



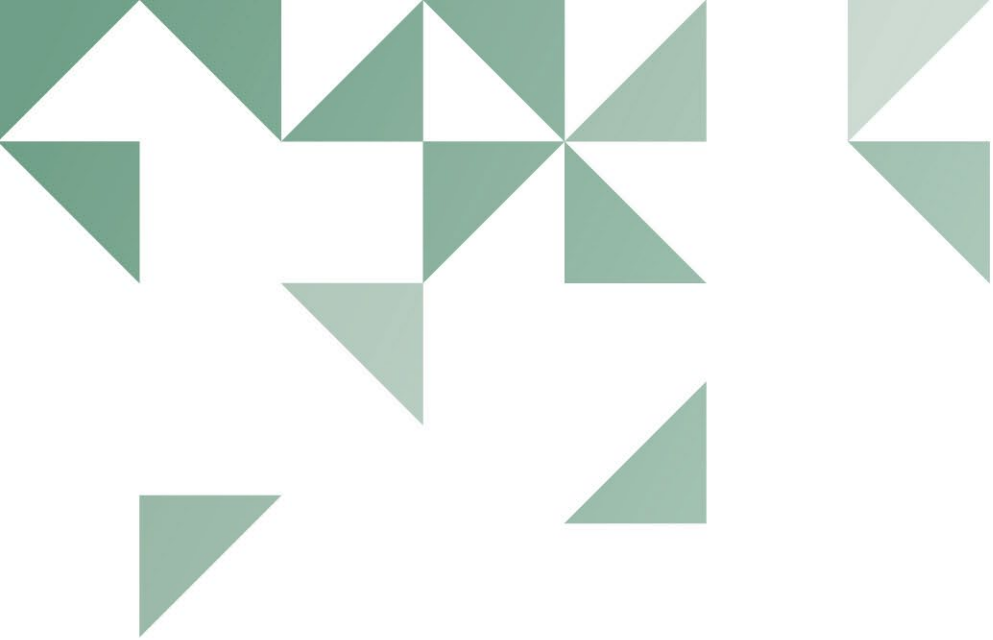
Report of the Integrity Commission

No. 3 of 2023 – 16 November 2023

Project Vulcan – gifts and benefits:
An audit of State Service agencies' public registers



INTEGRITY
COMMISSION
TASMANIA



The objectives of the Integrity Commission are to:

- improve the standard of conduct, propriety and ethics of public authorities in Tasmania
- enhance public confidence that misconduct by public officers will be appropriately investigated and dealt with, and
- enhance the quality of, and commitment to, ethical conduct by adopting a strong, educative, preventative and advisory role.

We acknowledge and pay our respects to Tasmanian Aboriginal people as the traditional owners of the land upon which we work. We recognise and value Aboriginal histories, knowledge and lived experiences and commit to being culturally inclusive and respectful in our working relationships with all Aboriginal people.

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This report and further information about the Commission can be found on the website:
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Gifts and benefits

An audit of State Service agencies' public registers

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Abbreviations and acronyms

CEO	Chief Executive Officer
CMO	Chief Marketing Officer
DOH	Department of Health
DOJ	Department of Justice
DPAC	Department of Premier and Cabinet
DPFEM	Department of Police, Fire and Emergency Management
DSG	Department of State Growth
DTF	Department of Treasury and Finance
ED8	<i>Employment Direction No. 8 – Gifts and Benefits</i>
FY	financial year
<i>IC Act</i>	<i>Integrity Commission Act 2009 (Tas)</i>
NRE	Department of Natural Resources and Environment
OMI	own-motion investigation
PAHSMA	Port Arthur Historic Site Management Authority
SSA	<i>State Service Act 2000 (Tas)</i>
TAO	Tasmanian Audit Office
TDIA	Tasmanian Dairy Industry Authority
TFS	Tasmania Fire Service
the Commission	Integrity Commission Tasmania
the Policy	<i>Gifts, Benefits and Hospitality Policy</i>
THS	Tasmanian Health Service

Executive summary

This report discusses an audit of State Service agencies' public gifts and benefits registers for compliance with the *Gifts, Benefits and Hospitality Policy*¹ (the Policy). The Policy was developed by the Department of Treasury and Finance in consultation with other government departments. It establishes broad principles and procedures for all Tasmanian State Service officers and employees in relation to offering, accepting or refusing a gift, benefit or hospitality. The audit aimed to assess whether the Policy is achieving its objectives and whether recommendations could be made to improve its implementation.

The move to a uniform policy – with limited capacity for variation by individual agencies – has been a valuable initiative and, in many ways, no changes are necessary. Therefore, this report offers both 'recommendations' and 'good practice reminders'.

The good practice reminders reflect the findings that some principles and procedures, while sound, are not being followed by agencies, officers and employees. For example, a central principle of the Policy is that 'in most situations, "thanks" is enough'.² However, some declarations on the gift registers clearly show that this principle has not always been observed.

Good practice reminders

- ▼ Each agency should ensure its public gift register is published in compliance with the time frame provided in the Policy.
- ▼ Agencies should ensure they clearly communicate the principles and procedures of the Policy to employees. As part of this process, agency-appropriate fact sheets should be developed (similar to those currently provided by the Department of Justice) to guide and educate both employees and approvers.
- ▼ If a head of agency approves sponsored travel or professional development, they should explain in writing why the agency cannot cover the cost. This was emphasised in our *Operation Kilo Report*: 'If it is not worthwhile for the agency to pay the employee's way, then it is likely that the offer will not satisfy the public interest test'.³
- ▼ If a head of agency approves sponsored travel or professional development, they should ensure the employee shares the learning gained, in writing, with relevant colleagues in the agency. Compliance with this condition should be recorded in the register against the entry approving the travel or training.

Recommendations

Recommendation 1

That the Head of the State Service, as owner of the whole-of-government *Gifts, Benefits and Hospitality Policy*, review and revise the Policy to:

- a) clearly distinguish between policies and procedures
- b) ensure it is written in plain language
- c) resolve the existing conflicts within the Policy, and
- d) identify any conflicts with other whole-of-government policies.

For example, the Policy states that employees must never accept an object valued at \$100 or more. Despite this express injunction, an employee may accept such offers with the requisite approval. Moreover, by requiring that declarations of items valued at \$100 or higher be published, the Policy clearly signals that offers of valuable objects may be approved.

Recommendation 2

That the Head of the State Service insert a requirement in the whole-of-government *Gifts, Benefits and Hospitality Policy* that a declarant must explain how an offer represents a networking opportunity if the reason for acceptance is 'networking' or 'maintaining stakeholder relationships'. For example, if the offer involves a networking lunch, the declarant must explain who they will network with, how the relationship with the stakeholder will be maintained and how this will benefit the agency.

Recommendation 3

That the Head of the State Service consider approaches for addressing the issue of so-called altruistic donations within the whole-of-government *Gifts, Benefits and Hospitality Policy*.

Recommendation 4

That the Head of the State Service include an 'internal gift register template' (see Appendix 2) in the whole-of-government *Gifts, Benefits and Hospitality Policy*. As a minimum, the public register must contain the information in the 'public gift register template' (see Appendix 3). All agencies must use these register templates.

In her response to the draft report, the Head of the State Service agreed to undertake to amend the Policy to encompass the 4 recommendations. The Head of the State Service also indicated that amending the Policy may present an opportunity to incorporate the 4 good practice reminders outlined in the report.⁴

Part 1: Introduction

1. About the Integrity Commission

The Integrity Commission Tasmania (the Commission) is an independent statutory authority established by the *Integrity Commission Act 2009* (Tas) (IC Act). Our objectives are to:

- ▼ improve the standard of conduct, propriety and ethics of public authorities in Tasmania
- ▼ enhance public confidence that misconduct by public officers will be appropriately investigated and dealt with, and
- ▼ enhance the quality of, and commitment to, ethical conduct by adopting a strong, educative, preventative and advisory role.

