



# Frequently Asked Questions

## Gifts and Benefits

### **Who does it apply to?**

The guidance applies to APS agency heads, including departmental secretaries.

Statutory office holders and heads of other Commonwealth entities and companies are strongly encouraged to adopt the guidance as it represents best practice in promoting public sector integrity in accepting gifts and benefits.

Consistent with this best practice standard, there is strong expectation that agency heads will publish their SES and other staff gift registers unless it would be unreasonable in the circumstances.

### **When should agencies report?**

Agency heads must update their gifts and benefits register within 28 days of accepting a gift.

After the first reporting date of 31 January 2020, the register must be published quarterly – that is, on 31 March, 30 June, 30 September and 31 December each year. However, this does not stop the register from being published on a more regular basis.

The requirement to comply with this guidance commences on 18 October 2019. This means that any gifts or benefits accepted from this date must be added to the register within 28 days.

### **Can more information be included on the register than required?**

The guidance should be read as a minimum standard and in conjunction with an agency head's own policies – if an agency head's own policies are stricter, those stricter standards can be applied. The suggested register template is the minimum information required to meet the guidance.

This means that more information than is required in the guidance can be included on a register. For example, a register might record gifts and benefits under the threshold monetary value.

**What if a gift or benefit has been offered but not accepted?**

Gifts and benefits that have not been accepted do not need to be reported or added to the public register.

However, if the agency head's standard practice is to do this, gifts and benefits not accepted can be added to the register.

**Will the APSC provide examples of what is/is not acceptable?**

Decisions on whether gifts and benefits are required to be added to the register will almost always be a matter of judgment for individual agency heads. It is not possible to provide guidance on what will always be acceptable or unacceptable in every circumstance.

A list providing examples of gifts or benefits that must be recorded and published when they are considered to be valued above the monetary threshold are listed at Attachment B of the guidance. This list is not exhaustive and will be updated as required.

**What about airline lounge memberships?**

Airline lounge memberships are usually valued at more than \$AUD100.00 (exclusive of GST). They therefore would likely meet the reporting threshold. If they have been offered as a gift or benefit and accepted in the course of official duties, it is likely that they are required to be entered on the register.

Often the complete value of these are not known, therefore it is suggested they be recorded without an estimation.

**What about airline upgrades or car hire upgrades?**

In some cases, an upgrade may simply be awarded to the person 'next in line'. In other cases, upgrades may be offered to an individual because of their public or government role.

The guidance applies to gifts and benefits received in the course of official duties. Agency heads should use their judgment as to whether an upgrade has been provided in the official duties context, and whether it meets the monetary threshold value of more than \$AUD100.00 (exclusive of GST).

**An agency purchases a membership for an agency head. It costs more than the monetary threshold. Does it need to be entered on the register?**

No. A gift or benefit is any item or service accepted by an agency head from *clients, customers (including potential clients or customers) or other associates* (emphasis added).

**What if hospitality has been provided incidentally to a business meeting?**

Hospitality can be accepted if it is in accordance with the agency head's official duties. Agency heads should use their judgment as to whether hospitality has been provided in the official duties context.

Hospitality that may give rise to a real or apparent conflict of interest must be recorded, if it meets the monetary threshold value of more than \$AUD100.00 (exclusive of GST). It is a matter for the agency head to determine whether a real or apparent conflict of interest arises.

**A gift or benefit has been disposed of. Does it need to be recorded in the register?**

If a gift or benefit has been accepted in the course of official duties, and meets the monetary threshold, it needs to be recorded in the register. Usually, gifts or benefits would need to be accepted before being able to make a decision to dispose of it. Details of disposal do not need to be recorded in the register. The gifting of Commonwealth property must comply with any requirements under the *Public Governance, Performance and Accountability Act 2013*.

**What is meant by gifts or benefits accepted 'in the course of official duties'?**

Agency heads should exercise good judgment in relation to determining whether a gift or benefit has been accepted in the context of official duties.

The broad principles underpinning the guidance are to ensure consistency and that agency heads are meeting public expectations of integrity, accountability, independence, transparency and professionalism in relation to gifts and benefits. Agency heads must not accept gifts and benefits which might reasonably be seen to compromise their integrity.

It is the responsibility of the agency head to decide what is appropriate, taking into account a range of factors, including the type and significance of the gift or benefit, whether it gives rise to a real or apparent conflict of interest, and whether it is part of an exchange of gifts between official representatives of governments. The guidance will not be able to predict all the possible circumstances under which a gift or benefit has been accepted.

**Does a value have to be ascribed to a particular gift or benefit?**

The guidance requires gifts and benefits to be recorded on the register where the assessment of the value of the gift or benefit is over \$AUD100.00 (excluding GST). However, gifts and benefits can be added to the register without recording a dollar figure, where recording a value may cause offence.

**Should gift giver's names be published?**

Yes. However, an agency must manage their obligations under the *Privacy Act 1988*. The guidance recommends that gift givers are advised that their personal information may be recorded on the register as part of acceptance of that gift.

**What about situations where the personal information of staff is captured under these reporting requirements?**

Agencies must comply with the *Privacy Act 1988*. Depending on the circumstances of how the personal information was collected, it may be appropriate to redact that personal information from registers.