

DOCUMENT INFORMATION

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Related legislation	Water Act 1989, Public Administration Act 2004, Privacy and Data Protection Act 2014, Information Privacy Principles, Protected Disclosure Act 2012	
Related strategic documents, policies, or procedures	DELWP Model Policy on Gifts, Benefits, and Hospitality - Responding to gift offers, Code of Conduct for Directors of Victorian Public Entities and Victorian Public Sector Employees, Gifts, Benefits, and Hospitality Procedure and Register	
Evidence of approval	Board Minutes	24/08/2018

1 Purpose

This policy establishes Coliban Water's position in relation to offer and acceptance of gifts, benefits, and hospitality.

2 Scope

The policy applies to the Coliban Water Board Directors and all Coliban Water employees, contractors and consultants.

3 Policy Statement

Coliban Water is committed to a culture of accountability, transparency, and integrity that promotes public confidence in the organisation.

To support this commitment Coliban Water discourages gift offers made to, and accepted by, Board Directors and employees where there is no clear justification to accept them.

Coliban Water Board Directors and employees are responsible for ensuring that their own conduct meets the required standards of integrity, and they place the public interest above their own interest when carrying out their official duties. To support this, they must:

- declare all gift offers in accordance with this policy
- refuse all offers of prohibited gifts
- assess offers of hospitality to ensure they are reported accurately
- document and submit all declarations of token and reportable gifts.

To support Coliban Water Board Directors and employees in complying with this policy, Coliban Water will:

- ensure new Board Directors' and employees' induction covers the parameters of the policy
- provide support to Board Directors and employees through the Corporate Secretary's office
- make the policy available to all Board Directors and employees
- review the policy annually to ensure it is still current.

To communicate to suppliers the requirements of this policy, and to discourage gift offers, Coliban Water will:

- communicate with existing suppliers about the requirements of the policy upon approval, and new suppliers when they are added to the financial management system
- ensure that contracts for 'in-house' contractors and consultants, including those engaged through an employment agency, state that the contractor or consultant is bound by this policy and the Code of Conduct for Victorian Public Sector employees
- ensure that contracts state that a contract can be revoked or renegotiated by Coliban Water if the contractor offers a prohibited gift to a Board Director or employee.

4 Key Principles of the Policy

4.1 Obligations and Good Practice

Board Directors and employees will act in accordance with their respective obligations and with good public sector governance practice including:

- The Water Act 1989
- The Public Administration Act 2004, and all other laws that bind Coliban Water
- Binding codes and accountabilities issued by the Victorian Public Sector Commission, in particular:
 - Code of Conduct for Directors of Victorian Public Entities
 - Code of Conduct for Victorian Public Sector Employees
 - Minimum accountabilities for managing gifts, benefits, and hospitality.
- Government policy
- Any directions, guidelines, and statements of obligations or expectations issued by the Minister.

4.2 Public Interest

Board Directors and employees will act in the public interest in compliance with this policy.

4.3 Culture of Integrity

Coliban Water fosters a culture of integrity where Board Directors and employees are supported to raise any unresolved gifts issues.

It is essential that Board Directors, employees, and external stakeholders are supported to raise queries and issues about gift offers, including queries and issues relating to their own conduct or that of others.

4.3.1 Assistance with Making Decisions

A Board Director or employee who is uncertain how to comply with this policy should seek advice from their responsible person. They can also seek advice from the Governance Team. This does not abrogate their responsibility to make the right decision.

4.3.2 Possible Breach of this Policy

A Board Director or employee who may have breached this policy must immediately notify the responsible person and remedy any action.

4.3.3 Speaking Up

A Board Director or employee who believes that another Board Director or employee may have breached this policy must:

- approach the other person to give them the opportunity to notify the responsible person and remedy any breach, or
- notify the responsible person directly.

If the matter involves corruption or serious misconduct, the Board Director or employee can choose to instead report the matter to the IBAC (Independent Broad Based Anti-Corruption Commission) as a protected disclosure at the following contact points:

Telephone: 1300 735 135
Fax: 8635 6444
Physical Address: Level 1, North Tower, 459 Collins Street, Melbourne Vic 3000
Postal Address: GPO Box 24234, Melbourne Vic 3001
Website: www.ibac.vic.gov.au.

4.3.4 Attempts to Bribe

A Board Director or employee who receives a gift offer that he/she believes is an attempted bribe must refuse the offer. He or she must:

- immediately notify the responsible person and lodge a Gift, Benefits, and Hospitality Declaration Form, so that their refusal can be properly recorded, or
- report the matter to the Independent Broad-based Anti-corruption Commission (IBAC) as a protected disclosure.

