

## Purpose

This policy states Barwon Health's position on:

- responding to offers of gifts, benefits and hospitality; and
- Providing gifts, benefits and hospitality.

This policy is intended to support individuals and Barwon Health to avoid conflicts of interest and maintain high levels of integrity and public trust.

Barwon health has issued this policy to support behavior consistent with the *Code of conduct for Victorian public sector employees* (the Code). All employees are required under clause 1.2 of the Code to comply with this policy.

## Target Audience

This policy applies to all workplace participants. For the purpose of this policy, this includes: executives, board members, individuals, contractors<sup>1</sup>, consultants and any individuals or groups undertaking activity for or on behalf of Barwon health

## Definitions

- Business associate** an external individual or entity which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
- Benefits** Include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs, and promises of a new job.  
The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.

## Conflicts of

- Actual conflict of interest:** There is a real conflict between an employee's public duties and private interests.
- Potential conflict of interest:** An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.
- Perceived conflict of interest:** The public or a third party could form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.
- Gifts** Are free or discounted items and any item that would generally be seen by the public as a gift? These include items of high value (e.g. artwork, jewellery, or expensive

<sup>1</sup> Note the application of clause 1.4 of the Code of conduct for Victorian public sector employees to the engagement of contractors and consultants. Contractors and consultants are only bound by the code if explicitly required by their contract for services.

pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates).  
 The provision of gifts for fundraising that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.

<b>Hospitality</b>	Is 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.
<b>Legitimate business benefit</b>	Gifts, benefits and hospitality accepted or provided for a business purpose that furthers the outcomes that align with Barwon Health’s business or other legitimate goals.
<b>Public official</b>	Has the same meaning as under section 4 of the <i>Public Administration Act 2004</i> . This includes: <ul style="list-style-type: none"> <li>• public sector employees;</li> <li>• statutory office holders; and</li> <li>• Directors of public entities.</li> </ul>
<b>Register</b>	Is a record, preferably electronic, of all declarable gifts, benefits and hospitality? It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.
<b>Token offer</b>	Is an offer of a gift, benefit or hospitality with a value at the time of \$50? It may include promotional items such as pens and note pads and moderate hospitality which would be considered a basic courtesy such as light refreshments offered during a meeting. Whilst the primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50 (including cumulative offers from the same source over a 12 month period).
<b>Non-token offer</b>	Is an offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than \$50. This value may be reached by single offers or by cumulative offers from the same source over a 12 month period. Invitations to sporting or entertainment events are deemed to be non-token. Non-token offers and must be recorded on a gift, benefit and hospitality register.

## Policy

This policy has been developed in accordance with requirements outlined in the *Minimum accountabilities for managing gifts, benefits and hospitality* issued by the Victorian Public Sector Commission.

Barwon health is committed to and will uphold the following principles in applying this policy:

Public interest: individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a perception of or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.

Accountability: individuals are accountable for:

- declaring all non-token offers of gifts, benefits and hospitality;
- declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer; and
- the responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance of or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

Risk-based approach: Barwon Health, through its policies, processes and audit committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

### Minimum accountabilities

The Victorian Public Sector Commission has set binding minimum accountabilities for the appropriate management of gifts, benefit and hospitality. These can be found at [Schedule A](#)

### Management of offers of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality.

#### Token offers

Individuals may accept token offers of gifts, benefits and hospitality without approval or declaring the offer on the Barwon Health Gifts & Benefits register.

#### Non-token offers

Individuals should consider the GIFT test at [Table 1](#) and the requirements noted to help respond to a non-token offer.

Individuals are to refuse non-token offers:

- that are likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest;
- from a person or organisation about which they will likely make a decision (also applies to processes involving grants, sponsorship, regulation, enforcement or licensing);
- that are likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- with no legitimate business benefit;
- of money, or used in a similar way to money, or something easily converted to money;

- where, in relation to hospitality and events, Barwon Health will already be sufficiently represented to meet its business needs
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions; where the offer could be perceived to influence future procurement decisions made by a person or organisation and made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the CEO or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

**Table 1. GIFT test**

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

### Accepting and Approving Gifts

Suppliers may offer **corporate** sponsorship in support a Barwon Health department’s research, open days, grand rounds, clinical symposiums, or functions such as Research Week. Appropriate sponsorships may be accepted where there is clear and demonstrable benefit to the public, Barwon Health, or where such sponsorship allows Barwon Health to optimise limited resources.

