

**POLICY TITLE: Code of Conduct (Gifts, Benefits and Hospitality)****PURPOSE**

This policy is intended to facilitate the application of paragraph 4.2 of the [Code of Conduct for the Victorian Public Sector](#) (“the Code”) to the workplace environment of Mildura Base Public Hospital (MBPH). The code of conduct emphasizes the importance of responding appropriately to offers of gifts, benefits and hospitality.

Paragraph 4.2 of the Code states that public sector staff (which includes all MBPH staff and the Board) will not, for themselves or others, seek or accept forgiveness of debt, gifts or benefits that could be reasonably perceived as influencing them.

This policy establishes specific principles and procedures for staff with regard to receiving Gifts and Benefits (including hospitality) other than those received from MBPH as part of the staff member’s employment terms. This policy also outlines specific principles regarding MBPH staff and Board members offering hospitality or gifts.

This document adopts the minimum accountabilities, as set out in the [Victorian Public Sector Commission’s Gifts, Benefits and Hospitality Guide](#).

**PRINCIPLES**

MBPH staff and the Board must behave with integrity and impartiality and be accountable. This includes responding appropriately to offers of gifts, benefits and hospitality

MBPH staff and the Board must demonstrate integrity by avoiding any actual, potential or perceived conflict of interest. They must demonstrate impartiality by making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest, and must demonstrate accountability by seeking to achieve best use of resources and submitting themselves to appropriate scrutiny. Before making a decision or providing advice, MBPH staff and the Board should consider relevant information and the impact on MBPH and its staff.

These principles assist MBPH to establish its credibility in the relevant markets as a reliable purchaser of goods and services and otherwise achieve quality outcomes from the operation of its purchasing procedure.

## DEFINITIONS

**Reportable Gift / Non Token Offer:** A reportable gift / non token offer is defined as any gift with a monetary value above \$50. A non token offer may be perceived to more than inconsequential value. All gifts and non token offers worth more than \$50 must be recorded on the gift, benefit and hospitality register. Gifts, benefits and favours of insignificant monetary value which would be viewed as socially acceptable norms of behaviour (ie. a box of chocolates given by a patient to a member of staff out of gratitude for service rendered during the patient's stay in hospital) are not reportable gifts.

**Significant Gift:** A significant gift is defined as any gift with a monetary value above \$1,000.

**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 the person making the offer and the individual. A token offer cannot be worth more than \$50 (cumulative). The primary determinant of a token offer is that it would not be reasonably perceived within or outside the organisation as influencing an individual or raising an actual, potential or perceived conflict of interest.

**The Code:** The [Code of Conduct for Victorian Public Sector Employees](#) (no 1 of 2007) as it is constituted from time to time during the life of this policy by the Public Sector Standards Commissioner using his powers conferred by the Act.

**The Act:** [The Public Administration Act 2004](#) as in force from time to time during the life of this policy.

**Gifts:** Gifts are defined as any free or discounted items or service that would generally be seen by the public as a gift. Gifts may include free or discounted items exceeding common courtesy including forgiveness of debt, goods, services, travel or hospitality received by a member of MBPH, as a consequence of their employment or appointment at MBPH. It does not include those benefits received by staff or the Board from MBPH as part of their employment or appointment terms.

**Benefits:** Benefits are preferential treatment, privileged access, favours or other advantage offer. While the value of benefits may sometime be difficult to quantify in dollars, they may be highly valued by the intended recipient and therefore used to influence behaviour.

**Hospitality:** Hospitality is the friendly reception and entertainment of guests. Hospitality may include the offer or light refreshments, meals, sponsored travel and accommodation. General hospitality can be provided for a range of purposes including sustenance or for the purpose of celebrating achievements.

**Conflict of Interest:** Conflicts of interest in the public sector are conflicts between public duties and private interests. These can be actual, potential or perceived. A conflict of interest can arise from avoiding personal losses, as well as gaining personal advantage — whether financial or otherwise.

- An **actual conflict of interest** is one where there is a real conflict between an employee's public duties and responsibilities, and their private interests.
- A **potential conflict of interest** arises where an employee has private interests that could conflict with their public duties.
- A **perceived conflict of interest** can exist where an objective third party could reasonably form the view that an employee's private interest could improperly influence the performance of their duties, now or in the future.

