Gifts and Benefits Policy and Procedure

Version: 1.0
Last Amendment: N/A
Approved by: Executive
Policy owner/sponsor: Director, Operations and CFO
Policy Contact Officer: Manager, Human Resources
Policy No: PD/11 TRIM File No: 39561
Date approved: 07/05/2012
Next review: 07/05/2014

1. Summary
   This policy states the State Library of NSW's requirements regarding the management of gifts and benefits. Procedures relating to the management of gifts and benefits are included.

2. Policy statement
   The State Library of New South Wales (the Library) is committed to being a professional and ethical workplace. This can only be achieved and maintained if the community is confident that staff are not influenced by gifts or benefits. For staff there are many real and perceived risks associated with being offered or accepting gifts or benefits while on duty. This policy aims at protecting staff and their reputation and minimising potential negative consequences for staff and the Library.

   Staff must not give or accept gifts, benefits and entertainment 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. The giving or acceptance of gifts or benefits may affect the public perception of the integrity and independence of the Library and its staff. Staff must be able to demonstrate that they cannot be improperly influenced in the performance of their duties by offers of gifts and benefits.

   This policy applies to all staff and contractors at the Library.

3. Legislative and Policy Framework
   - Crimes Act 1900 (NSW)
   - Public Sector Employment and Management Act (NSW) 2002
   - Independent Commission Against Corruption Act (NSW) 1988
   - Public Interest Disclosures Act 1994
   - NSW Government Personnel Handbook (Chapter 8-4.2 Acceptance of Gifts or Benefits)
   - DTRIS Gift and benefits policy
   - DTRIS Reporting gifts and benefits procedure
   - Independent Commission Against Corruption (ICAC) guidelines on gifts and benefits
   - Managing Gifts and Benefits in the Public Sector Toolkit, ICAC
   - State Library Code of Conduct
4. Responsibilities

4.1 Staff must not:

a. accept any gift and/or benefit or entertainment if they are employed within procurement roles and/or negotiating and managing contracts for public/private partnerships and/or the delivery of products and services on behalf of the Library. Staff in these areas must refuse all offers from individuals or organisations directly related to these functions. An exception to this rule applies in limited circumstances as described in section 4.2.

b. accept any cash or financial benefit as this could be considered a bribe, which is an offence under the Crimes Act 1900 (NSW).

c. solicit any gift, benefit or entertainment from clients in connection with your official duties.

d. accept any gift, benefit or entertainment that could be perceived by a reasonable person to influence you when carrying out your official duties.

4.2 Staff may:

a. accept token gifts and benefits (other than those set out in 4.1 above) where the gifts and benefits are offered in business situations to all participants and attendees (i.e. seminars, conferences). These items are not given as a personal gift for use outside the business context and a reasonable person would not perceive token gifts/benefits as items designed to influence or win favours. Token gifts could include pen, cap, stationery, coffee mug, stress ball, mouse pad and memory stick. Staff do not need to declare token gifts.

b. accept a gift/benefit for presenting at a conference, seminar, and business event. You must satisfy yourself that the gift/benefit does not fall into any of the categories outlined in section 4.1 and you must declare the item to your Manager.

c. accept a ceremonial gift from another organisation on behalf of the Library. Ceremonial gifts belong to the Library. You must declare the item to your Manager.

d. accept a gift/benefit given in gratitude when hosting business events or overseas delegations/missions only where refusal would be unreasonable and unnecessarily offensive. You must declare the gift to your Manager.

e. accept tea, coffee, water and/or juice or a modest meal during a meeting or as a participant of a working group. This is not considered a gift or benefit, it is considered a basic courtesy and you do not need to declare to your Manager.

f. accept published or original materials in the circumstances described in this section but must give them to the Manager, Collection Services or Manager, Original Materials for addition to the collection or for donation to public libraries or other organisations as deemed appropriate. You must declare the gift to your Manager.

g. accept on behalf of the Library any gift, benefit or prize that you may win as a result of entering a competition while engaged in official duties, such as winning a prize at a conference paid for by the Library, winning a prize as an incentive to complete a survey as an employee of the Library. These items are to become the property of the Library. You must declare the gift to your Manager.

h. accept the offer and/or receipt of any benefit only if it is part of your official duties (e.g., tickets to theatrical and/or cultural entertainment along with any hospitality included with the ticket). You must satisfy yourself that the gift/benefit does not fall into any of the categories outlined in section 4.1 b-d. You must declare the gift to your Manager.

