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Managing gifts & benefits

Purpose

This policy sets out the requirements for Sydney Living Museums (SLM) regarding the management of gifts and benefits. It provides direction to workers on the appropriate response to offers and management of gifts or benefits in order to protect them, SLM and the Foundation Directors against potential negative perceptions by the public.

Background

As a NSW government public sector agency SLM, is bound by the NSW government's *Ethical Framework for the Government Sector* and is committed to promoting and maintaining the public's trust by ensuring our workers are not influenced by gifts, benefits or bribery.

SLM is committed to being a professional and ethical workplace and strives to manage gifts and benefits effectively. For workers, there are many real and perceived risks associated with being offered or accepting gifts or benefits. Soliciting or accepting a gift or benefit as an inducement to make a decision, or to provide a favour, is not only inconsistent with the Ethical Framework, but constitutes corrupt conduct under the *Independent Commission Against Corruption Act 1988* (ICAC Act) and may lead to criminal prosecution.

Scope

The policy applies to individuals directly engaged by SLM including: employees; volunteers, interns and work experience students.

Where SLM is referred to throughout this policy, this includes reference to the Foundation Board Directors.

The policy does not apply to:

- Gifts and benefits provided by SLM to individuals. Benefits supplied to SLM as part of its sponsorship and/or partnership agreements. These benefits are part of contracts and managed in open transparent processes in accordance with SLM's Gift Management Policy (major/cultural gifts/bequests & sponsorship).
- Collection Gifts or Bequests which are dealt with according to the Australian Government's Cultural Gifts Program and any Bequest terms and conditions.

POLICY

1. General principles

Workers must never:

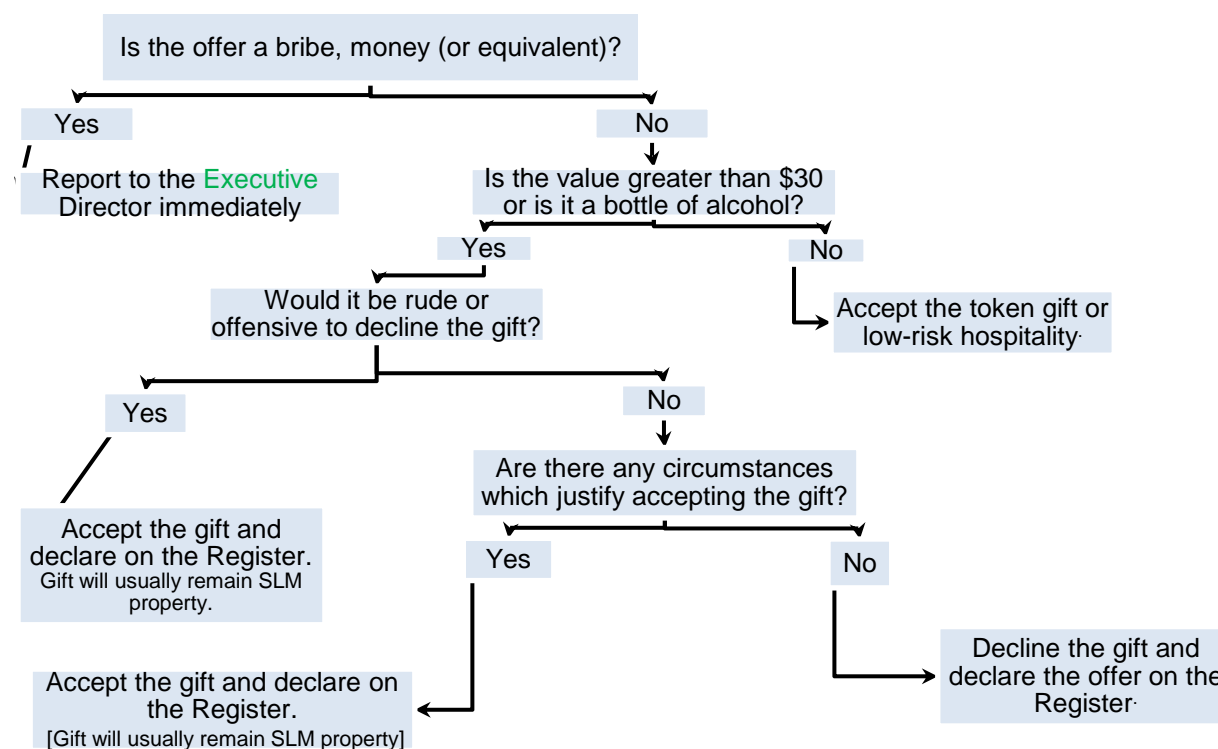
- solicit a gift or benefit
- accept a gift or benefit as an inducement to act in a certain way, or where there could be a perception that it has been offered as an inducement to act in a certain way (i.e. the gift or benefit could give rise to an actual, potential or reasonably perceived conflict of interest)
- accept cash, cheques, money orders or gift vouchers
- accept a gift or benefit where it is to be provided to a family member, relation, friend or associate
- accept a gift or benefit where you currently, or may in the future, have a role in any decision affecting the giver
- accept a gift or benefit if you are unsure whether you should.