A Board Director or employee who believes that another Board Director or employee may have solicited or been offered a bribe which the other person has not reported must either notify the responsible person or report the matter to IBAC as a protected disclosure.

The Managing Director must have processes in place to ensure that he is notified when a responsible person becomes aware of a bribery issue. The Managing Director must notify IBAC of any matter which he believes on reasonable grounds may be corrupt conduct or, if appropriate, notify the police of a suspected offence.

4.4 Risk-based

Coliban Water's risks in relation to gift offers are assessed, managed, and monitored.

4.5 Processes

Coliban Water's procedures are transparent and accountable, and processes are in place to ensure that Board Directors and employees are aware of the requirements of this policy and how to comply with it.

4.6 Compliance

Coliban Water's policy is consistent with DELWP Model Policy on *Gifts, Benefits, and Hospitality – Responding to gift offers*.

5 Prohibited Gifts

A Board Director or employee **must refuse** any gift offer that:

- is **money or is similar to money** (e.g. gift vouchers) or easily converted into money (e.g. shares)
- is a **conflict of interest** (real, potential or perceived) – e.g. is offered by an external source with an interest in a decision that the Board Director or employee is likely to make or can influence, including in relation to:
 - procurement of goods or services
 - tender processes
 - awarding of a grant or sponsorship
 - setting of policy
 - enforcement, licensing or regulation, or
 - contracts.
- could in any other way create a **reasonable perception that it is offered to influence**, or could influence, the judgement of the Board Director or employee (i.e. how he/she acts, or fails to act, now or in the future)

- is **inconsistent with community expectations**, or
- could in any other way **bring their integrity, or that of Coliban Water, into disrepute**.

5.1 Gift Offers of Hospitality

To ensure compliance with the above requirements, Board Directors and employees must be particularly cautious about accepting gift offers of hospitality (i.e. food, drink, travel, accommodation, events or activities).

Gift offers of hospitality are often inconsistent with community expectations. There is also a high risk of conflict of interest. In such cases, the gift offer must be refused **even if there is a legitimate business reason to accept**.

Board Directors and employees must take particular note of:

High risk events and activities

Invitations to attend or participate in a sporting, social, 'industry', arts, entertainment, or other event or activity are high risk. Examples of gift offers that must be refused include:

- attend as a guest at the football or at a car or horse racing event
- attend a concert or theatre event
- attend an industry golf day or play golf at a reduced fee
- be 'shouted' a meal at a restaurant, or
- accept complimentary or discounted tickets for a family member to attend the tennis.

Conferences and familiarisation tours

Gift offers in relation to conferences or familiarisation tours (e.g. sponsored attendance, participation, travel, or accommodation) must be declined unless there is:

- **clear justification**, such as where the invitation is issued by a government department, or the event is funded by DELWP, or, depending on the circumstances, the offeror is a peak body; and
- **prior written approval** that sets out clear reasons is specifically granted by the Managing Director (for employees) or the responsible person (for the Chairperson, Board Directors, and Managing Director). The signed and dated approval must be attached to the Gifts, Benefits, and Hospitality Declaration Form and noted in the Gifts, Benefits, and Hospitality Register.

5.2 Misuse of Position

Accepting a prohibited gift offer may constitute misuse of a Board Director's or employee's position, a breach of this policy and/or a breach of the relevant code of conduct, and may result in disciplinary action.

In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

6 **Token Gift Offers**

A Board Director or employee who is offered a gift of token value that is not a prohibited gift may:

- refuse the gift offer; or
- accept the gift offer and retain the gift as their own.

For the purpose of this policy, the token value threshold is \$10.00.

Regardless of whether a token gift offer is accepted, it must be disclosed as soon as practicable by completing the Gifts, Benefits, and Hospitality Offer Form.

7 Reportable Gift Offers

A Board Director or employee who is offered a **reportable gift must, regardless of whether the gift is accepted:**

- verbally disclose the offer to the responsible person as soon as practicable; and
- within five working days of the offer, sign and lodge a properly completed Gift, Benefits, and Hospitality Declaration Form.

A gift offer must not be accepted if it is a prohibited gift.

A reportable gift offer must also be refused unless there is a **'legitimate business reason'** to accept it.

7.1 Ownership of reportable gifts

A Board Director or employee who accepts a reportable gift does so **on behalf of Coliban Water**. Coliban Water is the owner of the gift.

7.2 Dealing with accepted gifts

The Managing Director must have processes in place for the receipt and use or disposal of reportable gifts by Coliban Water. As part of these processes:

7.2.1 Gifts of cultural, historic or other significance

The Managing Director will give consideration to donating gifts of cultural, historic or other significance to an appropriate public institution, such as the Goldfields Library Corporation, Bendigo Art Gallery, or Castlemaine Art Museum.

