

PROCEDURE

GIFTS, BENEFITS AND HOSPITALITY

TARGET AUDIENCE

This procedure applies to all Peter MacCallum Cancer Centre (Peter Mac) Employees, including Board members, Executives, individuals, contractors, consultants and any individuals or groups undertaking activities on behalf of Peter Mac.

STATE ANY RELATED PETER MAC POLICIES, PROCEDURES OR GUIDELINES

Corporate Governance Policy
Conflict of Interest Procedure
Financial Code of Practice
Code of Conduct for Victorian Public Sector Employees
Code of Conduct for Board of Directors
Healthy Eating and Drinking Corporate Guideline
Delegations of Authority Framework

PURPOSE

This procedure formally expresses Peter Mac's position on:

1. Responding to offers of gifts, benefits and hospitality; and,
2. Providing gifts, benefits and hospitality.

This procedure is intended to support employees and Peter Mac to avoid conflicts of interest and maintain high levels of integrity and public trust. It is also intended to support behaviour consistent with the *Code of Conduct for Victorian Public Sector Employees* ("the *Code of Conduct*"). Clause 1.2 of the Code of Conduct requires all Peter Mac employees to comply with this procedure.

PRINCIPLES

This procedure has been developed in accordance with the minimum accountabilities for managing gifts, benefits and hospitality, as issued by the Victorian Public Sector Commission (VPSC).

Peter Mac is committed to and will uphold the following principles in applying this procedure:

1. *Public Interest*

Individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a perception of, or actual, bias or preferential treatment. Employees do not accept offers from companies or individuals representing a company whom they are likely to make business decisions about, represent or require a professional relationship with.

2. *Accountability*

Individual employees are accountable for:

- Declaring all non-token offers of gifts, benefits and hospitality;
- Declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this procedure, seeking approval to accept the offer; and,
- The responsible provision of gifts, benefits and hospitality.

Employees with direct reports are accountable for overseeing management of their direct reports' acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

3. *Risk based approach*

Peter Mac, through its procedures, processes and Audit and Risk Management Committee, will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