Gifts and benefits that may be accepted are outlined in Section 2. However in some cases there will be grey areas where common sense and good judgement need to be used. In determining how to respond to an offer, workers should consider:

- whether or not a reasonable person would think that the gift or benefit was intended to influence them to act in the interests of the giver, either now or in the future;
- the frequency or regularity of gifts or offers from the same source;
- the scale, lavishness or value of the gift;
- the degree or openness surrounding the occasion or gift.

Where there is any doubt about the motive of the gift or offer, the worker should err on the side of caution and decline the offer, or, if it has already been received, declare the gift or benefit as set out in Section 7.

Gifts & Benefits Decision Tree



2. Gifts that may be accepted by workers

This section outlines the circumstances in which gifts can usually be accepted by workers, whether or not they need to be declared, and whether or not the gift will remain the property of SLM. In applying these rules, workers should be mindful of the overriding restrictions set out in Section 1.

2.1 Token gifts – must be under \$30 in value

Workers may accept token gifts or benefits where they are offered in business situations or to all participants and attendees (e.g. seminars, conferences trade and/or agricultural shows and business events), as they would not be perceived as items designed to influence or win favours. Token gifts could include: pen, cap, stationery, coffee mug, memory sticks.

Token gifts may also include items such as a small box of chocolates from an intern or student to a team or business unit to they are working with

Bottles of alcohol do not meet the definition of token gifts and are addressed under point 2.7 below.

- Workers do not need to declare or report token gifts on the Gifts & Benefits Register.
- The nominal value of \$30 is a cumulative value, within a 12 month period, from the same source. Where a worker is accepting multiple token gifts, the gifts must be declared.

2.2 Cultural considerations

Sometimes representatives or delegations from other countries may offer gifts and hospitality to SLM workers and they consider this offer an important part of doing business with government officials. Workers may accept such a ceremonial gift on behalf of SLM.

- These gifts must be declared and recorded on the Gifts & Benefits Register and will remain SLM property.

2.3 Prizes or awards

On some occasions a worker may receive a gift or prize as a result of attending or hosting a conference or other business event while engaged in official duties.

These gifts will usually be given in a public forum and are often given in appreciation for the work of SLM or the SLM worker and refusal to accept the gift would cause embarrassment or affront. In these cases it would be appropriate to accept the prize or gift given.

Gifts given to SLM workers serving as judges on award panels will be dealt with under the relevant section of this policy; for example 2.1 for token gifts valued under \$30.

- These gifts or prizes (including any prize in the form of cash, vouchers, money order etc) must be declared and recorded on the Gifts & Benefits Register. They remain SLM property.

