



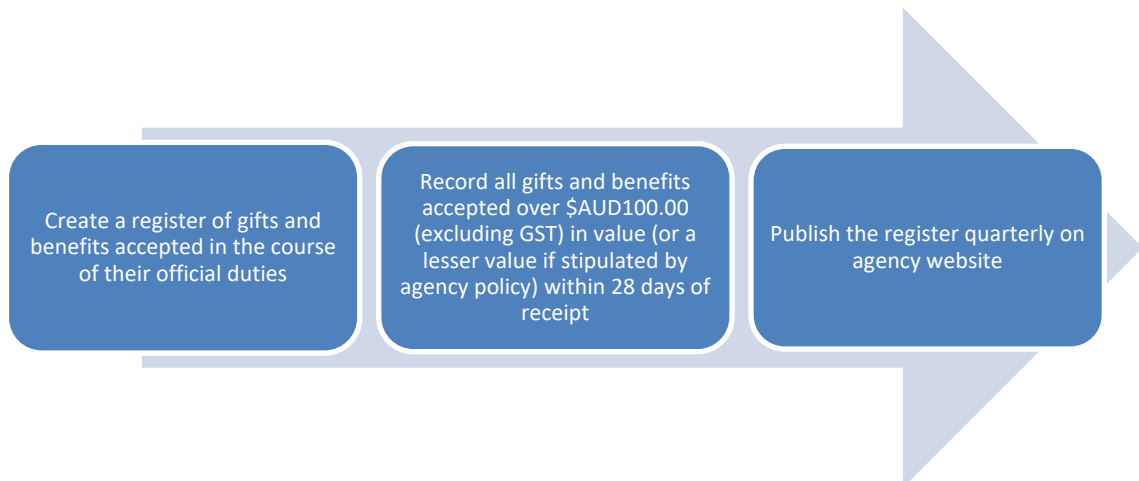
# Guidance for Agency Heads

## Gifts and Benefits

Agency heads (including departmental secretaries) must not accept gifts or benefits which might reasonably be seen to compromise their integrity.

All gifts or benefits accepted (and valued at over \$AUD100.00 (excluding GST)), must be publicly disclosed.

Agency heads must publish a register of gifts and benefits they accept on their departmental or agency website on a quarterly basis. The register must be updated within 28 days of receiving a gift or benefit. Agency heads will collect and store the relevant information, and manage their register, in accordance with their agency's procedures.



### Purpose

1. This guidance sets out the threshold of gifts and benefits which agency heads must declare publicly and sets out best practice on how this information should be published.
2. Principles underpinning this guidance are:
  - ❖ that agency heads are meeting public expectations of integrity, accountability, independence, transparency and professionalism in relation to gifts and benefits; and
  - ❖ that there is consistency in relation to agency heads' management of gifts and benefits across APS agencies and Commonwealth entities and companies.
3. This guidance relates specifically to the requirement that agency heads maintain and publish their register of gifts and benefits accepted, valued at more than \$AUD100.00 (excluding GST). The register must be published quarterly.

## Legislative framework

4. This guidance has been developed in line with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and the APS Code of Conduct contained in the *Public Service Act 1999* (PS Act).
5. References to secretaries and agency heads has the same meaning as in the PS Act.

## Application

6. This guidance applies to:
  - ❖ all agency heads who receive gifts or benefits in the course of their official duties; and
  - ❖ the immediate families and dependants of agency heads, but only in relation to or consequential on the official duties of agency heads.
7. Secretaries of Departments should circulate this guidance to all statutory office holders and heads of Commonwealth entities and companies within their portfolios.
8. To ensure consistency and transparency across the Commonwealth, statutory office holders and heads of Commonwealth entities and companies are strongly encouraged to adopt this guidance, and mirror these arrangements, as best practice.
9. Agency heads in the national intelligence community who are prevented from publishing their register on their agency's website may provide this information through a separate agreed arrangement, such as classified annual reports.
10. This guidance is to be read in conjunction with agency's own policies.

## Commencement of guidance

11. This guidance commences from the date of publication – 18 October 2019.
12. Agency heads must publish their first register by 31 January 2020, and every financial quarter thereafter. The first register must capture all gifts and benefits accepted by agency heads valued at more than \$AUD100.00 (excluding GST) from the date of commencement of this guidance – 18 October 2019.
13. Registers must be published quarterly, by 31 March, 30 June, 30 September and 31 December each year.

## Gifts and benefits not captured by this guidance

### 14. Gifts and benefits:

- ❖ not accepted;
- ❖ made in a will;
- ❖ to or from a relative, friend or acquaintance outside of the course of official duties (i.e. in a purely personal capacity) and which do not give rise to or create the appearance of a conflict of interest; and
- ❖ that form part of an approved assistance program such as a disaster relief arrangement;

are not subject to this guidance.

