

MAAS Gifts and Benefits Policy

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Date for Review: December 2018

1. Purpose

This policy sets out MAAS requirements regarding the management of gifts and benefits. It provides direction to employees to assist them in making ethical and reasonable decisions regarding any gifts and benefits they may be offered. It meets the NSW Government's Managing Gifts and Benefits minimum standards as contained in *Behaving Ethically: A guide for NSW government employees*.

2. Policy Statement

As a NSW government public sector agency MAAS is committed to the *Ethical framework for the government sector*. MAAS employees are required to place the public interest over personal interest, act professionally with honesty, consistency and impartiality and to provide transparency to enable public scrutiny. Employees should not accept gifts, benefits or hospitality that will compromise or appear to compromise their integrity and objectivity in performing their duties, or cause, or appear to cause a conflict of interest.

Accepting a gift or benefit that could be perceived by others to be an inducement is inconsistent with the standards of conduct required by the *Ethical framework for the government sector*. Soliciting or accepting a gift or benefit as an actual inducement to make a decision, or provide a favour, is not only inconsistent with the *Ethical framework for the government sector*, but constitutes corrupt conduct under the *Independent Commission Against Corruption Act 1988* and may lead to criminal prosecution.

3. Scope

This policy applies to all MAAS employees, casual employees, contractors and volunteers. Compliance with this policy is mandatory. Failure to comply may lead to disciplinary, remedial or performance management action (including termination of employment). This policy also provides guidance for those who work with or represent MAAS, including the Board of Trustees.

4. What are gifts and benefits

A gift or benefit may be any item, service, prize, hospitality or travel, provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/or a value to the recipient, a member of their family, relation, friend or associate.

5. General principles

MAAS employees are to be guided by the Public Service Commission's *Code of Ethics and Conduct for NSW government sector employees* and by the MAAS *Code of Conduct*. You should never:

- Solicit a gift or benefit
- Accept a gift or benefit as an inducement to act in a certain way
- Accept a gift or benefit where there could be a perception that it has been offered as an inducement to act in a certain way.
- 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, exercise discretion in the making of a decision affecting the giver.
- Accept a gift or benefit if you are unsure whether you should.

You should:

- Politely decline a gift or benefit which is not allowed.
- Seek management approval to accept a gift or benefit which is allowed.
- Promptly record gifts and benefits in the register.

6. Gifts that may be accepted

There will be circumstances when gifts and benefits may be accepted by an employee and these are outlined below. It is important that all exchanges are conducted with openness and transparency and recorded properly when appropriate. Some gifts may be accepted with the approval of your team head or your director.

6.1 Gifts that may be accepted without declaration or approval:

- Token gifts that are valued at less than \$25. For example, where the gift or benefit is offered to all participants at a seminar or official business function, such as a pen or mug. Such gifts would not be perceived by a reasonable person to be designed to influence or win favour.
- A gift or benefit presented publicly to an employee as an appreciation for presenting at a conference, seminar or business event.
- A ceremonial gift accepted on behalf of MAAS. Such gifts are retained by MAAS and used in an appropriate manner. They may be held within the MAAS Archives where they are registered by the Archivist. Books may be sent to the library.
- Light refreshments or a modest meal where the hospitality is incidental to the meeting, conference or official function. This is not considered a gift or benefit but is a basic courtesy.
- A gift or benefit given in gratitude when hosting business events or overseas delegations, but only when refusal would be unreasonable and may cause offence.

6.2 Gifts that may be accepted only after declaration and approval:

Gifts, benefits or hospitality valued over \$25 and up to \$100 may be accepted but only after declaring the gift or benefit and seeking the approval of your team head.

6.3 Travel and accommodation

During official travel within Australia or overseas MAAS employees may be offered travel or accommodation upgrades. Where the travel or accommodation provider seeks to upgrade an employee for operational reasons, at no charge to the employee or to MAAS (e.g. where an airline upgrades a traveller to business class because it has overbooked economy class for that flight) the employee may accept the upgrade, but should record the receipt of the upgrade in the Gifts and Benefits register. Employees should never seek or solicit an upgrade from a travel or accommodation provider in relation to official travel.