2.4 Basic courtesy - refreshments

If hospitality is accepted in good faith but the supplier attempts to use the occasion to raise a materially significant matter relating to their business or private affairs, the worker should politely decline to discuss the matter and, if appropriate, propose that a formal meeting be organised for a later date.

2.4.1 Low risk hospitality

Workers may accept low risk hospitality such as light refreshments (eg tea, coffee, water, etc) or a modest meal (no alcohol) during a meeting or as a participant of a working group. This is considered a basic courtesy and SLM would reciprocate in similar circumstances.

Other examples include: functions that a worker attends as an SLM representative; hospitality provided as part of a conference package, where SLM has paid a fee for the worker to attend; catered briefings and launches where invitees from a range of external organisation are present.

- Low risk hospitality gifts do not need to be declared or recorded on the Gifts & Benefits Register.

2.4.2 Higher risk hospitality

Some types of hospitality pose a higher risk and should be declined, or recorded before they are accepted, to ensure a higher degree of transparency. Examples of higher risk hospitality include invitations: to celebrate finalisation of a procurement process or signing a contract; to functions held in private homes or corporate boxes; or which extend to family members, relations or associates.

- Higher risk hospitality gifts should be declined, or declared, before being accepted if possible. They should be recorded on the Gifts & Benefits Register. The Authorising Officer will determine the required action.

2.5 SLM restaurants and invitations to hospitality industry events

SLM's commercial operations include venue hire, management of catering contractors and events. It enters into contractual relationships with external companies to deliver these services. As part of ensuring service standards and product knowledge, relevant SLM staff may attend events at restaurants on SLM premises or tasting events in commercial kitchens of SLM operators. Invitations to these events are coordinated by the Executive.

- Provided there is a relationship to SLM work responsibilities, these are not considered gifts and do not need to be recorded on the Gifts and Benefit Register.

2.6 Invitations and free tickets to events

Invitations and free tickets to cultural events are dealt with differently, depending on the situation. The key consideration is the relevance of the event to the SLM work responsibilities of the attendee.

2.6.1 Invitations to cultural events being run by external agencies or organisations

Given the nature of SLM business, workers frequently receive invitations to exhibition launches and other cultural or tourism events held by other government agencies or cultural organisations. Generally, SLM attendance at these events is related to SLM work responsibilities, and as such do not constitute a gift or benefit.

Where there is no relationship to SLM work responsibilities, invitations to cultural events may still be considered an inducement. In these cases the recipient should err on the side of caution and declare the offer under 2.6.4 below.

- Provided there is a relationship to SLM work responsibilities, these are not considered gifts and do not need to be recorded on the Gifts & Benefits register.

2.6.2 Invitations to product launches

Invitations to product launches may be accepted by the relevant Head of Team where SLM is considering that product for purchase or upgrade (for example an invitation to a new software launch may be relevant to ICT or Web Screen & Media, an invitation to the launch of a new wine vintage may be relevant to Commercial Services). The Head of Team may delegate other SLM workers to attend.

- Provided there is a relationship to SLM work responsibilities, these are not considered gifts and do not need to be recorded on the Gifts & Benefits register.

2.6.3 Tickets to movie & theatre previews offered to SLM

As a cultural organisation, SLM is offered tickets to movies and theatre previews. As a rule, these offers are not made exclusively to SLM and the purpose behind the offer is to ensure a full audience at the event.

- These offers will be managed through the Executive and made available to all SLM workers on a first come first serve basis. Guests and family members are permitted. They do not need to be declared or recorded on the Gifts & Benefits Register.

2.6.4 Other invitations to events or tickets offered by unrelated third parties

Invitations to events or tickets offered by parties not directly involved in the event must be treated as gifts or benefits as they may be seen as an inducement. An example of this situation is an offer of a ticket to a sporting event.

- These must be declared and recorded on the Gifts & Benefits Register and will remain SLM property.

