



**Family &  
Community Services**

# Gifts, Benefits and Bequests Policy

# Document approval

The Gifts, Benefits and Bequests Policy has been endorsed and approved by:

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Secretary

Approved: [25 November 2014]

## Document version control

Distribution: Staff are to be advised of all policies by email when they are approved by the Secretary. New staff should be made aware of policy, procedures and guidelines at induction.

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# Table of contents

1	Purpose .....	4
2	Definitions .....	4
3	Scope and application .....	6
4	Legislation .....	6
5	Policy statement.....	6
6	Expectations of staff .....	7
7	Deciding what to do with a gift or benefit .....	7
8	Failure to comply.....	8
9	Acting impartially and with integrity .....	8
10	Review .....	9
11	More information .....	9
12	Support and advice .....	9

# 1 Purpose

The Department of Family and Community Services (FACS) is committed to achieving the best outcomes and quality of service for its clients. Staff must conduct themselves with the highest possible levels of integrity, to guarantee the safety and wellbeing of all clients.

From time to time, staff may be offered gifts or benefits or receive a bequest from clients, carers, clients' families, visitors or organisations, often as a 'thank you' for work undertaken as a FACS representative.

Any gift, benefit or bequest, regardless of value, accepted by staff could lead a reasonable person to conclude that acceptance implies a relationship that may interfere with integrity, objectivity or independence. Accepting or soliciting gifts, benefits or bequests can result in accusations of bias, conflicts of interest or in some cases, corrupt conduct. In some circumstances, accepting or soliciting gifts, benefits or bequests may be a criminal offence.

This policy sets out the expectations of FACS staff when offered or receiving a gift, benefit or bequest.

# 2 Definitions

Term	Definition
<b>Benefit</b>	an item of value in addition to normal employee entitlements obtained by an employee through undertaking their work with FACS, eg. a new job or promotion, preferential treatment, meals, seats or access to corporate boxes at entertainment or sporting events, upgrades on flights or access to confidential information that one person or organisation confers on another. A benefit can include an opportunity provided to a staff member by a person or organisation which the staff member received because of their employment with FACS, such as an offer to attend a function or conference. A benefit may influence, or be perceived to have influenced, the relationship between the staff member and the person providing the benefit.
<b>Bequest</b>	something left to a person in a will (for the purposes of this policy, the term bequest relates to those which occur due to the working relationship between the employee receiving the bequest and those giving it such as a client, supported person or their families)

Term	Definition
<b>Bribe</b>	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.
<b>Bribery</b>	includes offences committed under section 249B and associated sections of the Crimes Act 1900 (NSW), involving acts of offering or soliciting a corrupt commission or reward to or by a public official to influence that person in a particular way.
<b>Corrupt conduct</b>	the dishonest exercise of official functions, or breach of public trust, or misuse of information or material acquired in the course of official duties. Corrupt conduct can involve a substantial breach of a Code of Conduct. Corrupt conduct is fully defined in section 8 of the Independent Commission Against Corruption Act 1988.
<b>Gift</b>	an item given to a member of staff, group of staff or the department or any part of it which is provided due to the working relationship the person providing the gift has with those receiving it. Gifts can have different meanings and purposes. They can be gifts of gratitude, token gifts, ceremonial gifts or gifts of influence such as a gift voucher, entertainment, hospitality or travel.
<b>Gifts, benefits and bequests register</b>	The FACS official record that details all gifts, benefits or bequests to staff members or business streams, how they are managed and what was done with the gift.
<b>Organisation</b>	an agency, firm or company independent of government but with a connection to FACS such as non-government service providers, contractors or suppliers
<b>Token gift</b>	a gift that is offered in business situations to an agency or public official representing an agency. Such gifts are often small office or business

Term	Definition
	accessories (eg pens, calendars, folders) that contain the company logo. They are usually products that are mass-produced and not given as a personal gift.

### 3 Scope and application

This policy applies to all persons undertaking work for, or on behalf of, the department in either a paid or unpaid capacity. Throughout this policy the term “staff” includes:

- employees with ongoing, temporary or casual employment, as well as all Home Care staff; and
- those people engaged through agencies, volunteers, students on work experience or placements, consultants, contractors and subcontractors.

### 4 Legislation

- *Crimes Act 1900 (NSW)*
- *Housing Act 2001*
- *Home Care Service Act 1988 (NSW)*
- *Independent Commission Against Corruption Act 1988 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *Government Sector Employment Act 2013 (NSW)*

### 5 Policy statement

Staff must not seek personal benefit or reward for the work they undertake or make improper use of their work, status, power or authority to gain personal benefit. Gifts, benefits and bequests must be carefully dealt with.

Generally, staff should not accept gifts or benefits offered to them, with the exception token gifts or gifts between staff given as genuine gestures of appreciation or celebration of a special occasion (such as a birthday, wedding, birth of a child, etc).

If staff receive a bequest from a client it must be managed in accordance with this policy.