Section 31 of the *IC Act* explains the Commission's educative, preventative and advisory functions. These include:

- a. taking such steps as the Commission considers necessary to uphold, promote and ensure adherence to standards of conduct, propriety and ethics in public authorities
- b. reviewing and making recommendations about practices, procedures and standards in relation to conduct, propriety and ethics in public authorities and evaluating their application within those authorities, and
- c. evaluating the adequacy of systems and procedures in public authorities for ensuring compliance with relevant codes of conduct.

As part of these functions, the Commission decided to audit State Service compliance with gifts and benefits declaration and approval requirements established by the whole-of-government *Gifts, Benefits and Hospitality Policy* (the Policy).⁵ The audit was designed to revisit the findings and recommendations of the Commission's own-motion investigation (OMI), Operation Kilo, the report of which was published on 22 September 2015.⁶

1.1. Operation Kilo

Operation Kilo was an OMI into the policies, practices and procedures governing the receipt of gifts and benefits in State Service agencies. The Commission conducts OMIs into the State Service under section 45(1) of the *IC Act*.

The motivation for Operation Kilo stemmed from information collected during other investigations and training conducted by the Commission, which indicated that this may be a problem area for State Service agencies.

Since 2015, the receipt of gifts and benefits has continued to be a misconduct risk. The mismanagement of gifts and benefits was identified as one of the main risk possibilities by 100% of the agency respondents to the Commission's self-assessment tool for the public sector, the *Ethics and Integrity Snapshot*.⁷

After Operation Kilo, a State Service-wide approach was developed to regulate the receipt of gifts and benefits. This resulted in the release of the Policy by the Head of the State Service in November 2016 under section 15(1)(b) of the *State Service Act 2000* (Tas) (SSA). Section 15(1)(b) of the Act provides that an employer must 'determine practices, procedures and standards in relation to [the] management of, and employment in, the State Service and ... evaluate their application within Agencies'.

1.2. Structure of the report

This report is divided into 5 parts:

- ▼ **Part 1** has introduced the report.
- ▼ **Part 2** describes how the audit was conducted.
- ▼ **Part 3** discusses the legislation, regulations and State Service directives governing the acceptance of gifts, benefits and hospitality, and the relevant reporting requirements.
- ▼ **Part 4** reports the findings of the audit.
- ▼ **Part 5** explains the findings and concludes with the good practice reminders and recommendations.

Part 2: The audit

2. Background

Additional resources have enabled us to start developing a comprehensive Oversight and Compliance Program. This is a crucial part of our role in achieving public confidence in the public sector.

As part of the program, we plan to more actively pursue and report on responses to investigations and other matters. This includes publicly reporting on the status of, and responses to, our referrals and recommendations.

More specifically, this report meets a need expressed in Operation Kilo: to regularly review and monitor agencies' gifts and benefits registers, focusing on compliance with the Policy.⁸ It reports the findings from a desktop audit of public State Service gifts and benefits registers for the 2019-20, 2020-21 and 2021-22 financial years (FY). We analysed the registers for compliance with the Policy to meet that aim and remind agencies of the importance of this issue.

2.1. Why gifts and benefits?

The *Operation Kilo Report* explained the rationale for focusing on this misconduct risk area:

State Service employees – servants of the public, whose salaries derive from public funds – should never expect to get anything extra for doing what they are paid to do. Moreover, as public servants, they need to avoid the perception of getting anything extra for doing what they are paid to do.

It is therefore imperative that public servants maintain their impartiality and that any potential, actual or perceived conflicts of interest are managed appropriately. The importance of maintaining the impartiality of the State Service may, at times, be at odds with the aims of certain businesses and individuals, which – particularly in the procurement context – aim to build loyalty and favour by the provision of gifts and benefits ...

The receipt of gifts and benefits by public servants is a problem because 'it is difficult to imagine a real-life situation where there is no possibility that a [State Service] gift-recipient might appear to be compromised' ... [E]mployees who receive gifts will naturally and understandably feel obligated to the donor, and it is 'this perceived obligation to reciprocate that gives rise to the unacceptable conflict'. Gifts are generally given with the intention of creating that sense of obligation. And gifts are never actually free – apart from the expectation of something in return, they can also, for example, be factored into the cost of goods and services being provided.⁹

3. The audit process

3.1. Scope

A Scoping and Project Plan identified 18 State Service agencies for the audit (see **Table 1**). Except as noted below, these reflect the complete list of agencies and state authorities set out in schedule 1 of the SSA. The term 'agency' is used throughout the report to refer to both types of entities. The Board approved the plan in May 2022. Completion of the audit and this report were delayed due to internal resourcing issues.

Table 1: State Service agencies selected for auditing

Government department	State authority
Department for Education, Children and Young People (previously the Department of Education)	Brand Tasmania
Department of Health	Integrity Commission Tasmania
Tasmanian Health Service	Macquarie Point Development Corporation
Department of Justice	Port Arthur Historic Site Management Authority
Department of Police, Fire and Emergency Management (including Tasmania Fire Service)	Tasmanian Dairy Industry Authority
Department of Premier and Cabinet	TasTAFE
Department of Natural Resources and Environment (incorporating previous registers of the Department of Primary Industries, Parks, Water and Environment)	The Public Trustee
Department of State Growth	Tourism Tasmania
Department of Treasury and Finance	
Tasmanian Audit Office	

For most of the audit period, the Environment Protection Authority was not a standalone agency and was not included separately in the audit. The former Department of Communities Tasmania was also not included, as it was abolished in December 2022. That department's functions were allocated to the Department for Education, Children and Young People, the Department of Premier and Cabinet (DPAC), the Department of State Growth (DSG) and the Department of Health (DOH), which were already included in the audit.¹⁰

TasTAFE was included in the audit. During the audit period, the Commission had jurisdiction over TasTAFE as a State Service agency. In July 2022, it became a not-for-profit statutory entity over which the Commission does not have jurisdiction (apart from the TasTAFE Board). In substance, TasTAFE retains its former identity as a vocational training provider and may still find value in any of the recommendations from this project.

Sub-agencies that are independently recorded in a single register (Tasmania Fire Service [TFS]) or maintain a separate register (DOH and Tasmanian Health Service [THS]) were considered separately.

3.1.1. Testing results

The Policy provides that:

[all] declarations of [declarable] gifts, benefits or hospitality ... must be published in the Agency's Annual Report for that financial year, or on the Agency's website within four months of the end of that financial year.¹¹

Compliance with this requirement was one of the audit criteria (see **Section 3.2.1**). We did not inquire further into the information in the publicly accessible registers. For example, if the reason for approving the acceptance of a gift was recorded as 'link to official purpose', we did not ask the agency to provide additional details about what that link was.

3.2. Methodology

3.2.1. Audit criteria

The registers were assessed against 15 audit criteria for compliance with the Policy (see **Appendix 1**). These were formulated as 13 questions about aspects of the Policy and 2 additional questions (questions 14 and 15) to elicit the auditor's opinion of compliance with the Policy. The Policy notes, '[i]t is unlikely that employees or officers will be required to provide any gift, benefit or hospitality other than a token memento or modest refreshment in the course of their official duties'.¹² Therefore, the audit focused solely on offers of gifts, benefits or hospitality.