QUICK REFERENCE GUIDE

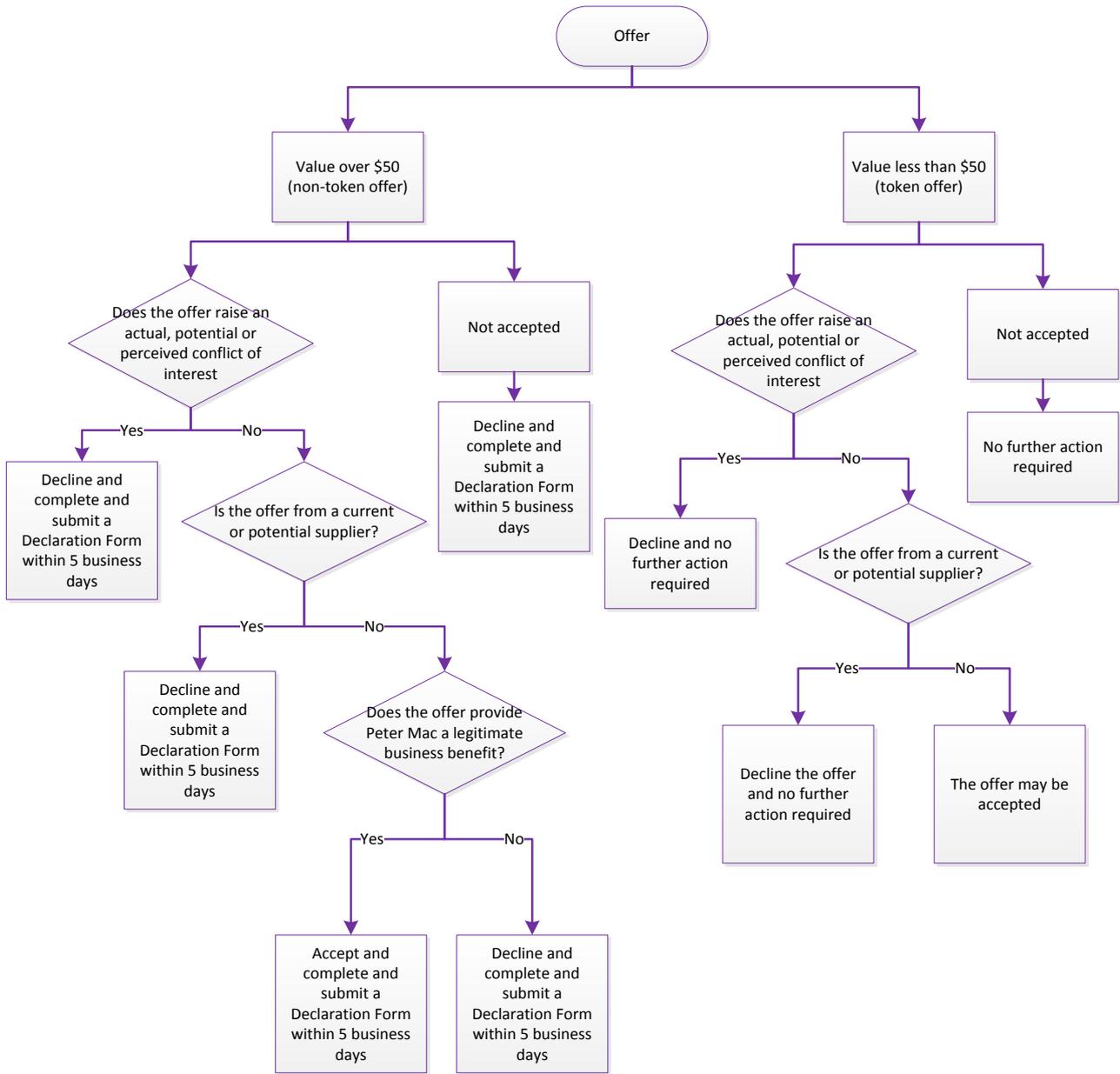
Employees offered gifts, benefits and hospitality:

- Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
- Refuse all offers of gifts, benefits and hospitality that:
 - Are money, items used in a similar way to money, or items easily converted to money;
 - Give rise to an actual, potential or perceived conflict of interest;
 - May adversely affect their standing as a public official or which may bring their public sector employer or the public sector into disrepute; or
 - Are non-token offers without a legitimate business benefit.
- Declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer within five (5) business days of the offer being made.
- Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

Employees providing gifts, benefits and hospitality

- Ensure that any gift, benefit and hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities.
- Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
- Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

FLOWCHART



MANAGING OFFERS OF GIFTS, BENEFITS AND HOSPITALITY

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the relevant delegate:

- In the case of employees, the Chief Executive Officer; and,
- In the case of Executive and non-Executive Board members, the Chairperson of the Board.

1. Token offers

A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the employee. It may include items given to medical staff from patients or carers, promotional stationary items and modest hospitality which would be considered a basic courtesy. It cannot be worth more than \$50.

Employees may accept token offers of gifts, benefits and hospitality without approval or inclusion on the Peter Mac register. If token offers are made often by the same person or organisation, the cumulative value of the offers, or the perception that they may influence the recipient, may result in the offers becoming non-token in which case it must be declared through the *Declaration Form*.

Individuals are to refuse all offers made by an organisation with which Peter Mac is engaged in business dealings (excluding token hospitality, such as sandwiches or coffee over a lunchtime meeting).

2. Requirements for refusing non-token offers

Employees are to refuse non-token offers:

- Likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential, or perceived conflict of interest;
- By a person or organisation about which they will likely make a decision (also applies to processes involving grants, sponsorship, regulation, enforcement or licensing);
- Likely to be a bribe or inducement to make a decision or act in a particular way;
- That extend to their relatives or friends;
- With no legitimate business benefit;
- Of money, or used in a similar way to money, or something easily converted to money;
- Where, in relation to hospitality and events, the organisation will already be sufficiently represented to meet its business needs;
- Where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- Made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector agencies; and
- Made in secret.