2.7 Alcohol

Gifts of alcohol have the potential to be seen as items designed to influence and win favours.

- Gifts of alcohol must be declared and recorded on the Gifts & Benefits Register and will remain SLM property.

2.8 Bonus gifts for agency purchases

Sometimes suppliers may provide bonus gifts to their clients to mark an occasion. Workers may accept such a ceremonial gift on behalf of SLM.

- These gifts must be declared and recorded on the Gifts & Benefits Register and will remain SLM property.

2.9 Flowers

Flowers are commonly given to express thanks. Given their perishable nature, flowers may be retained by the recipient. However, workers should ensure that the gift of flowers from a single person or supplier is not a frequent occurrence and is not an attempt to influence them in their role as a public official.

- Gifts of flowers do not need to be declared or recorded on the Gifts & Benefits Register.

2.10 Travel

Where a travel or accommodation provider upgrades an SLM worker for operational reasons, at no charge to the worker or SLM (for example an airline upgrades a traveller to business class because economy is overbooked), the worker may accept the upgrade.

Workers should never seek or solicit an upgrade from a travel or accommodation provider in relation to official travel, or accept offered upgrades that do not meet the above criteria.

- Upgrades may be accepted under the conditions described above, but must be declared and recorded on the Gifts & Benefits Register.

2.11 Competitive scholarships and awards

SLM workers may be eligible to apply for scholarships or awards in recognition of their achievements or potential in their field of expertise. SLM permits employees to accept, with the approval of the Executive Director, professional scholarships and awards won as a result of an open and competitive application process, even where the value of the award exceeds the nominal value identified for token gifts.

- All relevant details of the award, including the Executive Director's approval, must be included in the Gifts & Benefits Register.

3. Offers at cultural or other religious occasions

Christmas and other cultural or religious occasions do not represent exceptions to this policy.

4. Gifts and benefits designated as SLM property

Where low value gifts or benefits have been designated as SLM property, at the discretion of the relevant Team Leader or Head of Portfolio, they may be:

- made available to all workers through a raffle or at an SLM workers' function;
- in the case of an event ticket, may be made available to specific workers as a professional development opportunity; or
- donated to charity or returned to the giver.

5. Gifts that should or must not be accepted by workers

5.1 Gifts of money

Accepting gifts of money is strictly prohibited in all cases since in all likelihood such a gift would be perceived as an attempt at bribery. This includes offers of money to cover expenses for trips to view samples of work, or to expedite the work of SLM.

Any such gift that is received (for example in the mail) must be immediately declared and every effort made to return it.

If a worker is offered a gift of money, it should be refused and the incident declared immediately to the Authorising Officer and the Executive Director.

The offer must also be recorded on the Gifts & Benefits Register.

5.2 High value gifts – gifts above \$100

Gifts of benefits of substantial value should generally be declined wherever possible or be turned over as SLM property and not retained as personal gifts.

Gifts in this category may include jewellery; use of facilities such as gyms and holiday homes; free or discounted travel; tickets to major sporting events or other entertainment.

If a worker receives such a gift and is unable to refuse it, the gift must be declared and recorded on the Gifts & Benefits Register and it will remain SLM property.

5.3 Gifts of art or other heritage items

Generally it will not be appropriate for individuals to retain gifts of art or other items that may be of heritage value as personal gifts. Such gifts should either be declined or referred to assessment as to whether the item should be considered for inclusion in an SLM collection in accordance with procedures set out in the Collections Management Policy.

6. Breaches and suspected breaches of the policy

Breaches of the policy include accepting inappropriate or prohibited gifts or benefits and failing to declare gifts or benefits. Depending on the seriousness, a breach may constitute a breach of the Code of Conduct and result in proceedings for misconduct. In addition, soliciting gifts or benefits or accepting a bribe may constitute a criminal offence and will be referred to the Police and the Independent Commission Against Corruption (ICAC).