An audit instrument was created as the template for the individual audit instruments for each agency for each of the 3 FYs. This resulted in a total of 53 audit instruments. This did not equate to 3 instruments per agency because the THS had previously maintained a separate gift register but had been included in the DOH gift register since the 2021-22 FY. The Department of Police, Fire and Emergency Management (DPFEM) registers do not include Tasmania Police declarations because Tasmania Police is not part of the State Service.

In June 2022, letters were sent to the heads of each identified agency informing them of the project, its scope and the anticipated outcomes. The anticipated outcomes were to understand:

- ▼ agencies' record keeping processes and compliance with this aspect of the Policy
- ▼ how information is recorded on public gift registers
- ▼ the circumstances in which gifts, benefits or hospitality are being accepted
- ▼ the system for head of agency or delegate approvals, and
- ▼ where the Commission could add value to what agencies are already doing to meet ethics and integrity obligations.

The Policy does not prescribe a retention schedule for electronic gift registers, so we anticipated that some past years might not be publicly available. In the letters, we requested copies of registers for the audit period that were not on each agency's website. The DSG publishes a 12-month rolling monthly register, and at the time the audit was conducted, public information on its website covered the period from May 2021 to June 2022. The DSG provided the registers for the audit period, which it identified as either 'published' or 'unpublished'. Based on an assumption that the published versions were once publicly available, we included them in the audit. As of 12 September 2023, the gift registers on the DSG website were those covering the period from August 2022 to September 2023.

We created an amalgamated audit instrument for recording each declaration on the gift registers. There were 169 records in the amalgamated instrument. There were no data for 20 records because no gifts, benefits or hospitality were declared or declined in the relevant period. The remainder had data on items that were declared and/or declined or donated elsewhere. The audit excluded offers that were recorded in the gift register but did not reach the Policy declaration threshold of \$100 for a single gift or gifts from a single supplier valued at over \$100 in an annual period.

3.2.1.1. Identifying agencies and employees

Although the report does not aim to single out agencies for criticism, where appropriate (and bearing in mind that the information in this report is publicly available), it was sometimes necessary to identify an agency for illustrative purposes. No employees have been identified in this report.

3.2.1.2. Feedback on the draft report

In September 2023, we sent the draft report to all the audited agencies for review. We received responses from the Department of Justice (DOJ), the DPAC and the Head of the State Service, the DSG, the Department of Treasury and Finance (DTF), the Port Arthur Historic Site Management Authority (PAHSMA), the Tasmanian Audit Office (TAO), and Tourism Tasmania. The report was finalised on that basis.

Part 3: Governing legislation, regulations and policies

4. The Act, Regulations and *Employment Direction No. 8*

The SSA and *State Service Regulations 2011* (Tas) provide the foundations for all Tasmanian State Service regulations, employment directions, policies and guidelines on gifts and benefits. The Tasmanian State Service Code of Conduct is contained in section 9 of the SSA. Two provisions in section 9 impose specific obligations on employees for managing offers of gifts and benefits during their employment. Section 9(11) states:

- An employee must not make improper use of –
- a. information gained in the course of his or her employment; or
 - b. the employee's duties, status, power or authority –
- in order to gain, or seek to gain, a gift, benefit or advantage for the employee or for any other person.

Section 9(12) states that '[a]n employee who receives a gift in the course of his or her employment or in relation to his or her employment must declare that gift as prescribed by the regulations'. Regulation 12 of the *State Service Regulations 2011* (Tas) state, '[f]or the purposes of section 9(12) of the [State Service] Act, a gift must be declared to the relevant Head of Agency'. Thus, a State Service employee who receives a gift during, or in relation to, their employment, must declare that gift to their head of agency to comply with the SSA.

Before the Policy was developed, procedures for accepting, declining and declaring gifts and benefits in the State Service were regulated by *Employment Direction No. 8 – Gifts and Benefits* (ED8).¹³ ED8 established minimum standards for agencies and employees. It has now been replaced by the Policy.

5. The whole-of-government *Gifts, Benefits and Hospitality Policy*

The Policy serves 2 functions:

1. it explains 'the broad principles to be applied by and to all Tasmanian State Service officers and employees in relation to the offer, acceptance or refusal of a gift, benefit or hospitality',¹⁴ and
2. it provides an instruction manual with the procedure for each case.

Its central principle is that, in most situations, gifts, benefits and hospitality should be declined if offered.

The expectation was that all agencies would adopt the Policy in its entirety with some limited capacity to adapt it to meet specific needs of agency employees and officers. The analysis in this project shows that this has, to a large extent, been achieved. Of the audited agencies, 11 agencies' gifts and benefits policies are substantially similar to the DPAC template. Five agencies' policies are not publicly available. The DOH only has the policy for the former Department of Health and Human Services on its website; this still refers to ED8 and is clearly outdated. The Commission developed its own policy, drawing on the whole-of-government model; however, our policy is also outdated because it too refers to ED8.

At the time, the Commission provided a submission that identified particularly strong aspects of a draft of the Policy. Those aspects, which are reflected in the audit criteria for this project, include:

- ▼ establishing a record keeping process
- ▼ setting up an auditing process
- ▼ emphasising the requirement to obtain 'approval' for keeping gifts instead of merely a declaration process
- ▼ referencing actual, potential or perceived conflicts of interest and the risk that gifts pose to the integrity of state servants and State Service agencies
- ▼ prohibiting money and money equivalent gifts
- ▼ recognising that government buyers are at a higher risk in this area, and
- ▼ recognising the risks of recurring gifts.

The Commission also identified the following areas for improvements:

- ▼ The Policy document should be more user-friendly – there should be a clear separation between policy statements and procedural steps.
- ▼ The acceptance of gifts by family members should be prohibited.
- ▼ All gift offers should be declared and recorded in the gift register, including those that are declined.
- ▼ Conflicting statements within the Policy should be corrected. The Policy's absolute prohibition on accepting valuable objects over a certain value appears to conflict with later procedural provisions about the declaration and approval of such gifts. The final version of the Policy has not corrected this contradiction. The Policy says that while employees must never accept a gift valued at \$100 or more, if they believe it is appropriate to accept the gift, they must declare it and seek approval from the head of agency.

The Premier revoked ED8 soon after the Policy was issued. The conflicts of interest issue is central to the Policy, just as it was to ED8. Avoiding conflicts of interest caused by accepting gifts, benefits or hospitality is the underlying rationale for all the stipulations it contains.

The Policy has also effectively closed a gap that existed for heads of agencies, who previously declared gifts to themselves in principle. Under the new regime, heads of agencies must declare offers of gifts, benefits or hospitality to the DPAC Secretary or if the declarant is the DPAC Secretary, to the DTF Secretary. However, the Commission's submission on the draft Policy noted that under the revised procedure, a head of agency still makes declarations to and seeks approval from someone who is essentially their colleague.

In response to our invitation to comment on the draft report, the Auditor-General suggested that, in addition to resolving conflicts within the current Policy, the Policy might be reviewed to determine whether conflicts exist with other whole-of-government policies.¹⁵ For example, the draft *Tasmanian State Service Overseas Travel Policy 2023* states that a traveller may accumulate frequent flyer loyalty points from government travel. Under the Policy, the accumulation of loyalty points can only be approved if they are used for the agency's benefit.

Recommendation 1

That the Head of the State Service, as owner of the whole-of-government *Gifts, Benefits and Hospitality Policy*, review and revise the Policy to:

- a) clearly distinguish between policies and procedures**
- b) ensure it is written in plain language**
- c) resolve the existing conflicts, and**
- d) identify any conflicts with other whole-of-government policies.**

For example, the Policy states that employees must never accept an object valued at \$100 or more. Despite this express injunction, an employee may accept such offers with the requisite approval. Moreover, by requiring that declarations of items valued at \$100 or higher be published, the Policy clearly signals that offers of valuable objects may be approved.