Staff must not accept gifts, benefits or bequests intended to, or likely to, influence the way they carry out their duties. This can include an opportunity provided to a staff member by a person or organisation which the staff member received because of their employment with FACS, such as an offer to attend a function or conference that may influence the relationship between the staff member and the person providing the benefit.

Staff must not accept money under any circumstances, and must report any offers of money immediately to the departmental Fraud Control Officer (ie: the Executive Director, Governance and Assurance).

Staff must not use department resources which will lead them to gain a benefit except where the use of such resources is reasonably acceptable (such as private use of work computers during lunch breaks or Department mobile phone use while travelling). This includes making purchases for which staff may receive a benefit which they retain for themselves such as supermarket loyalty programs.

## 6 Expectations of staff

Where a staff member is offered or accepts a gift or benefit from a client, client's family member, contractor, visitor or other person from outside of the department, they must report and declare the matter to their manager or supervisor consistent with the Procedures for Managing Gifts, Benefits and Bequests.

Where a staff member receives a bequest or is advised that they will, they must report this to their manager or supervisor consistent with the Procedures for Managing Gifts, Benefits and Bequests.

At times staff may receive gifts from other staff. This policy is not intended to influence offering gifts of appreciation or celebration between staff. It is however important to recognise that accepting gifts or other benefits has the potential to compromise staff by creating a sense of obligation and undermining their impartiality. Accepting or offering gifts must not create the impression that staff are inappropriately or unduly influencing the decisions of other staff in their work.

## 7 Deciding what to do with a gift or benefit

While the value of the gift is an important factor in considering whether it should be accepted, it is important that all gifts, irrespective of value are declared.

It is however not a requirement to declare token gifts or gifts between staff given as genuine gestures of appreciation or celebration of a special occasion.

Staff must remember that they are required to declare any gift, no matter what its value may be.

In deciding what to do with a gift, managers will need to consider a range of issues. While the policy position is that offers of gifts or benefits should be refused, it is understood that this is not always possible or, in some cases, appropriate.

The manager or supervisor must decide whether to approve acceptance of the gift or benefit but only if they reasonably believe acceptance would not compromise public confidence in the integrity of our services. Where the approval is declined, the gift or benefit should be returned.

A benefit provided to a staff member because of their employment with FACS, such as an offer to attend a function or conference must be managed carefully. In some cases the opportunity may be valuable experience for staff, however, accepting such an offer may influence, or be perceived to potentially influence, the relationship between staff and the person providing the benefit. Managers must therefore balance these factors in determining whether the offer should be accepted.

Decisions as to what to do with a gift or benefit are to consistent with the Procedures for Managing Gifts, Benefits and Bequests.

## 8 Failure to comply

Failure to declare a gift benefit or bequest could lead to formal investigation by FACS of the conduct of any staff involved. In serious cases staff who fail to comply with this policy may be considered to have engaged in misconduct which could lead to disciplinary action being taken.

## 9 Acting impartially and with integrity

Staff have a duty to ensure that government business is carried out fairly and impartially, and with integrity.

A gift or benefit may be intended as a bribe. Bribery generally is intended to induce the recipient to act contrary to accepted rules, policies or procedures.

A gift or benefit may not be intended as a bribe, but you may feel obligated to the person giving the gift, and as a result your impartiality and integrity may be affected when making a decision about that person.

Even where feelings of obligation do not affect your impartiality or integrity, there is the risk that other people will perceive that you have been



compromised. The consequences of this perception can be just as damaging as actual compromise to you and to FACS.

If staff are offered a bribe, or feel that the offer of a gift or benefit is intended as a bribe, the incident must immediately be reported to their manager, the Professional Conduct, Ethics and Performance Unit (PCEP) and the Audit and Risk Unit. FACS may be required to report offers of bribes to the ICAC and/or the NSW Police.

## 10 Review

This policy and associated procedures will be reviewed every three years and at other times if any significant new information or legislative or organisational change warrants a change in this document. Reviews will be completed in consultation with the appropriate parties for relevance and effectiveness.

## 11 More information

### **Supporting policy documents:**

- Procedures for Managing Gifts, Benefits and Bequests
- Guidelines for Managing Gifts, Benefits and Bequests

This policy should be read in conjunction with FACS *Code of Ethical Conduct*.

### **Related internal policies and guidelines:**

- Aboriginal Home Care Service Policy and Guidelines
- Client Holidays and Overnight Stays Policy
- Code of Ethical Conduct
- Conflicts of Interest Policy
- Clients' Personal Finances Policy and Procedures
- Home Care Service of NSW Subcontracting Policy and Procedures
- Policy and Procedures for operation of the Household Operating Account, Group Homes
- Public Interest Disclosures Internal Reporting Policy

## 12 Support and advice

Advice or support in relation to gifts, benefits and bequests is available from:

- Business Services HR Advisors
- the Professional Conduct, Ethics and Performance Unit (PCEP)
- staff's supervisor, manager or next most senior manager
- Union representative, if staff are union members
- the Independent Commission Against Corruption: 8281 5999