6.4 Competitive scholarships and awards

MAAS employees may be eligible to apply for competitive scholarships or awards in recognition of their achievements or potential in their field of expertise. MAAS permits employees to accept, with Director approval, professional scholarships and awards won as a result of an open and competitive application process, even when the value of the awards exceeds the value threshold for gifts and benefits.

7. Gifts that should not be accepted

Gifts or benefits should not be accepted where acceptance could be perceived to influence an employee when carrying out their duties or where an employee has the ability or delegation to make decisions concerning the gift giver.

7.1 Gifts of money

Accepting gifts of money, financial benefit (including gift vouchers) or inappropriate financial information is strictly prohibited as such gifts can easily be perceived as an attempt at bribery. Any such gift should be refused and declared.

7.2 Gifts valued over \$100

Gifts or benefits of high value should be declined whenever possible. If an employee receives such a gift and is unable to refuse it, the gift must be declared and recorded and will either be retained by MAAS or disposed. Gifts offered on a regular basis (more than twice in a year) from the same person or organisation with a cumulative value over \$100 should not be accepted.

7.3 Hospitality

Low risk hospitality that may not require declaration and approval includes:

- Functions where the recipient attends in an official capacity as MAAS's representative.
- Hospitality provided as part of a conference package, where MAAS has paid a fee for the employee to attend.
- Catered briefings, roundtables, launches etc, where invitees from a range of external organisations are present.
- Occasional working lunches, where the hospitality is incidental and of low value such as sandwiches and coffee.

Some types of hospitality pose a higher risk and should be declined. Examples of higher risk hospitality include:

- Restaurant meals (except as described in the first and third dot points above)
- Invitations to corporate boxes or marquees
- Invitations to lunches, dinners or other events to 'seal the deal', or to 'celebrate' finalisation of a procurement process or the signing of a contract
- Invitations which extend to family members, relations, friends and associates.

As a general rule, where there is doubt about whether to accept hospitality, employees and their managers should err on the side of caution. If such high risk hospitality is accepted for a particular reason it must be approved and recorded before acceptance, to ensure a higher degree of transparency. Acceptance of hospitality that is higher risk should always be accompanied by a commensurately greater level of transparency.

7.4 Invitations and free tickets to events

Employees may receive invitations to exhibition openings and other cultural or tourism events held by other government agencies or cultural organisations. Generally attendance at these events is related to work responsibilities and as such does not constitute a gift or benefit. Invitations to events where attendance is unrelated to your work responsibilities can constitute a gift or benefit and may be seen as an inducement. Such invitations should generally be declined or managed as outlined at 6.2. Invitations to events and tickets offered by parties not directly involved in the event, such as tickets to a sporting event, should be treated as gifts and benefits as they may be seen as an inducement.

8. Approvals and Reporting

Employees must report all gifts and benefits offered over the value of \$25, irrespective of whether it has been received or declined. Refer to the Gifts and Benefits Procedures (Appendix 1) for guidance on reporting and approving a gift offer.

If an employee is offered a bribe the incident must be reported immediately to your manager or the Governance Planning & Reporting Team, who will inform the Executive Team. If necessary the Police and the Independent Commission Against Corruption (ICAC) will be informed immediately.

9. The Gifts and Benefits Register

The MAAS Gifts and Benefits Register records the details of all gifts and benefits offered to employees that have been either received or rejected. The register is maintained by the Governance Manager. It will be reviewed by the Executive Team bi-annually. It is accessible to staff on the MAAS intranet and may be viewed by the public on application.

10. Breaches of this policy

Breaches of this 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 under the PSC Code of Ethics and Conduct and / or the MAAS Code of Conduct and could result in proceedings of misconduct.

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).

11. Roles and Responsibilities

Executive Team: are responsible for determining the appropriate course of action for gifts of money, high value gifts and taking action on reports of suspected bribery and inappropriate influence. They are also responsible for promoting a transparent culture of declaration and regularly reminding staff of their responsibilities in relation to gifts and benefits. They will review the Gifts and benefits register bi-annually.