7. Reporting bribes/soliciting of personal gifts or benefits

If an employee is offered a bribe, the incident must immediately be reported to the Executive Director or to the Authorising Officer who will immediately report to the Executive Director, ICAC and where relevant, the police, must be informed immediately.

Soliciting personal gifts or benefits is strictly prohibited. If a worker becomes aware of another worker soliciting gifts or benefits, they should report it immediately to the Executive Director. The Executive Director will then investigate and take appropriate action to inform ICAC.

If a worker becomes aware of another worker accepting a bribe they must also report it immediately. A report of corrupt conduct may be protected under the law as a public interest disclosure where it is made in accordance with SLM's Public Interest Disclosure Policy. Please see that policy for details how to make a public interest disclosure and who it must be reported to.

Gifts that may not be outright bribes but are nevertheless suspected of being offered for the purposes of influencing SLM worker's behaviour should always be declined. In such circumstances the Executive Director should be notified of the incident and the Executive will consider whether it is appropriate to refer the matter to ICAC.

Offers of bribes or allegations of soliciting personal gifts are not recorded on the Gifts & Benefits Register to ensure any follow-up investigation or other action is not compromised. Full records of the incident will be retained separately and securely in TRIM, SLM's recordkeeping system.

8. Declaration procedures & the responsibilities of authorising officers

8.1 When to declare gifts or benefits that have been declined

Gifts and benefits that have been declined because they give rise to a perceived conflict of interest, or are above the value of \$30 must be declared and recorded in the Gifts & Benefits Register.

8.2 Declaration & reporting process

- Declarations should be submitted via the Gifts & Benefits Declaration Notification form, accessible on the SLM intranet.
- This form will be forwarded to the Head of Compliance & Knowledge (C&K), or delegate, who will enter details of the declaration into the Gifts & Benefits Register.
- C&K will notify the relevant Authorising Officer who will assess the gift to determine required actions and update the Gifts & Benefits Register accordingly.
- C&K will report on the Gifts & Benefits Register to the Executive, on an annual basis.
- The Gifts & Benefits Register will be maintained in TRIM, SLM's recordkeeping system. The Register will be available to SLM workers on a read only basis. Enquiries from external sources for information relating to the Gifts & Benefits Register should be made to the C&K team at: compliance@sydneylivingmuseums.com.au.

8.3 Authorising officers

- Except in the instances below, the relevant Head of Team is the Authorising Officer who will assess and action the gift or benefit.
- Where a Head of Team is required to declare and/or report a gift or benefit, the relevant Authorising Officer is the relevant Director.
- Where a Director is required to declare and/or report a gift or benefit, the Authorising Officer is the Executive Director.

- The Executive Director will comply with the requirements of the Office of Environment & Heritage (OEH) in relation to the declaration and reporting of Gifts & Benefits to the Executive Director.

8.4 When a declaration should be made

It is best practice to declare a gift or benefit as soon as possible. The following are minimum standards for declarations.

- Gifts outlined in section 2 must be declared within 10 days of offer/receipt.
- Gifts of money or high value should be reported immediately.

9. Support and training

Information to assist and support its workers to understand and comply with this policy is provided as part of their induction, through the SLM Code of Conduct: Staff & Volunteers and related declaration process, both of which are regularly reviewed.

To maintain a high level of awareness, Compliance & Knowledge also reminds workers of their obligations, on at least an annual basis, usually around Easter, Christmas and other holidays.

Heads of Teams reinforce the principles and obligations through the Performance Development Planning process conducted with individual workers. This particularly concerns workers in higher risk roles, such as those who manage contracts, make purchasing decisions or evaluate tenders, quotes, proposals or applications.

10. Provision of gifts to others

It is acceptable to offer moderate hospitality to individuals and representatives of other agencies who visit SLM for work-related activities. It is also acceptable to give tokens of appreciation to individuals who have given non-paid presentations to staff. Such gifts should not exceed the token value of \$30.