4.3 Staff will:

a. advise their Manager immediately if they believe they have been offered a bribe. Where necessary ICAC and the police will be notified immediately.
b. advise their Manager immediately if they believe they have been offered a gift aimed to influence decision making now or in the future.

c. always consider the value and purpose of a gift or benefit before making any decisions about accepting it. As a guide, any gift of a value over $50 should not be retained. If you are unsure discuss with your Manager.

d. declare all gifts and benefits within 10 working days of receiving the gift regardless of cost, excluding token gifts by following the procedures in section 6.1. This includes declaring any gift/benefit that is declined, returned or disposed of by you.

e. discourage family and relatives from accepting gifts and benefits, which could give the perception of an indirect attempt to influence you.

4.4 Managers and Directors will:

a. determine the appropriate course of action, in line with this policy, with managing the gifts and benefits offered to staff in their branch and division.

b. action gifts and benefits reported to them and advise the staff member within 10 working days of receiving the declaration form. The possible actions include approving, declining, donating or returning the gift/benefit.

c. forward the completed declaration of gifts and benefits to the Manager, Human Resources.

d. lead the implementation of this policy including its conformity to legislative and other compliance requirements.

e. promote best conduct and regularly remind staff and supervisors of their responsibilities in relation to gifts and benefits.

4.5 Human Resources Branch will:

a. update the Library’s Gifts and Benefits Register with the declarations of gifts and benefits received from Managers.

b. review declarations received and, where any concern is identified, escalate the matter to the relevant Director and/or State Librarian.

c. file the declaration on a TRIM file.

d. review the register annually and present findings to Executive to enable the identification and management of any emerging risks. For instance, if a particular company/organisation is presenting a significant number of gifts to various staff or if companies/organisations are offering frequent and substantial hospitality to staff.

e. regularly review policy and procedures.

f. raise awareness of gifts and benefits policy and procedures across the Library.

4.6 Finance Branch will:

Use the register to calculate fringe benefits for tax purposes.

5. Reporting requirements

The Gifts and Benefits Register will be open to inspection by internal and external auditors and may be viewed by the public on application. The register will be reviewed annually to check for compliance with the Gifts and Benefits Policy and for instances of serial or cumulative gift giving, frequent and substantial hospitality.
outcome of the review will be reported to the Executive. Any breaches of the policy identified will be discussed at the Executive and appropriate action taken thereafter.

6. Procedures

6.1 What to do if offered a gift and/or benefit
Staff must complete the electronic version of the Gifts and Benefits Declaration form within 10 days of receiving/or being offered the gift, benefit or entertainment.

On this electronic form you must:

a. include an estimate for the value of the gift or benefit. The value reflects the value of the item and may be estimated by a web search.

b. explain what you intend to do with the gift or benefit by selecting an option from a drop down list as follows:
   - I am seeking direction on what to do with the gift or benefit
   - I intend to return the gift or benefit
   - I intend to donate the gift or benefit to charity
   - I intend to share the gift or benefit with other staff in the workplace
   - I intend to donate the gift or benefit to the Social Club
   - I intend to keep the gift or benefit
   - I intend to give the gift of published or original materials to the Manager, Collection Services or to the Manager, Original Materials

C. send your completed electronic form by email to your Manager and wait for response to action your suggestion

   The options include:
   - return the gift or benefit to donor
   - advise donor you are unable to accept the gift or benefit
   - donate the gift or benefit (e.g. to charity, staff social club)
   - give the gift of published or original materials to the Manager, Collection services
   - keep the gift and benefit
   - share the gift or benefit with other staff in the workplace

On receipt of your declaration form, the Manager will consider the information provided in terms of the Gifts and Benefits Policy, complete the declaration with the appropriate course of action to take and send this completed electronic form by email to you and to the Manager, Human Resources.

