



PUBLIC TRUSTEE AND GUARDIAN

POLICY

DOCUMENT PROPERTIES	
Name of Policy	Gifts and Inducements
PTG Policy Number	2017-3
Version/s	21 July 2016
Endorsed by SLG	21 July 2016
Authorised by	Andrew Taylor, Public Trustee and Guardian
Date for review (plus three years)	21 July 2019

LEGISLATION

The *Public Sector Management Act 1994* (the Act) provides that a public employee shall, in performing his or her duties -

- s 9(k) not take, or seek to take, improper advantage of his or her position in order to obtain a benefit for the employee or any other person; and
- s 9(l) not take, or seek to take, improper advantage, for the benefit of the employee or any other person, of any information acquired, or any document to which the employee has access, as a consequence of his or her employment;

DEFINITION/S

Benefit is something that provides an advantage or gain.

Gift is a voluntary transfer of property without compensation.

Corruption in relation to an officer or employee means that the officer or employee seeks, obtains or receives any benefit, other than lawful salary and allowances, on the understanding that the officer or employee will do or refrain from doing anything in the course of their duties or will attempt to influence any other officer or employee on behalf of any person.

POLICY

Under paragraph 9(k) and 9(l) of the Act, public employees must not take, or seek to take, improper advantage of their position for personal gain.

In general, public employees should be discouraged from accepting gifts. Where it is not possible to politely decline offered gifts without causing offence to the person involved or embarrassment to the Territory, gifts may be accepted on behalf of the Territory. The gift should then be immediately declared to the Public Trustee and Guardian (PTG) as Chief Executive and handed over to be recorded on the PTG's Gifts Register.

Public employees are required by law not to -

- take advantage of their position to influence any person to enter into a financial or other arrangement;

- give any favour or undue benefit, or make any other arrangement to improperly influence another public employee's performance of their duties;
- use their official position to seek or obtain any financial or other advantage for themselves, their family or any other person or organisation; or
- accept gifts or benefits related to the performance of their official duties without the approval of their Chief Executive.

PTG staff should be aware, that the acceptance of any benefit could be an offence. 'Benefit' may include offers of gifts, free travel, substantial hospitality, accommodation or entertainment.

A simple rule of thumb is to ask yourself whether the gift is from a person/organisation which whom PTG is under a procurement relationship. If so, gifts should not be accepted under any circumstances.

Where PTG employees are unsure if their actions may result in or give the appearance of taking improper advantage of their position, they should declare the situation to their Director and discuss the matter immediately.

PTG staff might judge the right course of action by asking themselves -

- is the benefit or opportunity an entitlement under their conditions of employment; and
- do ordinary citizens have access to the same opportunities or benefits available to public employees.

If the answer in both cases is no, staff should seek advice before accepting the opportunity or benefit.

This policy on the acceptance of gifts also applies where offers of gifts are made to a public employee's immediate family, and there is a clear link with the official duties of the public employee.

Consistent with paragraph 9(k) of the Act, PTG employees should not accept gifts or other benefits apart from their entitlements unless:

- they have a written approval of their Chief Executive;
- where the gift is of little financial value and there is no reasonable possibility for the gift to cause a real or apparent conflict of interest.

Offers of sponsored travel should be directed to the Chief Executive so they can select an appropriate public employee if the travel is justified. The Chief Executive should consider the following factors when assessing requests to accept sponsored travel -

- generally, the ACT Government should meet all expenses associated with justified, work-related travel by its public employees; and
- under paragraph 9(k) of the Act, public employees must avoid actual or apparent conflicts of interest.

Sponsorship of travel by private firms or groups is unlikely to be acceptable. There may be exceptions where an agency considers the travel is in the Government's interest and where alternative means of travel at official expense are ruled out on practical grounds (including unavailability of public transport in remote localities). It may be appropriate for the agency to offer to contribute to the cost of this travel on this basis that it is justified and work-related.

Offers of discounted accommodation to the ACTPS as a whole are not considered improper. Sponsored travel which would not be acceptable is not made acceptable simply by the fact that the employee takes leave for the period of travel.

Travel arising from bona fide prizes or scholarships awarded to a person in a private capacity, or under existing approved programs such as overseas exchanges, study awards and traineeships, is not improper and may be accepted. Official travel and associated costs (like accommodation and car

rental) should not be used to accumulate bonus points for Frequent Flier benefits for private purposes.

Participation in lottery style competitions associated with air travel, where passengers are invited to place boarding passes or business cards in competition containers, is also a breach of the Act. The advantages offered by airlines to customers should, however, be used by agencies. Chief Executives should negotiate with airlines to use bonus points from official travel for other official travel, or to be converted to a discount on official travel costs.

The most common form of gift or inducement that PTG staff will encounter will be flowers or gifts from service providers eg real estate agents. The offer of such gifts is designed to promote repeat business and should not be accepted.

On the other hand a gift from a client as a thank you for something well done may be acceptable but should be declared to the Office Services Unit.

END OF POLICY