Part 4: The desktop audit

The gift registers of each agency were audited against the stipulations contained in the Policy. Compliance with publication requirements was considered first, as the threshold for inclusion in the project – that is, the audit was limited to publicly available registers. As noted in **Section 3.2.1**, an exception was made for the DSG, which had registers from May 2021 to June 2022 on its website. The department provided copies of both their published and unpublished registers, but only the published registers were included in the audit.

6. Key findings

- ▼ Individual agencies have made efforts to update policies and procedures to better align with the Policy, and in some registers, the rationale for approving a gift, benefit or hospitality is articulated clearly.
- ▼ Agencies are mostly complying with the requirement to publish their gift registers in accordance with the Policy.
- ▼ The move to a uniform policy, with limited capacity for variation by individual agencies, has been a valuable initiative and, at least in many respects, no changes are necessary. However, in some cases, statements of principles and procedures, while sound, are not being followed by agencies, officers and employees.
- ▼ Gifts, benefits and hospitality are still being accepted in circumstances not sanctioned by the limited exceptions in the Policy.
- ▼ As an instruction manual, the Policy is not easy to understand and contains conflicting statements of policies and procedures.
- ▼ Assessing compliance with the Policy is difficult because minimal details are recorded in the public registers.
- ▼ There is evidence that the principles and procedures of the Policy are not being communicated clearly to employees.

7. Register publication

7.1. Policy statement

All declarations of gifts, benefits or hospitality to the value of \$100 or greater, or a declaration of token mementos and modest refreshments (reaching the annual threshold of \$100 from a single supplier that have been recorded in the agency's Gift Register in a financial year) must be published in the Agency's Annual Report for that financial year, or on the Agency's website within four months of the end of that financial year.¹⁶

7.2. Observations

All State Service agencies except the DSG published their gift registers for each of the FYs under review. However, a brief scan of the publicly available registers suggested that some agencies may not publish their registers in line with the required time frames. For example, one register for the 2019-20 FY was created on 15 July 2022, while another was created on 14 July 2022. Letters were sent to each subject agency on 16 June 2022, informing them of the pending audit. Although there may be other explanations for the apparent delay in publishing the registers, they may have been created in response to those letters.

No agencies published their gift registers in the annual report.

Good practice reminder

- ▼ Each agency should ensure its public gift register is published in compliance with the time frame provided in the Policy.

8. Information recorded in the register

Section 8 of this report focuses on criteria 1 to 3 and 10 to 12. Criteria 5 to 9 are excluded from this discussion because none of the registers showed that an employee solicited a gift, benefit or hospitality during their employment (criterion 5) and only one entry recorded a series of modest refreshments from a single donor valued at over \$100 during a year (criteria 6 to 9). These were 2 offers of hospitality in the form of end-of-year drinks valued at \$120. Although relatively small in value, we note that in this case, there was a conflict-of-interest risk because employees of the agency were potential clients of the organisation providing the hospitality.

8.1. Policy statement

An employee must declare an offer of a gift, benefit or hospitality in 3 situations:

- ▼ if the employee wishes to accept the offer
- ▼ if the employee does not wish to keep or is unable to keep the gift, and
- ▼ if the employee receives a gift on behalf of or for the benefit of the agency.

In each case, the employee must complete a declaration form and give it to the head of agency or delegate for approval.

If the employee is the head of agency, they should give the declaration to the DPAC Secretary.

If the employee is the DPAC Secretary, they should give the declaration to the DTF Secretary.

Each head of agency will ensure that the agency maintains an appropriate gift register in electronic or hard-copy form to record declarations by employees and officers for the purposes of this Policy.¹⁷

The *Operation Kilo Report* proposed a model gift register that would include details about possible conflicts of interest and the relationship between the employee and the offeror of the gift, benefit or hospitality.¹⁸ A model gift register was not included in the final version of the Policy. Although the Policy requires each head of agency to maintain an 'appropriate' register where the completed declaration forms should be stored, it gives no specific guidance on what should be included.

The *Operation Kilo Report* also proposed a model reportable gift/benefit declaration form.¹⁹ The DPAC developed the 'Acceptance of Gift, Benefit or Hospitality Declaration Form' as a template to accompany the Policy. Although declaration forms are not publicly available and, therefore, were not included in the audit, it is interesting to compare the DPAC template with the information in the agency gift registers. The DPAC template contains the following fields:

- ▼ employee name and branch/division
- ▼ date of offer of gift/benefit/hospitality
- ▼ gift/benefit/hospitality provided by (name, role and organisation)
- ▼ description of gift/benefit/hospitality offer
- ▼ value of gift/benefit/hospitality (\$)
- ▼ the date of the declaration
- ▼ reason offer accepted
- ▼ approved by, and
- ▼ the date of the approval.

8.2. Observations

It seems that agencies rely on the declaration form template to determine what is included in their gift registers. For the publicly accessible registers, all agencies uniformly include 5 fields:

1. the date of the offer
2. a description of the gift, benefit or hospitality offered
3. the name of the offeror
4. the value of the gift, benefit or hospitality, and
5. a reason for accepting the offer.

It is important to maintain the anonymity of individual employees in the public register, although it is presumed that employee details are included in the declaration form. However, for auditing compliance with the Policy, if the recipient is not identified, it is often impossible to evaluate the appropriateness of accepting the offer and, critically, highlight any potential conflicts of interest. It is also not possible to determine whether the recipient was a head of agency. This is important because the Policy states that heads of agencies should give their declarations to the DPAC Secretary and the DPAC Secretary should give their declaration to the DTF Secretary.²⁰

We are not suggesting that the recipient of a gift or benefit should be identified (even where acceptance has been approved in accordance with the Policy). Rather, if it will not identify the employee, agencies should note the unit or branch in which the recipient is employed. This also highlights the importance of internal audits of the register.

We were happy to accept copies of agencies' internal registers, but we did not make a specific request for them. As a result, only a few agencies provided copies of their internal registers directly to us. These did not match the public registers in all respects. Notably, the PAHSMA's internal register had significantly more details than the public version. The DSG's published and unpublished registers had the same fields, but only the unpublished version included information about non-declarable offers. The DOJ's unpublished register gave extra details about how it disposed of gifts that were not retained.

The PAHSMA's internal register directly mirrored that proposed by the Commission. It is unknown whether other agencies are recording this level of detail internally. In this case, the glimpse behind the public register showed a welcome compliance with the Policy. It also revealed one of the principal concerns identified in the audit – that is, the difficulty of determining compliance with the Policy based on the scant details in public registers.

In light of the limited data we were able to glean from the registers, we recommend that the Policy include an internal gift register template as an appendix with mandatory fields to be completed by the declarant and the approver. Further, the Policy should stipulate that, as a minimum, certain identified fields be included on the public register. Agencies should use the internal gift register template for regular compliance audits.²¹

Some agencies included non-declarable items in their public registers. The TAO advised that it was an internal policy to require declarations of items valued at \$20 or more rather than \$100 as required by the Policy. For other agencies, the inclusion of non-declarable items may suggest some uncertainty about what must be declared under the Policy and that there is a need for more education for employees and approvers. It is important that the Policy is well-understood to minimise the risk of a breach and ensure that compliance is not more onerous than necessary.

The DOJ has published a series of guides on its website with practical information about how the Policy operates. These include an information sheet with illustrative examples. This initiative could be adopted by other agencies and tailored to their particular needs.