## Register of Gifts and Benefits

15. Agency heads will create and keep a register of gifts and benefits accepted. See [Attachment A](#) for a suggested template.
16. Agency heads must update their register of all gifts and benefits accepted with a value of more than \$AUD100.00 (excluding GST), within 28 days of receiving the gift or benefit.
17. Agency heads must publish on their agency's website the register of gifts and benefits accepted where the value of the gift or benefit exceeds \$AUD100.00 (excluding GST) on a quarterly basis (see paragraphs 11 and 12).

## Definition and threshold of a gift or benefit

### Definition

18. 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 of an agency head in the course of their official duties. This includes any service or item received by the family of an agency head, where there is a clear link with the agency head's official duties.
19. Examples include items, free or discounted travel or accommodation, entertainment, hospitality (*note: for more information about hospitality see paragraphs 30 and 31*), discounts or other preferential treatment.
20. Gifts can also include lucky door prizes or other prizes offered by conference sponsors when an agency head is attending on behalf of the Commonwealth. See [Attachment B](#) for more examples.

### Threshold

21. As noted above, the threshold for **publishing** any gift or benefit received is more than \$AUD100.00 (excluding GST). Agency heads will otherwise comply with all internal policies in relation to gifts and benefits.

22. Gifts received which are valued at \$AUD100.00 (excluding GST) or less are to be dealt with in accordance with the agency's usual policies.
23. For the purposes of this guidance, the value of an official gift is assessed on the basis of the:
  - ❖ wholesale (tax free) value in the country of origin of the donor of the gift and converted to Australian dollars at the current exchange rate; or
  - ❖ current market value of the gift in Australia (excluding GST).
24. Where recording the estimated value of the gift or benefit may cause offence, the dollar figure is not required to be recorded.
25. Where multiple gifts or benefits from the same party may fall below the threshold but together total a value of more than \$AUD100.00 (excluding GST), consideration should be given to recording those gifts or benefits on the register.

### **When gifts and benefits may be accepted**

26. Agency heads must not accept gifts and benefits which might reasonably be seen to compromise their integrity.
27. In determining whether a gift or benefit should be accepted, the agency head should take into account a range of factors, including the type and significance of the gift or benefit, whether it gives rise to a real or perceived conflict of interest, and whether it is part of an exchange of gifts between official representatives of governments.
28. Where the agency head determines that to refuse a gift or benefit would cause embarrassment or offence, the agency head may dispose of the gift in the following manner:
  - ❖ the gift remaining on the property of the Commonwealth or agency (for example, on public display);
  - ❖ donate the gift to the Social Club for a raffle or social function;
  - ❖ otherwise donate the gift to a public or private organisation;
  - ❖ dispose of the gift in an alternative way that would not offend the giver.
29. Any gift of property owned by the Commonwealth must be made in accordance with the PGPA Act or any other relevant agency specific policy.
30. The circumstances in which the gift was offered, accepted or refused, are to be dealt with in accordance with agency's own policies.

### **Receipt of hospitality**

31. Hospitality can be accepted if it is in accordance with the agency head's official duties.
32. Hospitality exceeding the value of \$AUD100.00 (excluding GST) that has been accepted and may give rise to a real or apparent conflict of interest, must be recorded in the register.

## Privacy

33. Agencies should comply with their obligations under the *Privacy Act 1988* in relation to the publishing of registers. This means that consideration should be given to ensuring that the gift or benefit giver is advised that their information may be published on the register.

## Gifts and benefits received by agency staff

34. As a matter of best practice, there is a strong expectation that agency heads will also publish gifts and benefits received by staff in their agency that exceed the threshold of \$AUD100.00 (excluding GST).

## Enquiries

35. As guidance, this is not a comprehensive direction about accepting gifts and situations will arise which are not adequately dealt with by this guidance. The exercise of good judgment is often required and it is the responsibility of the agency head to decide what is appropriate.
36. Further guidance can be obtained by contacting Ms Callie Zorzi, Group Manager, Integrity, Performance and Employment Policy, APSC, on 02 6202 3845, or email [gifts@apsc.gov.au](mailto:gifts@apsc.gov.au).

**Attachment A****Register Template**

In the course of my duties as agency head of **[insert agency name]**, I received the following gifts and/or benefits whose value exceeds the stipulated threshold of \$AUD100.00 (excluding GST).

Date received	Date recorded	Gift item/ benefit/ service	Received by (agency contact if not received directly by agency head)	Presented by (giver's name, organisation/ country)	Occasion	Estimated value in \$A (wholesale value in country of origin or current market value in Australia)

**Attachment B**

**Examples of gifts and benefits that must be recorded and published when their value exceeds \$AUD100.00 (excluding GST)**

- ❖ Gift baskets
- ❖ Christmas function invitations
- ❖ Flowers
- ❖ Gift cards
- ❖ Bottles of wine
- ❖ Promotional materials, including manufacturers' samples, clothing or books
- ❖ Sponsored or discounted travel and accommodation
- ❖ Benefits under loyalty schemes
- ❖ Hospitality (see paragraphs 30 and 31 of this guidance)
- ❖ Hire car discounts
- ❖ Tickets to cultural, theatre or sporting events
- ❖ Discounts on commercial items
- ❖ Free attendance at training and development events