7.2.2 Donating other reportable gifts

The Managing Director will give consideration to donating other reportable gifts, or the proceeds of their sale, to a non-profit organisation or public institution.

7.2.3 'Public interest' approval for use of gift by Board Director or employee

Occasionally, **it will be in the public interest** for approval to be given for a Board Director or employee to use a reportable gift 'as their own' at the behest of Coliban Water.

Applications for 'public interest approval' will be determined by the Board (for Board Director and the Managing Director) or the Managing Director (for employees) in accordance with the following criteria:

- approval is required to avoid the person being in breach of this policy through no fault of their own
- prior written approval has been granted for sponsored hospitality to be accepted in relation to a conference or familiarisation tour.

The reason for any public interest approval that is granted must be well documented, attached to the Gift, Benefits, and Hospitality Declaration Form, and recorded in the Gifts, Benefits, and Hospitality Register.

8 Ban on Soliciting Gifts

Board Directors and employees must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position, a breach of this policy and/or a breach of the relevant code of conduct and may result in disciplinary action. It may also constitute corruption and lead to criminal prosecution.

9 Notifying Coliban Water of Gift, Benefit and Hospitality Offers

All gift offers must be recorded on the Gifts, Benefits, and Hospitality Form. This is an online form accessed by Coliban Water's Board Director and staff intranet.

Upon clicking the Submit button on the form, an email with the completed form will be sent to the Board Director or employee completing the form, and Governance Team who will ensure:

- Endorsement by the employee's direct report
- Recording on the Gifts, Benefits, and Hospitality Register.

The Gifts, Benefits, and Hospitality Procedure has been developed to support Board Directors and employees in notifying Coliban Water of gift offers, and with complying with this policy.

10 Privacy Collection Statement

Coliban Water is committed to complying with legal obligations and Government policy and promoting and operating in an environment of public sector good governance, while protecting the privacy of individuals or organisations that have made a gift offer to a Board Director or employee.

To support this commitment Coliban Water will:

- Publish the Gifts, Benefits, and Hospitality Policy on the external website
- Record information about a gift offer by an individual or organisation to a Board Director or employee as a result of that person's role with Coliban Water
- Publish a de-identified copy of the Gifts, Benefits, and Hospitality Register for all "reportable gift offers" on the external website to:
 - Promote transparency in public sector decision making
 - Comply with the minimum accountabilities for the management of gifts, benefits, and hospitality.
- Remove reference to personal information on documents published for this policy.
- Provide access to individuals or organisations about gift offers they have made to a Board Director or employee through the Corporate Secretary

11 Definitions of Abbreviations Used

Term	Definition
<p>Gift offer</p>	<p>A gift offer is anything of monetary or other value that is offered by an external source (organisation or individual) to a Board Director or employee as a result of their role with Coliban Water. It includes free/discounted:</p> <ul style="list-style-type: none"> • items or services, for example, items such as a Christmas hamper, desk calendar, box of chocolates, bottle of wine, commemorative object, or 'door prize' at a function; services such as tree-logging or house painting. • benefits such as preferential treatment, privileged access, favours or other advantages or intangibles, for example, access to a discount or loyalty program, or the promise of a new job. • hospitality that exceeds common courtesy. 'Hospitality' is the friendly reception and treatment of guests. It includes offers of food, drink, travel, accommodation, events or activities (e.g. sporting, social, industry, arts, entertainment, or other events/activities). 'Common courtesy' is polite, basic and modest. It does not raise a conflict of interest. <p>Whether an offer exceeds common courtesy depends on the circumstances (i.e. what is offered, by whom, to whom, when and why).</p> <p><u>Example – does not exceed common courtesy (not a gift offer)</u> The following offers do not exceed common courtesy. They are not a gift offer and do not need to be disclosed under this policy:</p> <ul style="list-style-type: none"> • a cup of coffee at another organisation's premises; • a modest working lunch, such as sandwiches and pastries, at another organisation's premises; • a cup of coffee at a café (unless there is a conflict of interest). <p><u>Example – gift offer</u> The following offers exceed common courtesy. They are a gift offer and must be disclosed under this policy:</p> <ul style="list-style-type: none"> • a 'fine dining and wine' working lunch at another organisation's premises; • an offer to pay for a working lunch at a café; • an offer of a free spot at an industry golf day.
<p>Direct or indirect gift offer</p>	<p>A gift offer may be direct or indirect. It may be made directly to a Board Director or employee or indirectly via an offer to their relative or close associate, including:</p> <ul style="list-style-type: none"> • a member of their immediate family (e.g. spouse, partner, child, grandchild, parent, sibling); • a regular member of their household (whether or not they are related); or • another close associate (e.g. friend, business associate, other relative).