**Probity:** Honest, proper, fair and ethical conduct in all matters.

## **POLICY**

1. Staff and the Board will adhere to minimum requirements for all public officials:
  - 1.1 Not solicit or accept gifts, benefits or hospitality. The general principle to be followed is that staff and the Board should not seek or accept gifts or benefits from anyone who could benefit by influencing them or that could be reasonably perceived as influencing them.
  - 1.2 Refuse all offers of gifts, benefits or hospitality that could be reasonably perceived as undermining the integrity and impartiality of their organisation or themselves.
  - 1.3 Refuse all offers of gifts, benefits or hospitality from people or organisation about whom they are likely to make decisions involving tender processes, procurement, enforcement, licensing or regulation.
  - 1.4 Refuse all offers of money, gift vouchers, shares or items easily converted to money, such as shares.
  - 1.5 Refuse bribes and report bribery attempts to their executive director and to the Victoria Police. If unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value, seek advice from a manager or Executive Director, Human Resources.
2. MBPH staff and the Board will also:
  - 2.1 Not use their position to obtain a private benefit for someone else. Family, community, social or other personal relationships must not improperly influence the employee's decisions.
  - 2.2 Not use their position to entice or obtain any unfair or improper advantage to MBPH involving matters such as; tender processes, managing contracts, procurement, enforcement, licencing, regulation, grants, sponsorship or funding allocations from external agencies or organisations.
  - 2.3 Consider a gift, benefit or hospitality is acceptable if it is offered on the understanding that it does not place or appear to place a staff member or a board member under any obligation and is not offered as a payment for anything a staff member or board member would normally do as a MBPH staff member.
  - 2.4 MBPH staff must immediately report to their manager any circumstances

where an offer of a gift or benefit is made, regardless of whether it is accepted or not. MBPH Board members must report in a Board meeting

any circumstances where an offer or a gift or benefit is made, regardless of whether it is accepted or not.

2.5 MBPH staff (including the Board) must also immediately complete a Gift, Benefit and Hospitality Form when accepting or declaring offers of Gifts or Benefits that have a real or perceived value greater than \$50. The Gifts, Benefits and Hospitality Form must be signed by the staff member's manager prior to being forwarded to the Executive Director Human Resources who will ensure that a Gift, Benefit and Hospitality Register is maintained. Completed forms will be filed on the staff member's personnel file.

3. In cases where there is disagreement between MBPH and the staff member as to either or both of:
  - a. Whether the staff member in fact should or should not accept a gift, benefit or hospitality in the context of their employment by MBPH;
  - b. What action should be taken by the staff member to resolve the acceptance or non acceptance of a gift, benefit or hospitality;

MBPH as employer is entitled to give the staff member a lawful and reasonable direction as to what constitutes an acceptable gift, benefit or hospitality and/or what action needs to be taken by the employee to resolve the matter.

4. A refusal by a MBPH staff member to observe a lawful and reasonable direction given by MBPH as employer will be regarded by MBPH as both a breach of the employment agreement, breach of the code of conduct and a contravention of this policy.
5. MBPH acknowledges that contravention by a MBPH staff member of a provision in this policy is capable of constituting misconduct or serious misconduct, in addition to being a breach of their employment agreement. For the purposes of this policy and other code related policies, misconduct and serious misconduct shall have the same meaning as described in section 22 of the Act. If a staff member is found to be in breach of the Code or a code related policy, whether by way of misconduct or otherwise, disciplinary action will be taken by the Group in such form as is appropriate to the gravity of the breach.
6. This policy is a code related policy for the purposes of the MBPH Code of Conduct Policy.

## PROCEDURE

1. Staff offered a gift that is reportable (ie. \$50 or greater in value) should report this on the Gift, Benefit and Hospitality Form and present this to their Manager who will advise whether or not it is appropriate to accept. Reportable gifts must be authorised by the staff member's Manager before being accepted. It is important to note that multiple gifts/benefits from the same person/company over a period of time might be considered to be part of a single series of gifts and benefits which together might become reportable.