For sponsorship of, or gifts and benefits to specific individuals, there may be a Legitimate Business Reason (defined above) for accepting a non-token offer. The distinction between corporate sponsorship (permitted except during a tender) and personal sponsorship (prohibited), is that corporate may be accepted where this is clear and demonstrable benefit to Barwon Health as a whole, as opposed to being of private benefit to an individual employee.

No corporate sponsorship can be considered from a supplier if Barwon Health is in the process of or anticipating to request tenders from the organisation, evaluating a tender from the organisation, or in negotiations with the organisation. At all other times Barwon Health encourages its suppliers and local businesses to provide support to its hospitals through (for example) the Barwon Health Foundation.

If Barwon Health personnel believe that there is a Legitimate Business Reason for accepting an offer, they must seek approval in writing from the person listed below. Employees must request approval by completing the [Request Gift / Benefit Approval](#) online form.

Employee	Authorised Delegate
All staff	Chief, Director or CEO
Chief or Director	CEO
CEO	Board Chair

All gifts, benefits and hospitality received by the CEO are reported annually to the Secretary of the Department of Health.

In deciding whether to approve the acceptance of an offer or a gift, the relevant Barwon Health officer should ensure there can be no reasonable public perception of partiality. In particular consideration should be given to:

- Why the offer was made;
- The frequency of offers from particular suppliers. For example, one function per year may be acceptable, whereas attending functions on a monthly basis would not;
- The nature of the offer, Events with an associated educational professional development presentation would more likely be acceptable;
- Who has been invited? An event with representatives from multiple hospitals is more likely to be acceptable than one-on-one dining or entertainment. In some circumstances, the nature of the event might make it appropriate for an employee's partner to attend, but other family members should not be considered;
- The relationship between the donor and the recipient. If the employee is in a position to provide advice or make decisions on matters including ( but not limited to) tendering outcomes, granting licences, inspecting and regulating businesses to giving approvals, it is more likely the gift would be perceived as inappropriate;
- The transparency and openness of the gift. If the gift is offered to an employee in the public forum, it is less likely to be perceived as a gift of influence than if it were offered in a private context.

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval prior to accepting. For example, they might be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must seek approval from the Chief, Director or authorised delegate within five business days.

#### Recording non-token offers of gifts, benefits and hospitality

Employees must declare all non-token offers that are made to them, regardless of whether accepted or declined and they must be recorded in the Barwon Health's gifts, benefits and hospitality register, which is located on the Barwon Health website via the [Gifts and Benefits Register](#) link. If multiple gifts, benefits or hospitality offers are received from the same donor by an employee and in any financial year the cumulative value of these is more than \$50 then each individual gift, benefit or hospitality event must be declared.

The business reason for accepting a non-token offer must be recorded in the register and provide sufficient detail to link the acceptance to the individual's work functions and benefits to the Barwon Health, public sector or State.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included in the Barwon Health register when recording the Business reason:

**Unacceptable:** “Networking”

“Maintaining stakeholder relationships”

**Acceptable:** “Individual is responsible for evaluating and reporting outcomes of the Barwon health’s sponsorship or event A. Individual attended Event A in an official capacity and reported back to the Barwon Health event.”

“Individual presented to a visiting international delegation. The delegation presented the individual with cultural item worth an estimated \$200. Declining the gift would have caused offence. The Gift was accepted, written approval was subsequently obtained for the gift which became Barwon Health property.”

### Oversight

The Chief of Workforce and Culture will be responsible for ensuring the gifts and benefits register is subject to regular review and is reviewed annually by the Audit Committee. The purpose of the review should include analysis for repetitive trends or patterns which may cause concern and require corrective and preventive action.

The Barwon Health Audit Committee will receive a report at least annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of Barwon Health’s gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

### Ownership of gifts offered to individuals

Non-token gifts accepted by an individual for their work or contribution may be retained by the individual where their authorised manager has provided written approval.

