

GIFTS, BENEFITS AND HOSPITALITY POLICY

1. Purpose

This document sets out Film Victoria's policy in relation to:

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

This policy is intended to ensure Film Victoria avoids conflicts of interest and maintain high levels of integrity and public trust.

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

2. Scope

This policy applies to members of Film Victoria's Board, committees, assessment panels, the Chief Executive Officer, employees and contractors¹, consultants and others engaged by Film Victoria. For the purpose of reading this policy all of the above are referred to as individuals (Individuals).

Further information is available in the *Gifts, Benefits and Hospitality Procedure*, which must be read in conjunction with this policy.

3. Policy Principles

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

Film Victoria is committed to and will uphold the following principles in applying this policy:

Impartiality: 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

¹ 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.

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/ The responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance 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: Film Victoria, through its policies, processes and Audit and Risk 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.

3.1. Individuals being offered Gifts, Benefits and Hospitality

/ Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.

/ 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.

/ Declare all non-token offers (valued at \$50 or more) 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.

/ 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).

3.2. Individuals Providing Gifts, Benefits and Hospitality

/ 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.

/ Provide hospitality in accordance with the brand values of Melbourne and commensurate with related business purposes, in order to fulfil Film Victoria's function under the *Film Act Vic 2001*, to promote Victoria and Melbourne as a competitive and compelling screen destination. In order to do this it is recognised that Film Victoria executives/senior managers will provide appropriate hospitality to undertake business development, stakeholder relationship building and facilitate professional connections within the local and global screen industry.

/ Where there is a perceived, potential or actual conflict of interest, Film Victoria must not provide hospitality to the relevant third party, however the Film Victoria representative may expense their meal in accordance with the *Film Victoria Purchasing Policy and procedures*.

/ Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.

/ 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.

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3.3. Chief Executive Officer Accountabilities

- / Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
- / 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.
- / 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.
- / 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.
- / Report at least annually to the organisation’s Audit and Risk 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.
- / Publish the organisation’s gifts, benefits and hospitality policy and register on the organisation’s public website. The published register should cover the current and the previous financial year.

3.4. Screen Industry Events

Film Victoria acknowledges its unique role in supporting the Screen Industry and the legitimate business benefits, when staff attend Screen Industry Events (see Definition below). It is recognized that attendance at Screen Industry Events assists staff members to ensure Film Victoria fulfils its functions under the *Film Act 2001*, including:

“to provide assistance and leadership to the [screen] industry in Victoria and develop relationships or enter into partnerships with other organisations to improve the [screen] industry in Victoria.”

An offer to attend a Screen industry Event which has been supported by Film Victoria (directly or indirectly), may be accepted by an individual (without requiring a declaration of acceptance) and approved internally, as set out in the Gifts, Benefits and Hospitality Procedures.

4. Definitions

Applicable to this policy and the *Gifts, Benefits and Hospitality Procedures*.

Business associate An external individual or entity which Film Victoria 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 (when being used for private use) (but not include Screen Industry Events),

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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.

Ceremonial Gift

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.

Conflicts of interest

Actual conflict of interest: there is a **real conflict** between an individual's public duties and private interests.

Potential conflict of interest: an individual 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 reasonably **form the view** that an individual'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, jewelry, or expensive pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates) and services (e.g. painting and repairs). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.

Hospitality

The friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals, invitations to sporting, cultural or social events (when attending for a public duty purpose) and sponsored travel and accommodation.

Legitimate business benefit

Gifts, benefits and hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of Film Victoria, public sector or State.

Public official

Has the same meaning as under section 4 of the *Public Administration Act 2004* and includes, public sector employees, statutory office holders; and directors of public entities.

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Register

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.

Screen Industry Event

Is a cultural or other screen industry related/focused event that may be open to the public and/or industry by invitation/tickets, where a fee may or may not be charged. Screen Industry events are hosted and/or presented by industry related organisations or businesses including but not limited to:

- / Film Victoria events
- / Events financially supported by Film Victoria (St Kilda Film Festival, MIFF, regional film festivals)
- / Related government agencies/organisations (Screen Australia , ACMI, Docklands Studios, Creative Victoria (and related agencies or organisations))
- / Screen industry bodies (SPA, AIDC, GDAA, AFTRS, etc.)

Screen industry businesses (ABC, SBS, Foxtel, private companies such as production and post production companies, etc.)

Token offer

Is an offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both the person making the offer and the individual. A token offer cannot be worth more than \$50.

Non-token offer

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 inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register.

5. Management of Offers of Gifts, Benefits and Hospitality

Refer to the Gifts, Benefits and Hospitality Procedures.

6. Authorising Officer and Organisational delegate

This policy is issued under the authority of the Authorising Officer, being the Film Victoria Board President and is subject to annual review by the Board. The organisational delegate is the Head of Corporate Services.

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7. Breaches

Disciplinary action consistent with the *Film Victoria Enterprise Agreement 2016* and legislation, including dismissal, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with Film Victoria's Conflict of interest policy.

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
- / Breaches of the binding Code of conduct for Directors of Victorian Public Entities;
- / Individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Head of Corporate Services.

Film Victoria will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

8. Speak Up

Individuals who consider that gifts, benefits and hospitality or conflict of interest within Film Victoria may not have been declared or is not being appropriately managed should speak up and notify their manager, Head of Corporate Services or CEO.

Individuals who believe they have observed corrupt conduct in their colleagues may also make a public interest disclosure directly to the Independent Based-based Anti-corruption Commission (IBAC) (refer to Film Victoria's *Public Interest Disclosure Policy*).

Film Victoria will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who *Speak Up* in good faith.

9. 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 or Head of Corporate Services or CEO for advice.

10. Related Documents

- / Gifts Benefits and Hospitality Procedures
- / Victorian Public Sector Commission's Gifts, Benefits and Hospitality Policy Guide
- / Conflict of Interest and Declaration of Private Interests Policy
- / Public Administration Act 2004
- / Code of conduct for Victorian public sector employees
- / Code of conduct for Directors of Victorian public entities

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/ Film Victoria Enterprise Agreement 2016.

11. Related Forms

- / Gifts Benefits and Hospitality declaration form
- / Screen Industry Events declaration form
- / Film Victoria Gifts Benefits and Hospitality Register
- / Gifts Benefits and Hospitality flow chart

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