2. Where the Chief Executive is offered a gift that may be reportable, this must be approved by the Board Chair or Deputy Chair before being accepted.
3. All reportable gifts that are accepted must be recorded in the Mildura Base Public Hospital (MBPH) Gifts, Benefits and Hospitality Register. The format of the register is set

out in **Appendix 1**. The MBPH Gifts, Benefits and Hospitality Register is maintained by the Executive Director People & Culture and is subject to regular scrutiny, including review by Internal and External Audit.

4. Significant gifts that are tangible assets will be regarded as the property of MBPH and are to be recorded on the MBPH Assets Register. Staff should consider each time they are offered a gift or benefit by the same person or company.
5. Staff must immediately report to the Chief Executive Officer and/or Corporate Integrity Manager any attempt to bribe them or their colleagues with money or any other gift.
6. Staff must immediately report to their Manager any colleague who tries to solicit a bribe.
7. Breaches of the guideline will constitute a breach of the MBPH Code of Conduct, The Act and result in disciplinary action.
8. At the end of each Fringe Benefit Tax (FBT) year the Executive Director Finance and Resources or delegate will review the MBPH Gifts, Benefits and Hospitality Register to assess the FBT implications of any reportable gifts.
9. At the end of each FBT Year, the Executive Director Finance and Resources will prepare a report for the Audit and Risk Committee on the basis for an attestation that MBPH has transparent reporting of accepted gifts, benefits and hospitality, and there is no evidence of attempts to improperly influence the decision or actions taken by its employees. The Chief Executive Officer will sign-off on the attestation on behalf of MBPH once endorsed by the Audit and Risk Committee.

As staff member who accepts a bribe, accepts a corrupting benefit or abuses a public office may be guilty of an offence under the *Criminal Code Act 1995 (Cth)* or under the *Crimes Act 1958 (Vic)*. In addition, involvement in suspect conduct exposes Directors and employees to scrutiny by the Independent Broad-based Anti- Corruption Commission (IBAC).

### **Reporting and Publication**

MBPH will publish the following on its website ([Mildura Base Public Hospital website](#)):

- This Gifts, Benefits and Hospitality Protocol;
- A Gifts, Benefits and Hospitality register.. The published register is to cover the current and the previous financial year.

The Office of Human Resources will:

- Update the Gifts, Benefits and Hospitality register monthly; and
- Provide a copy of the updated Gifts, benefits and Hospitality Register to Public Affairs for uploading to the MBPH website each month.

## REFERENCES AND ASSOCIATED DOCUMENTS

### MBPH Policy and Procedures

- Bullying Protocol
- Code of Conduct Policy
- Gift, Benefit and Hospitality Form
- Mildura Base Public Hospital Fraud and Corruption Framework

### State and Commonwealth Legislation

- [Victorian Public Sector Commission – Gifts, Benefits and Hospitality Policy Guide](#)
- [Criminal Code Act 1995 \(Cth\)](#)
- [Crimes Act 1958 \(Vic\)](#)
- [Code of Conduct for the Victorian Public Sector Employees](#)
- [Code of Conduct for Directors of Victorian Public Entities](#)
- [Public Administration Act 2004](#)

### Standards/Codes of Practice/Industry Guidelines

- DHHS Gifts, Benefits and Hospital Policy
- Victorian Public Sector Commission model gifts, benefits and hospitality register

<b>Endorsed By:</b> Andrea Noonan – Workforce & HR Workstream Lead, Mildura Base Hospital Transition Project	<b>Date:</b> 26/08/2020
<b>Authorised By:</b> Ingrid Player – Project Director, Mildura Base Hospital Transition Project	<b>Date:</b> 26/08/2020

### Mandatory Inclusion

Personal Information and health information as defined in the relevant Victorian law, which is required to be collected, used, disclosed and stored by MBPH in order to achieve the Purpose of this policy, will be handled by the Group, and its employees in accordance with their legal obligations.

When developing this policy, MBPH has taken all reasonable steps to make its content consistent with the proper discharge of its obligations under the Charter of Human Rights and Responsibilities Act 2006.

MBPH would like to acknowledge all the Traditional Owners throughout the Murray Mallee Region and on whose land we work and live as the first people of this Nation. We also pay our respect to all Elders past and present and to honour their culture.