A pro forma letter is available for staff to use when returning a gift/benefit.

6.2 What to do if offered a bribe
If a staff member believes they have been offered a bribe it is crucial that the correct procedures are followed, as outlined below.
1. The staff member must immediately reject the offer, terminate the interaction with the person and make a record of the event.

2. The staff member must report the incident immediately to their Director and provide a copy of the record of the event to the Director for filing on a TRIM file. The Director is to inform the State Librarian who will report the matter to the Independent Commission Against Corruption (ICAC) and/or the NSW Police as appropriate. The Director or State Librarian will discuss with the staff member exactly how future relations with the person who offered the bribe should be conducted.

3. Soliciting personal gifts or bribes is strictly prohibited under all circumstances. If a staff member becomes aware of another staff member soliciting gifts or benefits, they should report it immediately to their Manager.

4. Gifts that may not be outright bribes but are nevertheless suspected of being offered for the purposes of influencing a staff member’s behaviour in his or her official capacity should always be declined. In such circumstances the Manager and Director must be notified of the incident. The matter is then reported to the State Librarian who will consider whether to make a section 11 (ICAC Act 1988) report to ICAC.

5. Accepting gifts of money is strictly prohibited in all cases, since in all likelihood such a gift would be considered bribery. This includes offers of money to cover expenses for trips to view samples of work, or to expedite the work of the Library. Any such gift that is received (for example in the mail) must immediately be declared and returned. If offered a gift of money, it must be refused and you must report the incident immediately to your Manager and Director.

7. Definitions and acronyms

- **Gift** is an item of value, for example - a gift voucher, entertainment, hospitality, travel, commodity, property etc which one person or organisation presents to another. Gifts may be offered as an expression of gratitude with no obligation to repay in kind, or given to create a feeling of obligation. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed.

- **Gift of Influence** is a gift that is intended to generally gratify the giver with the recipient for favourable treatment in the future.

- **Gift of Gratitude** is a gift that is offered to an individual or an agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.

- **Ceremonial Gift** is an official gift from one organisation to another organisation. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency and therefore the gift is considered to be for the organisation, not a particular individual.

- **Token Gift** is a gift that is offered in business situations to an agency or public official representing an agency. Such gifts are in the nature of small office or business accessories that contain the company logo. They are products that are mass-produced and not given as a personal gift for use outside the business context. A token gift has no significant or lasting value for example - an inexpensive pen, tie, scarf, coffee mug or plaque, a showbag given to all participants at seminars or conferences.

- **Cumulative gifts** are also referred to as serial gift giving, involving a series of gifts or benefits given to staff by an organisation over a period of time.
• **Benefit** is similar to a gift in that it is of value to the recipient, but less tangible. For example meals, discounts, seats at sporting events, access to corporate boxes at sporting venues, upgrades on flights, new job or promotion, preferential treatment, or access to confidential information.

• **Gifts and Benefits Register** is the official State Library record that details gifts and benefits received by staff and how they were managed.

• **Public Official** is an individual who carries out public official functions or acts in the capacity of a public official. Temporary employees and in some circumstances private contractors and consultants are also considered public officials when performing the role of a public official.

• **Bribe** is 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.

• **Bribery** 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.

• **Corruption** means the abuse of public office, that is, ‘public trust’ for private or personal advantage.

• **Nominal Value** is the monetary limit of acceptable gifts. By accepting the gift, there would be no obligation, perception or expectation for reciprocation or providing preferential treatment.

8. **Approval**
   This policy was approved by Executive on 7 May 2012 for immediate implementation.

9. **Implementation**
   This reviewed policy is implemented on 7 May 2012.

10. **History**
    This policy replaces the ‘Acceptance of gifts and benefits’ section of the Library’s Code of Conduct (December 2011).

11. **Prepared by:**
    Manager, Human Resources
    26 April 2012

12. **Document History and Version Control**

<table>
<thead>
<tr>
<th>Version</th>
<th>Date approved</th>
<th>Approved by</th>
<th>Brief description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>7/05/2012</td>
<td>Executive</td>
<td>First release</td>
</tr>
</tbody>
</table>