### **Representing Barwon Health**

When employees attend a conference as a participant, speaker or apply for an award in recognition of their public sector work, they are representing the organisation. Consequently, any benefits accruing from the employee’s activity belong to Barwon Health if greater than the nominal value. This includes door prizes, fees for speaking and financial grants. Barwon health may choose to use the gift to fund the employee’s further work or development.

### **Ceremonial and other significant gifts**

International delegations may offer ceremonial gifts on behalf of their country or organisation to an employee. Ceremonial gifts of significant value become the property of Barwon Health and should be recorded on the asset register. If these gifts are of cultural significance they must be offered to an appropriate public institution such as Melbourne Museum, National Gallery of Victoria or similar organisation. Significant gifts or the proceeds from their sale may be donated to Barwon Health.

### **Sponsored Travel and Accommodation**

Employees must not accept **personal** sponsorship or offers of other support from suppliers. For example, offers of sponsored travel for the purpose of assessing new medical equipment located at a supplier’s premises or in operation at other hospitals or healthcare organisations must be declined because of the potential for a conflict of interest. However, if the offer is considered to be in the best interests of the public or Barwon Health, the employee may apply via the appropriate process to seek approval. If the matter is of personal interest, all costs must be paid by the employee.

If, in the course of the tender process, the evaluation panel has shortlisted suppliers or selected a piece of equipment, the panel may recommend to a relevant Chief or Director that further assessment of the item is necessary before it can make an informed purchasing decision. In this situation the panel may

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recommend that an offer of support (in the form of free or subsidised travel) from the tenderer be accepted. As a general principle it will be a requirement of tenderers that access to a working example of equipment can be provided during the tender evaluation process. The Chief, Director or the Chief Executive Officer will nominate the appropriately qualified employee/s to conduct the visit.

From time to time suppliers may offer sponsorship and free or subsidised travel and/or accommodation to support a Barwon health's attendance at conference or to be part of a group of clinical or technical specialists reviewing the performance of a drug or other form of medical treatment or technology as a result of that staff member's recognised expertise in the field. Staff may also be offered participation in an industry familiarisation tour which may include free or subsidised travel and accommodation. If accepted, any resulting monetary payments must be paid into the employee's cost centre for the benefit of the employee's department.

Unless the offer arises as a result of a particular person's medical or technical expertise, such sponsorship must be an offer to the organisation and not to the individual employee of Barwon Health. An offer to an individual will only be considered if the recipient is attending in an official business capacity and is chairing the conference or a major session at the conference, presenting a paper contributing their knowledge and expertise as a recognised clinical or technical expert or otherwise making an active and essential contribution to the event. The decision on whether to accept the offer and the conditions of the acceptance will be the responsibility of the relevant Chief, Director or Chief Executive Officer.

**Example 1:**

*A supplier extends an invitation direct to Barwon Health staff member to attend their head office in Germany to view and assess new medical equipment. The invitation includes all travel and accommodation expenses.*

The invitation must be declined as it was made to an individual and is deemed personal sponsorship.

**Example 2:**

*A supplier offers a sponsorship to Barwon Health for a staff member to attend their head office in Germany to view new medical equipment.*

If there is a clear and demonstrable benefit to the health service, Barwon Health may accept the sponsorship, approve the trip and select the most appropriate candidate to attend.

**Example 3:**

*X is a doctor who occasionally works as a renal specialist at the hospital. He is hoping to attend a symposium in China on the emerging field of commercial kidney donation for transplants and is seeking sponsorship for his trip. The hospital has declined due to lack of funds and interest in the symposium. X sends an email to various pharmaceutical suppliers seeking funding for the trip in exchange for promoting their products within the hospital.*

This would be unacceptable as X breached the guidelines by soliciting the funds for personal benefits and compromised his position further by offering to promote the company's products. If X attends the symposium it must be at his own expense and he must not promote the products he observes at the symposium.