Good practice reminder

- ▼ Agencies should ensure they clearly communicate the principles and procedures of the Policy to employees. As part of this process, agency-appropriate fact sheets should be developed (similar to those currently provided by the DOJ) to guide and educate both employees and approvers.

9. Approvals

Unless otherwise noted, the discussion is based on individual entries, rather than registers. During the audit period there were a total of 149 recorded instances where gifts, benefits or hospitality were accepted. There were between 30,000 and 36,000 employees working in the audited agencies in each FY. Therefore, assuming all gifts were declared by separate employees, approximately 0.15% of employees declared that they accepted or declined a gift, benefit or hospitality.

9.1. Policy statement

If an employee is offered a gift valued at \$100 or more, they must request approval from the head of agency to:

- ▼ accept the gift
- ▼ dispose of the gift, or
- ▼ surrender the gift to the agency, as appropriate.

If an employee accepts token mementos and modest refreshments from a single supplier valued in total at over \$100 during a year, they must request approval from the head of agency.

If an employee or officer needs to provide a gift, benefit or hospitality during official business, approval should be sought from the head of agency before providing the gift, benefit or hospitality.²²

9.2. Observations

None of the public registers, except the DPFEM's, recorded whether offers were approved. Therefore, for agencies other than DPFEM, the only response selected for audit criterion 3 – which addressed whether the head of agency or delegate had approved the acceptance – was 'unclear'.²³

If an employee completes a declaration form, it implies that they are seeking approval to accept the offer. However, it was unclear in each instance whether approval was sought before or after accepting an offer. It was also not possible to determine whether agencies are complying with the Policy stipulations about approvals.

If the PAHSMA's detailed internal register is any indication, the internal registers of other agencies may also be compliant with the Policy (see **Section 8.2**). However, in the public registers generally, the lack of information about the approver is concerning. This may be due to uncertainty about what to include in the public register, which could be addressed by the DPAC providing specific guidance. A register template that requires agencies to record more detailed information would serve this function.

10. Reasons: Level of detail and appropriateness

10.1. Policy statement

When a Head of Agency or their delegate receives an 'Acceptance of Gift, Benefit or Hospitality Declaration Form' for approval of acceptance of a gift, benefit or hospitality, the Head of Agency or their delegate should consider whether there is sufficient public interest to support the acceptance of the gift, benefit or hospitality, including for example, whether there is a direct link to an official purpose; and that the gift, benefit or hospitality is of demonstrable benefit to the agency, the State, the Government or the public. Both the relationship between the giver (offeror) of the gift, benefit or hospitality and the intended recipient, and the intent of the offer should be considered, together with how the offer may be perceived by the public.²⁴

All agencies' gift registers include a field for recording why the employee is accepting the gift, benefit or hospitality. Presumably, this is copied from the completed declaration form.²⁵ The DPAC declaration form template directs the employee to choose between the following check box options:

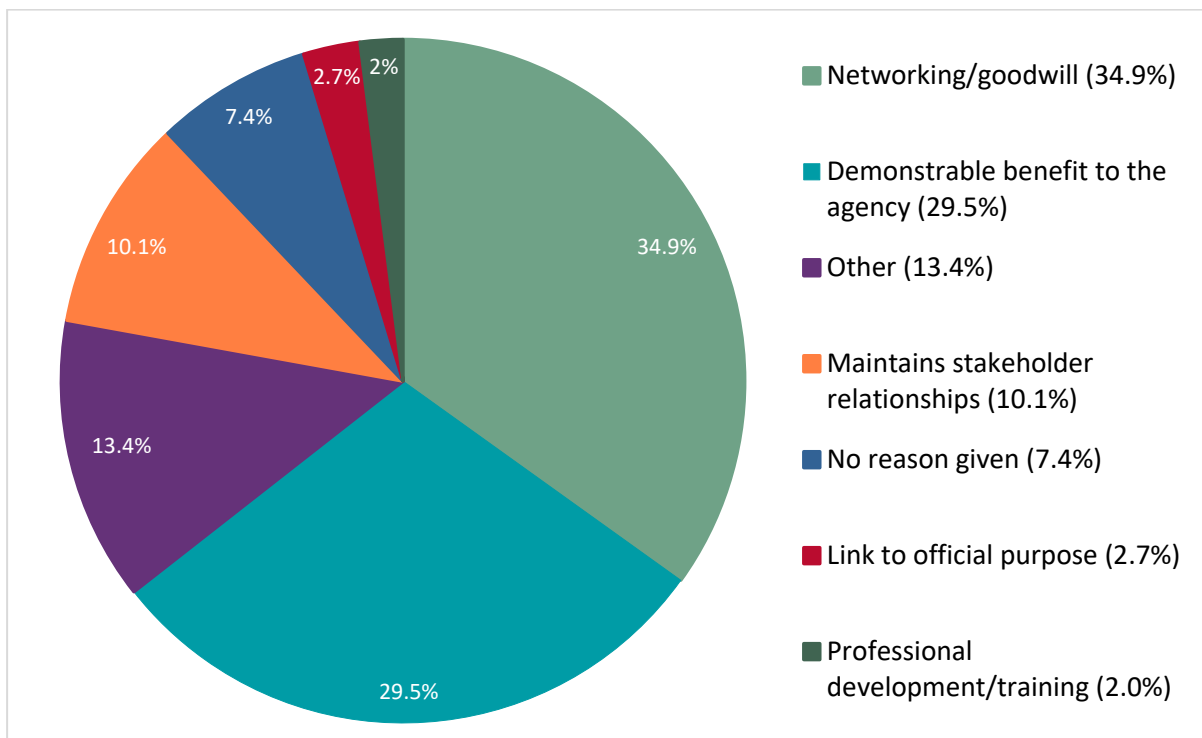
- ▼ builds goodwill
- ▼ delivers responsive government
- ▼ maintains stakeholder relationship(s)
- ▼ encourages and enhances professional networks
- ▼ transferred to agency for public presentation
- ▼ professional development/training, and
- ▼ other (specify).

The audit instrument also had 7 options reflecting the reasons recorded in the gift registers:

1. networking/goodwill
2. demonstrable benefit to the agency
3. maintains stakeholder relationships
4. link to official purpose
5. professional development/training
6. other, and
7. no reason given.

It is possible that more information is provided in declaration forms, but in the public registers, the reasons for acceptance tend to reproduce the check box options in the DPAC declaration template (see **Chart 1**). The absence of a model gift register and specific guidance on what must be included in the register may explain why employees and agencies tend to confine themselves to these options and provide little, if any, additional explanation as to why the offer was accepted and approved. This is particularly problematic for such things as networking dinners or events, sponsored conference attendance and professional development opportunities. As identified in the *Operation Kilo Report*, this latter topic is a significant issue for health agencies, particularly when the sponsor is a pharmaceutical company seeking to conduct business with the agency or clinician and/or obtain endorsements for their products. In these situations, there is a real risk of a conflict of interest.

Chart 1: Reason for acceptance as a percentage of all accepted gifts, benefits or hospitality (n = 149)



10.2. Observations

10.2.1. Networking/goodwill

'Networking/goodwill' was the most common reason for acceptance. Nearly 35% ($n = 52$) of the register entries recorded this as the reason for accepting a range of offers, for example:

- ▼ a marketing workshop provided by a media agency
- ▼ tickets to the Taste of Summer festival
- ▼ membership of the Qantas Chairman's Lounge, and
- ▼ tickets to award presentations.

In our opinion, approval was not justified in approximately 60% ($n = 31$) of these cases given the nature and intent of the Policy. This was primarily because of a perceived or potential conflict of interest between the offeror and the employee or agency ($n = 17$) or because the employee was accepting an additional reward for doing work that the public pays them to do ($n = 6$).