If an employee considers they have been offered a bribe or inducement, the offer must be reported to the Chief Executive Officer or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-Corruption Commission).

When accepting gifts becomes a habit or even an expectation, employees are more likely to be compromised. Employees must immediately report to their Executive Director, Director, or the Chief Executive Officer any colleague who tries to solicit a bribe.

3. Requirements for accepting non-token offers

All accepted non-token offers must be approved in writing by the employee’s manager and Executive Director or Director through completion of the *Declaration Form* within five (5) business days of the offer being made, recorded in Peter Mac’s gifts, benefits and hospitality register and be consistent with the following requirements:

- It does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual, Peter Mac or the public sector into disrepute; and,
- There is a legitimate business reason for acceptance. It is offered in the course of the employee’s official duties and responsibilities and has a benefit to Peter Mac, the public sector or the State.

Examples of non-token offers without a legitimate business benefit may include

- Tickets to entertainment events that do not relate to an employee’s official duties (e.g. tickets to the Australian Open);
- Non-token hospitality provided while introducing an employee to a product or service.

Offers of cash donations for must be referred to the Peter Mac Foundation.

There may be non-token offers that hold a business benefit but may still be inappropriate to accept. For example, travel sponsored by private or commercial sources may have a business benefit to Peter Mac. However, this should generally be declined because there is a high risk that a conflict of interest will arise.

The overarching consideration should always be whether acceptance of an offer will bring the employee, Peter Mac or the public sector into disrepute, including through the creation of a conflict of interest.

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager and Executive Director or Director prior to accepting. In these cases, the individual must seek approval from their manager and Executive Director or Director within five (5) business days.

4. Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be recorded in Peter Mac’s gifts, benefits and hospitality register. The business reason for accepting the non-token offer must be recorded in the register and provide sufficient detail to link the acceptance to the individuals work functions and benefit to Peter Mac, the public sector or State.

Table 2: Acceptable and unacceptable levels of detail relating to business reasons in a Declaration Form

Unacceptable	<p>“Networking”</p> <p>“Maintaining stakeholder relationships”</p>
Acceptable	<p>“[Employee] is responsible for reporting outcomes of the Peter Mac’s sponsorship of Event A. [Employee] attended Event A in an official capacity”</p> <p>“Individual presented to a visiting international delegation. The delegation presented [Employee] with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The Gift was accepted, written approval was subsequently obtained for the gift, which became Peter Mac’s property.”</p>

Employees who receive a non-token offer, whether accepted or declined, must complete a *Declaration Form*. The completed and signed form must then be submitted to the employee's Executive Director or Director.

The Executive Director or Director will review the completed *Declaration Form*. If the employee intends to accept a non-token offer, the Executive Director or Director must ensure that the employee has provided acceptable detail.

Once approved or disapproved, the details of the *Declaration Form* will be recorded in Peter Mac's gifts, benefits and hospitality register, and the completed Form placed on the employee's personnel file.

Peter Mac's Audit and Risk Management Committee will receive:

- A quarterly report on the gifts, benefits and hospitality accepted and declined for the period. It will also include an analysis of Peter Mac Peter Mac's gifts, benefits and hospitality and,
- An annual report on the administration and quality control of the Gifts, Benefits and Hospitality Procedure, processes and register. The report will also include analysis of Peter Mac's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.

5. Ownership of gifts offered to individuals

Non-token gifts accepted by an employee for their work or contribution may be retained by the individual where the Chief Executive Officer has provided their written approval. Employees must transfer to Peter Mac any official gifts or any gift of cultural significance or significant value (over \$50).

Any benefits accruing from an employee's activities belong to Peter Mac and are to be deposited, as appropriate, into a Peter Mac Specific Purpose Fund (SPF) cost centre. This includes door prizes, payments for consultancies, speaking fees and financial grants.

Where travel and accommodation to support an employee presenting at a conference or speaking on a professional panel has been offered to an employee, approved by the Executive Director or Director, and accepted; is seen to have been retained by the individual.

