breaches

Failure to comply with the requirements and standards set out in these procedures may be investigated and may result in disciplinary action including termination of employment or contract.

Appendix 1 - Definitions

Term	Description
Benefit	A non-tangible item of value (e.g. a new job or promotion, preferential treatment or access to confidential information etc.) that one person or organisation confers to another.
Bribe	A gift or benefit offered to or solicited by a public official to influence that person to act in a particular way.
Bribery	Soliciting, receiving or offering any undue reward to or by a person to influence the way that person acts. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward. The term also includes offences committed under section 248B and associated sections of the <i>Crimes Act 1900</i> (NSW), involving acts of offering or soliciting a corrupt commission or reward to or by a public official to influence that person to act in a particular way.
Corrupt conduct	The Independent Commission Against Corruption defines corrupt conduct as the conduct of any individual, whether public official or not, that adversely affects (or could adversely affect), either directly or indirectly, the honest and impartial exercise of public official functions.
Employee	A person, whether remunerated or not, working on the Department's behalf including part time staff, full time staff, contractors, consultants and temporary staff.
Gift	An item of value (e.g. gift voucher, entertainment, hospitality, travel, commodity, property etc.) which one person or organisation presents to another. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed.
Gifts, Benefits and Hospitality Register	The official record that details gifts, benefits and hospitality received by department employees and how they were managed. This is maintained by the Fraud Prevention team.
Hospitality	The friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Public official	Defined under section 3 of the <i>ICAC Act</i> as an individual having public official functions or acting in a public official capacity, this includes all Department of Education employees.
Token gift	A single gift that is less than \$50 in value and not offered to influence.
Workplace Gifts Register	The official record that details gifts, benefits and hospitality received by employees in defined areas of responsibility who are not included in the Gifts, Benefits and Hospitality Register. This is maintained locally by senior management.

Appendix 2 - Decision flow chart

Refer to definitions in sections 7-10 of these procedures when using this flowchart.