There were also several instances where hospitality such as tickets to sporting events or seasonal dinners was approved, but it was unclear how these were considered networking opportunities. Rather than furthering the official purpose of the agency at, for example, a sponsored golf day, business should be conducted in a businesslike environment.

Recommendation 2

That the Head of the State Service insert a requirement in the whole-of-government *Gifts, Benefits and Hospitality Policy* that a declarant must explain how an offer represents a networking opportunity if the reason for acceptance is 'networking' or 'maintaining stakeholder relationships'. For example, if the offer involves a networking lunch, the declarant must explain who they will network with, how the relationship with the stakeholder will be maintained and how this will benefit the agency.

In some cases, the nature of the offer suggested it should have been declined. For example, the DPFEM register for the 2019-20 FY recorded a gift to the TFS of 222 Coles gift cards, each of which was valued at \$500 – a total of \$111,000. The donation was part of the Coles Group's \$3 million donation to rural fire brigades across Australia. Given the Policy's absolute prohibition on accepting money or money equivalents and mindful of the significant positive publicity the scheme was likely to generate for Coles, it is unclear how the gift met the criteria for acceptance. This finding is not intended to disparage the important services provided by emergency volunteers, but it does highlight a possible limitation of the Policy in dealing with 'altruistic' donations such as this. This is likely to be a broader issue that applies across the public sector.

Recommendation 3

That the Head of the State Service consider approaches for addressing the issue of so-called altruistic donations within the whole-of-government *Gifts, Benefits and Hospitality Policy*.

10.2.2. Demonstrable benefit to the agency

The second most frequent reason given was 'demonstrable benefit to the agency'. Just under 30% ($n = 44$) of register entries recorded this as the reason for acceptance. If the register stated that the training benefited the agency and the reasons for approval included training or professional development, this was recorded as the primary reason. For example, the THS register for January to March 2020 stated that the reason for accepting sponsorship to attend a clinical meeting was 'professional development/training or learning to benefit the THS'.

Although this was the reason for a significant proportion of total register entries, the only agencies to record this were the DOH and THS. It was the principal reason for accepting offers of sponsored conference expenses and professional development or training. Virtually all such entries for the THS included benefit to the agency. Often, the sponsors were pharmaceutical companies.

Whether approval was justified may depend on the employee sharing the learning with the agency. This information was not provided in the public register. It is also unclear whether all offers of sponsored travel and professional development have been declared. For example, in the 2019-20 FY, the THS register recorded 15 instances of sponsored conference travel and accommodation. In the 2021-22 FY, only 2 instances were recorded on the combined DOH/THS register. It seems highly unlikely that these represent the real total instances accepted by clinicians working in the public sector. Operation Kilo found 'many instances' of sponsored travel on state regional health agencies' registers,²⁶ and a review of the THS registers for the years preceding this audit period showed the same pattern, with an average of around 30 instances each FY from 2015-16.

Although the bigger issue of sponsored conference expenses and professional development or training in the health industry is not considered further in this report, some observations from the *Operation Kilo Report* are worth repeating:

Generally, sponsored travel offered by private agencies or groups should not be accepted. Where it is of value for an employee to attend a particular event, it should be worthwhile enough for the agency to pay for the employee to attend ...

On the rare occasion that sponsored travel may be acceptable, 'the important criterion to be borne in mind is that the agency, or the [State Service] as a whole, should gain and be seen to gain the benefit of the opportunity, rather than the individual undertaking the travel' ...

There is a difference between accepting sponsored travel from a private organisation or company, and accepting it from another Australian government agency. The former is generally not acceptable, the latter may be acceptable. Invitations to attend an event that may be seen 'as an endorsement of a company or a product' should certainly be declined..²⁷

Good practice reminders

- ▼ If a head of agency approves sponsored travel or professional development, they should explain in writing why the agency cannot cover the cost. This was emphasised in our *Operation Kilo Report*: 'If it is not worthwhile for the agency to pay the employee's way, then it is likely that the offer will not satisfy the public interest test.'²⁸
- ▼ If a head of agency approves sponsored travel or professional development, they should ensure the employee shares the learning gained, in writing, with relevant colleagues in the agency. Compliance with this condition should be recorded in the register, against the entry approving the travel or training.

10.2.3. Maintains stakeholder relationships

'Maintains stakeholder relationships' was cited as the primary reason for accepting an offer in 10% ($n = 15$) of register entries. In approximately 50% ($n = 7$) of these cases, we consider that approval was not justified given the nature and intent of the Policy. An additional 22% ($n = 33$) of entries gave 'stakeholder relationships' as a secondary reason.

Most entries for this option related to offers of hospitality, including tickets to sporting matches, lunches and dinners. This can be problematic when there is a risk of inappropriate relationships developing between government employees (especially those at senior levels with important decision-making responsibilities) and agencies that rely on or are seeking government support.

Given that risk, the importance of a transparent and impartial approval process cannot be overstated. For example, the Tourism Tasmania 2019-20 FY gift register recorded approvals for 3 employees to accept invitations to dinner with clients and stakeholders of a digital marketing business that had a significant contract with the Agency. In the following FY, the contract was renewed.²⁹ The public register contained no information about the process for approving the offer of hospitality.

In their response to the draft report, the Chief Executive Officer of Tourism Tasmania provided greater detail about the decision to approve the invitations:

[T]he acceptance [of the hospitality] was endorsed by the Chief Marketing Officer (CMO) and Chief Executive Officer (CEO) ... The decision to extend the contract was sought by the CMO, reviewed and supported by the agency's Procurement Review Committee (PRC) which consist of governance and procurement specialists from an unrelated area of our organisation and approved by the CEO. Neither the CMO, members of the PRC committee or the CEO attended the dinner..³⁰

11. Acceptance of prohibited gifts

Although some gifts, benefits or hospitality should not have been approved (see **Section 10**), very few entries recorded the acceptance of gifts that are categorically prohibited under the Policy. Four entries in the THS registers reported the acceptance of money or money equivalents. Each was a gift from a patient. The Policy states, '[u]nder no circumstance should employees or officers accept a gift of money or money equivalent, or a valuable object'.³¹ Accordingly, these offers should have been immediately declined or otherwise disposed of. This is what happened in other cases, where cash or gift cards were donated to charity. As mentioned in **Section 10.2.1**, the TFS accepted a significant donation of Coles gift cards. These were money equivalents and should have been declined.

There was one final offer that deserves a mention. Tourism Tasmania's gift register for the 2021-22 FY recorded an instance where an employee attended a miniature Master of Business Administration (Marketing) course paid for by a marketing communications company. The company had a 4-year advertising contract with Tourism Tasmania valued at \$1,055,385 that was due for renewal in March 2022.

We understand that the employee who attended the course was not involved in the decision to renew the contract and that this decision was based on an objective assessment of key performance criteria. However, the risk remains that feelings of reciprocity may be generated when an agency accepts a benefit from an organisation with which it does business. In this case, if the course was considered sufficiently valuable to Tourism Tasmania, the agency should have paid for the employee to attend.

12. Surrendered and declined gifts

Over 3 years, 20 gifts were declined or surrendered across all agencies. This included a few entries where an employee declared an offer, but the agency did not approve its acceptance ($n = 4$). Although this is a relatively small proportion of the total number of entries (12%), the numbers probably do not represent all gifts declined. The Policy states that employees 'may decline or return the gift, benefit or hospitality and there is no need to declare it if promptly declined and returned'.³² Therefore, offers that are immediately declined may not be recorded in the register.