MANAGING THE PROVISION OF GIFTS, BENEFITS AND HOSPITALITY

Gifts, benefits or hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes and to celebrate achievements.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, employees must ensure:

- Any gift, benefit or hospitality is provided for a business reason in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy and priorities;
- That any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations;
- That any costs are contained wherever possible and are appropriate for the nature of the event, the number of attendees, and the intended outcomes, and;
- It does not raise an actual, potential or perceived conflict of interest.

Any employee who proposes to provide a gift, benefit or hospitality to an agency or person must:

- Consult their manager about the proposed gift, benefit or hospitality (Board and Board committee members must consult the Chairperson of the Board);
- In the case of hospitality, consult the Healthy Eating and Drinking Corporate Guideline; and,
- Seek approval according to the Peter Mac *Delegations of Authority Framework* in line with the value of the gift, benefit or hospitality proposed and, where hospitality is involved, the *Healthy Eating and Drinking Corporate Guideline*.

SPEAK UP

Individuals who consider that gifts, benefits and hospitality or conflict of interest within Peter Mac may not have been declared or is not being appropriately managed should speak up and notify their manager or General Counsel and Corporate Secretary.

Peter Mac will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

FAILURE TO COMPLY

Where an employee fails to adhere to this procedure, they may be subject to disciplinary action up to and including termination of employment. This includes where an employee fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with Peter Mac's Conflict of Interest Procedure.

Actions inconsistent with this procedure may constitute misconduct under the employee's prevailing Award, Enterprise Agreement, or contract, and the Public Administration Act 2004, which includes:

- Breaches of the binding Code of Conduct for Victorian Public Sector Employees, such as sections covering conflict of interest (section 3.7), public trust (3.9) and gifts and benefits (4.2); and,
- Individuals making improper use of their position.

FURTHER INFORMATION

A conflict of interest resulting from a gift, benefit or hospitality is not always clear to those who have them.

Employees who are unsure about the acceptance of a gift, benefit or hospitality, or the application of this procedure, should contact their manager or the General Counsel and Corporate Secretary.

DEFINITIONS

Business associate	An external individual or entity which the organisation has, or plans to establish, some form of business relationship, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.
Benefits	Include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts, and promises of a new job.
Conflicts of interest: Actual conflict of interest	There is a real conflict between an employee's public duties and private interests.

Conflicts of interest: Potential conflict of interest	An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.
Conflicts of interest: Perceived conflict of interest	The public or a third party could form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.
Employee(s)	Includes Board members, Executives, individuals, contractors, consultants and any individuals or groups undertaking activities on behalf of Peter Mac.
Gifts	Are free or discounted items and any item that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers) and consumables (e.g. chocolates). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.
Hospitality	Is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Legitimate business benefit	Gifts, benefits and hospitality accepted or provided for a business purpose, in that it furthers the conduct of official business or other legitimate goals of the organisation, public sector or State.
Public official	Has the same meaning as under section 4 of the Public Administration Act 2004. This includes public sector employees, statutory office holders, and directors of public entities.
Register	Is a record, preferably electronic, of all declarable gifts, benefits and hospitality. It records the date an offer was made and by whom, the nature of the offer, its estimated value, the raising of any actual, potential or perceived conflicts of interest or reputational risks and how the offer was managed. For accepted offers, it details the business reason for acceptance and the officer approving the acceptance.
Token offer	Is an offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value to both parties. The primary determinant of a token offer is that it would not be reasonably perceived as influencing an individual or raising an actual, potential or perceived conflict of interest, it cannot be worth more than \$50 (including cumulative offers from the same source over a 12 month period).
Non-token offer	Is an offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register.

MINIMUM ACCOUNTABILITIES OF CHIEF EXECUTIVE OFFICER

- Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
- Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
- Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
- Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for a business associate acting contrary to the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
- Report at least annually to the organisation's audit committee on the administration and quality control of its Gifts, Benefits and Hospitality Procedure, processes and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
- Publish the organisation's Gifts, Benefits and Hospitality Procedure and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.
- Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.