Senior Management Team: are responsible for determining the appropriate course of action for managing the gifts and benefits offered to staff in their teams and advising the Governance Planning & Reporting Team of any gifts and benefits received over the value of \$25.

Head of Governance Planning & Reporting / Governance Manager: are responsible for receiving all declarations of gifts and benefits, ensuring appropriate approval is received and noting details in the Gifts and Benefits Register.

All employees: are responsible for reading, understanding and complying with this policy and for reporting gifts and benefits offered or received as required by this policy.

12. Definitions

Benefit: is a non-tangible item of value (e.g. a new job, promotion, preferential treatment or access to confidential information) that one person or organisation confers on another.

Bribe: A gift or benefit offered to or solicited by an employee to influence that person to act in a particular way.

Corruption: means the abuse of a public position for private or personal advantage.

Gift: is an item of value (e.g. gift voucher, entertainment, hospitality, travel, or a commodity) that one person or organisation presents to another.

13. Related Museum plans, policies and/or procedures

MAAS *Code of Conduct*
MAAS Gifts and Benefits Register
MAAS Gifts and Benefits Declaration Form

14. Relevant legislation and external context

PSC Code of Ethics and Conduct for NSW public sector employees
NSW Ombudsman's Gifts and benefits fact sheet

Crimes Act 1900
Government Information (Public Access) Act 2009
Government Sector Employment Act 2013
Government Sector Employment Rules 2014
Independent Commission Against Corruption Act 1998
Museum of Applied Arts & Sciences Act 1945
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

15. Responsible Officers

Head of Governance Planning & Reporting
Governance Manager

16. Responsible Department & Unit

Governance Planning & Reporting Team

17. Amendment history

Version	Date issued	Notes	By
1	20/10/2016	Policy revised from 2012 policy	Governance Manager
2	23/11/2016	Updated following presentation to SMT	Governance Manager

Appendix 1

Gifts and benefits procedures: What to do if offered a gift or benefit

- Token gifts less than \$25 in value do not need to be declared or approved.
- Gifts valued between \$25 and \$100 may be accepted with approval from your Team Head or Director. Ideally these gifts should be approved prior to acceptance, especially if hospitality.
- If the gift is one that should not be accepted according to the policy it should be politely declined at the time of offer. Staff should explain that, while you appreciate the gesture, it is contrary to MAAS policy to accept such gifts or benefits. The offer itself, even though not accepted, must be reported and recording in the Gifts and Benefits Register.
- Gifts that should not be accepted but are accepted for a particular reasons, e.g. in circumstances where refusal may cause offence, should not be kept by the employee but either retained by MAAS (e.g. in Archives or the Library) or disposed of appropriately (e.g. given to charity). The decision and action should be noted in the Gifts and Benefits Register. Contact the Governance Manager to arrange appropriate action for the gift.
- Gifts and benefits that require declaration and approval, whether declined or accepted staff, are noted by completing a Gifts and Benefits Declaration Form. This is available in the Governance Planning & Reporting space on the intranet.
- The Gifts and Benefits Declaration Form should be completed with 10 days of receiving / being offered the gift, benefit or hospitality.
- The Gifts and Benefits Declaration Form should be forwarded to your Team Head or Director for response and approval.
- Gifts to the MAAS Director will be approved by the Executive Officer and / or the Director Corporate Services.
- Gifts to the Executive Team will be approved by the Director or the Director Corporate Services or the Executive Officer.
- Once approved it should be forwarded to the Governance Manager who will include the details in the MAAS Gifts and Benefits Register.
- Governance Planning & Reporting Team will make a read only copy of the Register available on the intranet and will review the register and report to the Executive Team bi-annually. The register is available to the public on request.
- If you believe you have been offered a bribe you should reject the offer and terminate interaction with the person. Report the incident to your Manager or Team Head. The offer should then be reported to the Governance Planning & Reporting team who will inform the Executive Team. If necessary the Police and ICAC will be contacted.
- Teams may nominate an officer within their team (such as an Administration Officer) to be responsible for managing all the gifts and benefits of the team and liaising with the Governance Manager to update the Gift Register.
- Contact the Governance Manager or Head of Governance Planning & Reporting if you are unsure what to do with a gift or benefit.