It is noted that the *Operation Kilo Report* proposed a default position that if an employee is unsure whether an offer can be accepted, they should decline the offer **and declare it**.³³ Although it may be a better practice, this position was not adopted in the Policy.

The main reason given for declining a gift was that it breached the Policy ($n = 10$). The records stated this expressly or explained that the gift represented a conflict of interest or a reward for work done in the normal course of the employee's duties. In many cases, further explanations were provided. Some records noted that the gift had been donated to charity. The TAO register for the 2020-21 FY detailed the reason for declining an invitation to Christmas drinks from a business advisory and accounting firm. Its register noted: 'Discretionary decision making authority exists; To maintain the independence of the Auditor-General; To avoid a perceived conflict of interest.'

If a declaration was made but not approved, the entries stated that the employee was educated further on the Policy. If an employee seeks approval to accept such an offer, it may indicate a lack of knowledge or understanding of the Policy, and agencies may need to address their knowledge gap.

13. Compliance with the Policy

It has been noted several times that the lack of detail in public registers confounded attempts to assess compliance with the Policy. Nonetheless, we found instances of approved gifts, benefits or hospitality that we believe should have been declined. In other cases, the approval may only have appeared to breach the Policy due to a lack of information, such as its benefit to the agency.

The DPFEM is the only agency that includes a field in the public gift register for recording whether an offer is approved. The field is labelled, 'Delegate Approval/Non Approval'. The fact that none of the other public registers record whether gifts are approved makes it difficult to assess the compliance of agencies and employees. If a register does not record whether a head of agency (or delegate) approved a gift, it is not possible to determine whether the agency itself is compliant. If an employee declares that they have not declined an offer of a noncompliant gift and this is approved according to the agency's approval process, then both the employee and the agency are noncompliant.

In 18% ($n = 30$) of the entries, it appeared that **employees** did not comply with the Policy. This was primarily because the employees accepted:

- ▼ a reward for doing work that the state pays them to do, or
- ▼ gifts from suppliers with a vested interest in doing business with the government.

In 25% ($n = 43$) of the entries, it seemed that **employers** did not comply with the Policy. This was primarily because the employer approved gifts when there was a potential conflict of interest and a failure to provide information as required by the Policy.

Recommendation 4

That the Head of the State Service include an 'internal gift register template' (see Appendix 2) in the whole-of-government *Gifts, Benefits and Hospitality Policy*. As a minimum, the public register must contain the information in the 'public gift register template' (see Appendix 3). All agencies must use these register templates.

Part 5: Findings and conclusions

Following the *Operation Kilo Report*, State Service agencies began reviewing the policy framework for offers of gifts, benefits and hospitality with the aim of implementing a whole-of-government policy. We maintain that a 'no gifts' policy (subject to very limited exceptions such as token items) is the best policy for employees, agencies and the public interest. The Policy does not go so far, stating that 'in limited circumstances, it may be appropriate to consider acceptance of a gift, benefit or hospitality, or a modest refreshment, if offered'.³⁴ However, our findings have revealed that even this more modest approach has not been universally embraced. Some employees are still accepting gifts and agencies are still approving them where the rationale for doing so is at least questionable. Additionally, we suspect many gifts (especially sponsored travel) are not being recorded.

The findings from this audit suggest that, to some extent, the concerns raised in the *Operation Kilo Report* still exist. The policies and procedures sometimes conflict, employees may receive insufficient guidance regarding the Policy, and there remains work to do in educating employees and managers about conflicts of interest. Of particular concern is the acceptance of hospitality or sponsored networking opportunities when the link with the agency's official purpose or the expected benefit to the agency is unclear, as indicated by the limited information recorded on the public gift registers.

There is also some positive evidence that the messages from the *Operation Kilo Report* and the principles and processes enshrined in the Policy are being heeded. For example, a letter from the Tasmanian Dairy Industry Authority (TDIA) stated:

[f]ollowing receipt of your correspondence, we have looked at opportunities to develop our policies and procedures regarding receipt of gifts, benefits and hospitality, and have drafted our own policy (based fully on the NRE [Department of Natural Resources and Environment] one) which will be put to the Board for approval in August. The Board of TDIA will have oversight of the policy and registers from that time. I have also spoken with NRE to update our Service Level Agreement to ensure that TDIA are included in most if not all internal audit activities and have requested that the Gifts, Benefits and Hospitality Policy is included in the NRE induction sessions – which new TDIA staff attend.³⁵

Further, the DPFEM advised that it had updated its policy on gifts and benefits to better align with the Policy. Compared to the gift registers for the 2019-20 and 2020-21 FYs, the DOH register for the 2021-22 FY provided more comprehensive explanations for why offers were accepted. In the public registers, 20 entries recorded no declarations during some or all of the years audited. Four agencies recorded no gifts accepted for each of the years under review, and 3 of those agencies also recorded instances where gifts were surrendered or declined. Another 4 registers contained no declarations for at least one of the years under review.

This could be interpreted as evidence that the Policy is working and employees are declining otherwise declarable gifts. Conversely, the lack of records could indicate that employees are failing to declare the receipt of gifts either dishonestly or due to a lack of understanding about the Policy. This may be because the Policy is ambiguous about which gifts, benefits and hospitality are absolutely prohibited and what may be permitted in certain circumstances (see **Section 5**).

The fact that some agencies included non-declarable items in their public gift registers also suggests knowledge gaps regarding the Policy. Each agency could compile information sheets with additional guidance for employees to address this issue, as the DOJ have done (see **Section 8**).

The findings also suggest that the process for declaring and approving offers of gifts, benefits or hospitality should be improved. This might include a requirement to declare declined offers as well.

If the Policy is to achieve its objectives, not only should gifts be declared and recorded but registers should be subject to regular compliance audits. Except where gifts are manifestly inappropriate, an audit will be ineffectual unless potential conflicts of interest are disclosed. Currently, most public registers lack this level of detail.

It still seems that particular agencies do not understand, or at least do not acknowledge, the risks that arise from accepting offers of sponsored travel or professional development opportunities and tickets for ostensibly social or recreational activities from stakeholders. The cursory justifications provided in the gift registers for the value of such networking opportunities makes it apparent that this is still considered an acceptable approach to conducting business. While the Commission acknowledges that this is a widespread practice requiring further research, in our view, if these events are of sufficient benefit to the agency, then the agency rather than the stakeholder should pay for the employee to attend.

14. Good practice reminders

- ▼ Each agency should ensure its public gift register is published in compliance with the time frame provided in the Policy.
- ▼ Agencies should ensure they clearly communicate the principles and procedures of the Policy to employees. As part of this process, agency-appropriate fact sheets should be developed (similar to those currently provided by the DOJ) to guide and educate both employees and approvers.
- ▼ If a head of agency approves sponsored travel or professional development, they should explain in writing why the agency cannot cover the cost. This was emphasised in our *Operation Kilo Report*: 'If it is not worthwhile for the agency to pay the employee's way, then it is likely that the offer will not satisfy the public interest test.'³⁶
- ▼ If a head of agency approves sponsored travel or professional development, they should ensure the employee shares the learning gained, in writing, with relevant colleagues in the agency. Compliance with this condition should be recorded in the register, against the entry approving the travel or training.

15. Recommendations

Recommendation 1

That the Head of the State Service, as owner of the whole-of-government *Gifts, Benefits and Hospitality Policy*, review and revise the Policy to:

- a. clearly distinguish between policies and procedures
- b. ensure it is written in plain language
- c. resolve the existing conflicts, and
- d. identify any conflicts with other whole-of-government policies.

For example, the Policy states that employees must never accept an object valued at \$100 or more. Despite this express injunction, an employee may accept such offers with the requisite approval. Moreover, by requiring that declarations of items valued at \$100 or higher be published, the Policy clearly signals that offers of valuable objects may be approved.