LEGISLATION/REFERENCES/SUPPORTING DOCUMENTS

- Minimum accountabilities for the management of gifts, benefits and hospitality
- Peter Mac's Conflict of Interest Procedure
- Public Administration Act 2004
- Code of conduct for Victorian Public Sector Employees
- Code of Conduct for Directors of Victorian public entities 2016
- Victorian Public Sector Commission's Gifts, benefits and hospitality policy framework Oct 2016.

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APPENDIX A

The following scenarios are designed to assist employees to understand the implications associated with accepting gifts, benefits or hospitality, and the conduct that is expected of them :

Scenario 1 – Conference Presentation

Matthew had spent the past week composing and then rehearsing his presentation for the international conference on sustainable development. As Matthew makes his closing remarks, the audience applauds and the MC steps forward to thank him for an engaging presentation, and presents him with a modest box of chocolates.

Action: The MC is presenting Matthew with chocolates to say thanks for his presentation. Matthew's organisation categorises such gifts as token offers and does not require them to be recorded on the gifts, benefits and hospitality register. Matthew could accept the chocolates.

Scenario – A day at the tennis

Pam is responsible for her organisation's marketing and promotions team, including for approving sponsorship funding for local events. While attending an event that her organisation sponsored, Pam was invited by the event organiser to attend the upcoming Australian Open tennis tournament.

Action: It was appropriate for Pam to attend the event her organisation sponsored so that she could report back to her employer on the outcome. However, it would not be appropriate for Pam to attend the Australian Open event, as there is no business benefit for organisation in her attending. It could also raise a perceived conflict of interest, as the person making the offer could be seeking to influence Pam's future sponsorship decisions. She should decline the invitation and record the non-token offer of Australian Open tickets on her organisation's gifts, benefits and hospitality register.

Scenario – Conference sponsorship

Jason is a Team Leader at a public sector research institute. A major research conference is being organised in London, England and the conference organisers have asked Jason to present his research findings and to speak at the plenary session. The conference organisers have offered to fund Jason's air fares, accommodation and conference registration fee plus the payment of a \$2,000 honorarium for speaking at the plenary session.

Action: Jason must assess the offer and determine whether acceptance of the offer would create an actual, potential or perceived conflict of interest, or bring himself, the organisation or the public sector into disrepute. Jason must also consider whether acceptance of the offer would bring a legitimate business benefit to the organisation, the public sector or State.

If accepting the offer would not create an actual, potential or perceived conflict of interest, or bring himself, the organisation or public sector into disrepute, AND there is a legitimate business benefit, then Jason may accept the offer.

Acceptance of the offer is subject to the approval of Jason's manager and the Executive Director of Research. Whether approval is granted or not, Jason is required to complete a Declaration Form. If approved, the Declaration Form will include seeking authority to deposit the \$2,000 honorarium into a restricted specific purpose fund to assist with the funding of Jason's further research. Jason would not be permitted to retain the \$2,000 honorarium for his personal use.

If Jason attends, he must also complete and submit a leave form applying for conference leave.

Scenario – Payment for appearance

Susan is a Haematologist at a public health service and her organisation has funded her attendance at a Haematology conference in Auckland, New Zealand. At the conclusion of the conference dinner, a major international drug company has asked Susan to participate in a panel discussion on targeted therapies. The drug company has offered Susan \$1,500 as a sitting fee for her participation in the panel discussion. Susan is in a position to make decisions about whether to purchase products made by this company.

Action: Because Susan is in a position to make decisions about whether to purchase products made by this company, accepting the offer could raise a perceived conflict of interest, as the company could be seen to have influenced a future decision made by Susan regarding the purchase of their product. Susan's participation on the panel may also be seen as endorsement of the company and its product. Susan should decline the offer, and complete and submit a Declaration Form to her manager.

Scenario – Research advisory panel

Robert is an internationally recognised cancer researcher at a public sector research institute. Robert has been invited by a commercial entity to be a member of a scientific advisory panel and to be paid a sitting fee of \$4,500 per day plus travel and accommodation expenses to attend meetings of the panel.