Term	Definition
Conflict of interest	<p>A conflict of interest is a conflict between a Board Director's or employee's public duty to act in the best interests of Coliban Water and their private interests (financial or non-financial). A conflict exists whether it is:</p> <ul style="list-style-type: none"> • <u>real</u> – it currently exists; • <u>potential</u> – it may arise, given the circumstances; or • <u>perceived</u> – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to Coliban Water, now or in the future.
Bribe	<p>A 'bribe' is an offer of money or other inducement made with the intention to corruptly influence a Board Director or employee in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.</p>
Legitimate business reason (benefit)	<p>A 'legitimate business reason' is a business purpose that furthers the official business or other legitimate goals of Coliban Water, the public sector, or State.</p>
Responsible person	<p>The 'responsible person' is the person whom the Board Director or employee notifies of any gift offers they receive; notifies of suspected bribery attempts; and seeks advice from about this policy and how to comply. <u>Responsible persons are:</u></p> <ul style="list-style-type: none"> • For the Chairperson: <ul style="list-style-type: none"> ○ Deputy Chairperson, or a Board Director if none exists ○ Where appropriate, the Chairperson should also seek advice from the Minister and/or DELWP • For the Managing Director or Board Director: <ul style="list-style-type: none"> ○ Chairperson • For an employee: <ul style="list-style-type: none"> ○ That employee's direct report.
Gifts, Benefits, and Hospitality Declaration Form	<p>Coliban Water's form that must be completed and lodged for all gift offers, regardless of whether they are token or reportable, and regardless of whether the gift offer was accepted or not.</p>
Gifts, Benefits, and Hospitality Register	<p>Coliban Water's Gifts, Benefits, and Hospitality Register, which must include:</p> <ul style="list-style-type: none"> • All reportable and token gift offers and responses • If the gift offer was accepted, and how the gift will be used or disposed of by Coliban Water. <p>The Gifts, Benefits, and Hospitality Register, disclosing only reportable gift offers, must be published on Coliban Water's website; however, some information is redacted to comply with the Privacy and Data Protection Act 2014.</p>
Token Gift	<p>The gift offer is trivial and inconsequential. The value of the offer is less than \$10.</p> <p><u>Example – acceptance of token gift</u> 'On 16 July 2017, I received a gift offer from Berringer and Co. of a box of chocolates. It was offered to me as a thank you for presenting at their annual education forum, which I did as part of my official duties. I estimate the value of the chocolates to be \$8. I consider this to be a token gift offer. It was not a prohibited gift offer. I accepted the offer.'</p>

Term	Definition
	<p><u>Example – refusal of token gift</u> ‘On 13 December 2017, I received a gift offer from Berringer and Co. of a box of chocolates. It was offered as ‘a Christmas goodwill gift’. I estimate the value of the chocolates to be \$8. It was a prohibited gift as it is a conflict of interest - Murks is a prospective tenderer about whom I am likely to make or can influence a decision. I refused the offer and explained why to the rep.’</p>
Reportable Gift	<p>The gift offer exceeds \$10 OR is of cultural, historic, or other significant value.</p> <p><u>Example – exceeds token value</u> If a Board Director or employee is offered a bottle of wine for \$20, this exceeds the token gift offer value of \$10.</p> <p><u>Example – other significance</u> A gift offered by a visiting delegation, such as from another country, is reportable, regardless of its monetary value. Even if it is not of cultural or historic significance, it is of “other significance”.</p>
IBAC	<p>Victoria’s anti-corruption agency which:</p> <ul style="list-style-type: none"> • receives complaints and notifications of public sector corruption and police misconduct • investigates and exposes corruption and police misconduct • informs the public sector and community about the risks and impacts of corruption and police misconduct, and ways it can be prevented.
Protected disclosure	<p>Formerly known as a “whistleblower complaint”, a protected disclosure is a report of corrupt conduct in the public sector. Making a complaint to IBAC under the Protected Disclosure Act 2012 gives legal protection to the person making it that their identity will remain confidential and they will be protected from reprisals.</p> <p>Coliban Water has a Protected Disclosure Policy and Procedure for reporting protected disclosures.</p>
Gifts Hub	<p>This policy requires Coliban Water to nominate a Gifts Hub to support staff in complying with the policy. The Gifts Hub are the Corporate Secretary and the Manager Governance.</p>

12 Human Rights Statement

It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights Act (2006). Coliban Water is committed to consultation and cooperation between management and employees. Coliban Water will formally involve the Employee Consultative Committee in any workplace change that may affect employees.