It is also acceptable to give ceremonial gifts to visiting delegations from overseas. Such gifts should not exceed the token value of \$30.

Gifts purchased collectively by staff and presented to an individual for occasions such as an important personal event (e.g. birthday or wedding) are not covered by this Procedure.

Roles and responsibilities

- Executive Director: Responsible for approving this policy and any exemptions to the policy. Also responsible for determining the appropriate course of action for gifts of money; high value gifts; or reports of suspected bribery or inappropriate influence.
- Director(s): Responsible for promoting best conduct and regularly reminding workers of their responsibilities in relation to gifts and benefits; taking appropriate action in relation to any reported bribe; arranging for the display of gifts in SLM offices where appropriate.
- Heads of Teams: Responsible for determining the appropriate course of action for managing the gifts and benefits offered to workers in their unit within 10 days of receiving notification and updating the Gifts & Benefits Register. Also responsible for promoting a transparent culture of declaration within their teams.
- Head of Compliance & Knowledge/Policy & Compliance Officer: Responsible for receiving all declarations of gifts and benefits, entering details in the Gifts & Benefits register and forwarding notification the Authorising Officer. Also responsible for monitoring the Gifts & Benefits Register, issuing regular policy reminders to all staff and for providing quarterly reports to the Executive.
- Workers: Responsible for making sure they are familiar with this policy and for declaring the offer, receipt, refusal, return or disposal of gifts and benefits other than those that are specifically excluded. Being alert to actual, potential or reasonably perceived conflicts of interest and the risk of being “captured” by a person or organisation who wants a favour or special treatment.

Delegations

- Head of Compliance & Knowledge: Maintenance of the Gifts & Benefits Register and reporting functions may be delegated to the Policy & Compliance Officer.

Legislation

- *Crimes Act 1900*

- *Government Sector Employment Act 2013*
- *Government Sector Employment Rules 2014*
- *Independent Commission Against Corruption Act 1998*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 1994*
- *Public Service Commissioner Direction No 1 of 2014 under the Government Sector Employment Act 2013*
- *Public Finance and Audit Act 1983*

Related policies

- Collection Management Policy (under review)
- Code of Conduct: Staff and Volunteers
- Public Interest Disclosures Policy (under review)
- Corruption Prevention and Protecting Disclosures Policies
- HHT Gift Management Policy (for major/cultural gifts/bequests & sponsorship)

Other related documents

- SLM Gift and Benefit Register
- Behaving Ethically: A guide for NSW government sector employees available at <http://www.psc.nsw.gov.au/Sector-Reform/Ethics/behaving-ethically>
- Gifts and Benefits Factsheet from the NSW Ombudsman available at http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0003/3693/FS_PSA_07_Gifts_and_benefits.pdf
- NSW Auditor-General's Report, Performance Audit: Managing Gifts and Benefits, 28 February 2013.

Definitions

- **Bribe:** a gift or benefit offered to, or solicited by, a public official to influence that person to act in a particular way and to induce the public official to act in a way that is contrary to the known rules of honesty and integrity.
- **Corruption:** the abuse of public office, that is, "public trust" for private or personal advantage.
- **Cumulative gifts:** also referred to as serial gift giving, it is a series of gifts or benefits given to workers by an organisation over a 12 month period, by the same giver.
- **Gift:** is an item of value which one person or organisation gives to another (for example, gift vouchers, entertainment, hospitality, travel commodities, property etc).
- **Benefit:** is a non-tangible item of value (for example, a new job or a promotion, preferential treatment or access to confidential information) that one person or organisation confers on another

Superseded documents

- None.

Revision history

Version	Date issued	Notes	By
1	23/02/2015	Policy Development	Head of Compliance & Knowledge
1.1	21/08/2015	Minor amendments in line with OEH policy and PCS Ethical Framework	Acting Head of Compliance & Knowledge

Review date

This policy will be reviewed every 3 years. The next review is 21/08/2018

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