Action: In consultation with his direct manager, Robert has determined that participation on the panel will not affect his work performance and there is no actual, potential or perceived conflict of interest between Robert's research and the work or objectives of the commercial entity. Robert may accept the offer.

If Robert accepts, he will complete an Outside Work and Consultancy Agreement, Leave Application Form for representative or professional development leave (provided his contract contains it) and a Declaration Form. The public sector research institute will render a tax invoice to the commercial entity for each sitting day that Robert attends the panel.

The \$4,500 sitting fee will be deposited into a restricted specific purpose fund to assist with the funding of Robert's team's research and their future professional related expenses.

Scenario – Supplier hospitality

Lisa is the Information Technology (IT) Manager of a public sector agency attended a meeting with a supplier in which tea, coffee and biscuits were served. Lisa availed herself of the refreshments. At the end of the first meeting, a further meeting is proposed to be held at a restaurant and the supplier offers to pay for the IT Manager's meal.

Action: Lisa was able to accept the refreshments offered at the first meeting because they were token in nature and unlikely to create the impression that an attempt was being made to influence any future decision made by Lisa.

However, Lisa should refuse the offer to hold the second meeting at a restaurant as the hospitality will be non-token, provides no legitimate business benefit, and could create an actual, potential or perceived conflict of interest.

In a judgement by the Independent Commission Against Corruption, a three course lunch in a restaurant created an impression that an attempt was being made to compromise a manager's impartiality and the damage of this perception far outweighed any benefit associated with the Manager's attendance at the meeting.

Scenario – Offer of entertainment to partner

Nicole is a project manager who is just about to advertise a major public tender. Her partner David receives an invitation for him and a guest to attend the AFL Grand Final in the Biz Inc Corporate Box. Biz Inc is likely to submit a tender in response to Nicole's advertisement.

Action: The gift is being extended to Nicole as David's guest. The gift is of significant value. Accepting the gift could compromise Nicole and the tender process. She is prohibited from accepting gifts from contractors. Nicole should politely decline the offer. David can choose whether or not to attend.

Scenario – Becoming compromised

There was a clear pattern of behaviour by X, a businessman who was investigated for corruption in NSW,

X would select a target and invite that person for a drink at a pub or club and a relaxed social relationship would be established. X would discover whether his target had any wants or needs he could use to compromise him (e.g. a new computer game for his child). X would choose gifts that the target could easily rationalise accepting, but as soon as the target accepted a small gift, X was confident that the target had been corrupted. He would then scale up the gifts and at a certain point request in return a small service that could also easily be rationalised. Eventually a significant favour would be demanded.

Scenario – Supplier benefits

A bank developed a benefits package for its corporate and institutional customer base. The package included discounted housing loans for all employees of its corporate and institutional customers provided that some criteria were met. The Independent Commission Against Corruption advised that it would be inappropriate for those employees to accept the offer because the discount offered by the bank conferred a personal benefit on the employees that was of more than a nominal value.

Scenario – Un-associated business benefits

A company operating a car park offered employees of a nearby government agency a 10% discount on parking. This offer was made to all businesses and residents within a given radius of the car park. It was acceptable for the employees to accept the discount offered to them because it was based on proximity to the car park and was not connected to the official functions of the agency.

Scenario – Repeated offers, inducements and attempted bribery

A local Council employee was involved in a series of inspections on a building site. The developer offered the employee gifts including alcohol and a present for the employee's newborn child. The employee accepted the gifts as he felt they were offered as unconditional and genuine tokens of appreciation for his work.

The employee was not influenced by the gifts and made a recommendation that was not in the developer's interests, the developer complained to the Council about the employee accepting the gifts.

Although the employee accepted the gifts in good faith he had placed himself in a vulnerable position. While each of the gifts was modest in value, the total value of the gifts seemed quite substantial. The developer was able to manipulate the situation to allege that the employee had accepted bribes.

The employee's acceptance of gifts from the developer could be used as circumstantial evidence of bribery. Furthermore, the employee could not reply on the fact that the decision he made was one he would have made regardless of the gifts as a defence to bribery.