Recommendation 2

That the Head of the State Service insert a requirement in the whole-of-government *Gifts, Benefits and Hospitality Policy* that a declarant must explain how an offer represents a networking opportunity if the reason for acceptance is 'networking' or 'maintaining stakeholder relationships'. For example, if the offer involves a networking lunch, the declarant must explain who they will network with, how the relationship with the stakeholder will be maintained and how this will benefit the agency.

Recommendation 3

That the Head of the State Service consider approaches for addressing the issue of so-called altruistic donations within the whole-of-government *Gifts, Benefits and Hospitality Policy*.

Recommendation 4

That the Head of the State Service include an 'internal gift register template' (see Appendix 2) in the whole-of-government *Gifts, Benefits and Hospitality Policy*. As a minimum, the public register must contain the information in the 'public gift register template' (see Appendix 3). All agencies must use these register templates.

References

- ¹ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016).
- ² Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 4.
- ³ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 80 (*Operation Kilo Report*), citing Office of Police Integrity Victoria, *Offers of Gifts and Benefits to Victoria Police Employees* (P.P. No. 199, June 2009).
- ⁴ Letter from Jenny Gale to Michael Easton, 30 October 2023.
- ⁵ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016).
- ⁶ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015).
- ⁷ Integrity Commission Tasmania, *Ethics and Integrity Snapshot* (Web page, 9 January 2023).
- ⁸ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 106, quoting Western Australian Auditor General's Report, *Audit Results Report: Annual 2011-12 Assurance Audits* (Report No. 14, 7 November 2012) 44.
- ⁹ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 17-8 (emphasis and citations omitted).
- ¹⁰ The exception was Homes Tasmania, a state authority established after the audit period in December 2022.
- ¹¹ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 9 (emphasis omitted).
- ¹² Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 9 (emphasis omitted).
- ¹³ DPAC, *Employment Direction No. 8 – Gifts and Benefits* (February 2013).
- ¹⁴ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 4 (emphasis omitted).
- ¹⁵ Letter from Rod Whitehead to Michael Easton, 4 October 2023.
- ¹⁶ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 9.
- ¹⁷ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 8-9.
- ¹⁸ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 142.
- ¹⁹ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 140-1.
- ²⁰ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 8.

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- ²¹ The Policy stipulates that compliance must be included in the annual audit and risk management processes and the findings reviewed by the agency executive. This audit did not offer scope to determine whether agencies are complying with that stipulation.
- ²² Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016).
- ²³ This excludes the 20 annual registers with no declarations of accepted gifts, benefits or hospitality.
- ²⁴ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 8 (emphasis omitted).
- ²⁵ The DOJ and Tourism Tasmania forwarded copies of their declaration forms to the auditor. The DOJ form is identical to the DPAC template. Tourism Tasmania includes an additional option – 'refusal would have caused cultural offense' – and is the only observed form that included space for additional information about why the employee accepted the offer.
- ²⁶ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 101-2.
- ²⁷ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 80 (citations omitted), quoting Australian Public Service Commission, *Values and Code of Conduct in Practice* (August 2017).
- ²⁸ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 80, citing Office of Police Integrity Victoria, *Offers of Gifts and Benefits to Victoria Police Employees* (P.P. No. 199, June 2009) 15.
- ²⁹ Tourism Tasmania, *Annual Report 2020 – 2021: The Off Season* (October 2021).
- ³⁰ Letter from Sarah Clark to Michael Easton, 13 October 2023.
- ³¹ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 4 (emphasis omitted).
- ³² Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 3 (emphasis omitted).
- ³³ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015) 59, citing NSW Public Service Commission, *Behaving Ethically: A Guide for NSW Government Sector Employees* (October 2014) 134 (emphasis added).
- ³⁴ Head of the State Service, *Gifts, Benefits and Hospitality Policy* (November 2016) 3 (emphasis omitted).
- ³⁵ Email from Carolyn Harris to the Integrity Commission Tasmania, 18 July 2022.
- ³⁶ Integrity Commission Tasmania, *An Own Motion Investigation into Policies, Practices and Procedures Relating to Receiving and Declaring of Gifts and Benefits in the Tasmanian State Service* (Report No. 1, 22 September 2015).

Appendices

Appendix 1: Project Vulcan audit criteria

1. Does the register suggest that one or more employees accepted a gift, benefit, hospitality, token memento or modest refreshment in the following circumstances:
 - a. It is money or money equivalent.
 - b. It is a valuable object valued at \$100 or higher.
 - c. The acceptor is a government buyer, and the acceptance may influence or be perceived to influence a procurement or disposal decision.
 - d. The acceptor or agency makes decisions or gives advice regarding the gift giver or are likely to in future, and the acceptance may influence or be perceived to influence the decision or advice.
 - e. Acceptance may otherwise cause an actual, perceived or potential conflict of interest, or may be seen by other people as a reward or incentive.
2. If yes to (1), was it approved by the Head of Agency or delegate?
3. If yes to (2), what was the reason given?
4. In the auditor's opinion, was the approval justified given the nature and intent of the Policy?
5. Does the register suggest that one or more employees solicited a gift, benefit or hospitality in the course of their duties as an officer or employee for their personal benefit or for the benefit of a spouse, partner, friend or family member?
6. Does the register suggest that one or more employees accepted token mementos and/or modest refreshments from a single supplier valued in total at over \$100 in an annual period?
7. If yes to (6), was it approved by the Head of Agency or delegate?
8. If yes to (7), what was the reason given?
9. In the auditor's opinion, was the approval justified given the nature and intent of the Policy?
10. Does the register suggest that one or more employees surrendered or declined a reportable gift, benefit, hospitality, token memento or modest refreshment?
11. If yes to (10), was it approved by the Head of Agency or delegate?
12. If yes to (11), what was the reason given?
13. Did the agency publish the register in its annual report for that financial year or on its website within 4 months of the end of that financial year?
14. In the auditor's opinion, does the content of the register suggest that employees of the agency are not complying with the Policy? If yes, explain.
15. In the auditor's opinion, does the content of the register suggest that the agency is not complying with the Policy? If yes, explain.

Note. The 'Policy' means the whole-of-government *Gifts, Benefits and Hospitality Policy*.

Appendix 2: Suggested internal gift register headings

1. Date of declaration
2. Employee name and position (job title and unit/division/branch/section)
3. Name of company and/or individual offering gift
4. Date of offer/receipt
5. Description of gift
6. Estimated actual value
7. Reason for offer
8. Regardless of the decision, is there or would there be a conflict of interest in accepting this gift?
 - a. Perceived
 - b. Actual
 - c. Potential
9. Relationship:
 - a. Does a discretionary decision-making authority exist between the employee or anyone in the agency and the offeror?
 - b. If there is no direct discretionary decision-making authority between the employee and the offeror, could the gift cause a conflict of interest with other discretionary decisions in the agency?
10. Decision:
 - a. Declined/returned (state which)
 - b. Disposed of (state how)
 - c. Accepted by agency (state use)
 - d. Accepted by employee (state conditions)
11. Reasons for decision
12. Decision-maker name and position (job title and unit/division/branch/section)
13. Date of decision

Appendix 3: Suggested public gift register headings

1. Date of declaration
2. Employee unit/division/branch/section
3. Name of company and/or individual offering gift
4. Date of offer/receipt
5. Description of gift
6. Estimated actual value
7. Decision-maker job title and unit/division/branch/section
8. Date of decision
9. Decision:
 - a. Declined/returned
 - b. Disposed of
 - c. Accepted by agency
 - d. Accepted by employee
10. Reasons for decision

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