**Example 4:**

*Y is a VMO with a fractional appointment at Barwon Health. He has been approached by a supplier in his private capacity with the offer of paid travel and/or conference expenses.*

As Y is an employee of Barwon Health the gifts and benefits policy applies and a declaration is required. If Y has accepted this offer in his private capacity this should be noted on the declaration and

Y should be precluded from any decision making or influence on the procurement of goods and services from that supplier.

### Barwon Health Providing Gifts, Benefits and Hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

#### Requirements for providing gifts, benefits and hospitality

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

When deciding whether to provide gifts, benefits or hospitality, Barwon Health personnel must ensure:

- Any gift, benefit or hospitality is provided to further the conduct of Barwon Health’s official business or other legitimate goals;
- That any costs are proportionate to the benefits obtained for Barwon Health, and would be considered reasonable in terms of community expectations (the “HOST” test as [Table 2](#) is a good reminder of what to think about in making this assessment); and
- It does not raise an actual, potential or perceived conflict of interest.

#### **Table 2. HOST test**

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

#### Containing costs

Individuals should contain costs involved in the provision of gifts, benefits and hospitality wherever possible. The following questions may be useful to assist individuals to decide the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?
- Is the proposed catering or hospitality proportionate to the number of attendees?



- Does the size of the event and number of attendees align with intended outcomes?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?
- Is the proposed catering or hospitality in accordance with the Entertainment and Expenditure guidelines?

### Breaches

Disciplinary action consistent with the relevant industrial instrument of legislation and Barwon Health policies, including dismissal, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the Barwon Health Code of Conduct and Conflict of Interest policies.

Actions inconsistent with this policy may constitute misconduct under the *Public Administration Act 2004*, which includes:

- breaches of the binding *Code of conduct for Victorian public sector employees*, such as sections of the Code covering conflict of interest (section 3.7), public trust (section 3.9) and gifts and benefits (section 4.2); and
- individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Chief Workforce and Culture Officer.

### Contacts for further information

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Individuals who are unsure about the acceptance of a gift, benefit or hospitality, or the application of this policy, should ask their Manager, Chief or Director for advice.

### Evaluation

Regular document revision and review of the risk register.

### Key Aligned Documents

[Code of Conduct Policy](#), PROMPT: Barwon Health \ Workforce \ HR

[Corporate Purchasing Cards](#), PROMPT: Barwon Health \ Financial Services \ Finance

[Corporate Purchasing Cards Policy](#), PROMPT: Barwon Health \ Financial Services \ Finance

[Procurement Compliance Manual](#), PROMPT: Barwon Health \ Organisations Services \ Procurement & Supply

[Request Gift / Benefit approval](#), Barwon Health Website \ About Us \ Gifts and Benefits Register

### Key Legislation, Acts & Standards

Public Administration Act 2004 (VIC). Version No. 066. Version incorporating amendments as at 8 August 2018. Retrieved September 13, 2018 from [http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol\\_act/paa2004230/notes.html](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/paa2004230/notes.html)

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Victorian Public Sector Commission (VPSC). (2018). Code of conduct for directors of Victorian public entities. Retrieved September 13, 2018 from <https://vpsc.vic.gov.au/html-resources/code-of-conduct-for-directors-of-public-entities/>

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<b>Committee/s:</b>	Members	Executive Governance	21 May 2018
<b>Committee/s:</b>	Members	Barwon Health Board	8 June 2018

## Schedule A

### Minimum accountabilities

#### Public officials offered gifts, benefits and hospitality:

1. Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
2. Refuse all offers of gifts, benefits and hospitality that:
  - are money, items used in a similar way to money, or items easily converted to money;
  - give rise to an actual, potential or perceived conflict of interest;
  - may adversely affect their standing as a public official or which may bring their public sector employer or the public sector into disrepute; or
  - are non-token offers without a legitimate business benefit.
3. Declare all non-token offers (valued at \$50 or more<sup>1</sup>) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

#### Public officials providing gifts, benefits and hospitality:

1. Ensure that any gift, benefit and hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities.
2. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
3. Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

#### Heads of public sector organisations:

1. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
2. Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
3. Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
4. Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for a business associate acting contrary to the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
5. Report at least annually to the organisation's audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers

from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

6. Publish the organisation's gifts, benefits and hospitality policy and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.