

## GIFTS & HOSPITALITY

Your working relationships may bring you into contact with outside organisations where it is normal business practice or social convention to offer hospitality, and sometimes gifts, to facilitate useful contact and working relationships. Offers of this kind to you or to your family can place you in a difficult position.

- **To refuse** may cause misunderstanding, or offence to the giver, especially if the offer comes from an overseas Government or government organisation.
- **To accept** could involve criminal liability or otherwise give rise to questions of impropriety or suspicion of conflict of interest.

Our gifts and hospitality procedures exist to ensure that you follow the correct course of action when offered a gift, reward or hospitality, and that our conduct is consistent and beyond repute.

### Legal requirements (Bribery Act 2011)

The Bribery Act 2010, which came into effect in July 2011, states that it is a criminal offence for anyone to give or receive (or to offer, promise or request) any financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

The Act also includes specific offences concerning bribing a foreign public official and the failure of commercial organisations to prevent bribery. The penalties for criminal offences in this area are severe – individuals can face fines and/or a prison sentence (of up to 10 years) and organisations can face unlimited fines and disbarment from public procurement in the UK.

This equally applies to those who are not civil servants but are undertaking work for the Scottish Government.

### Who does the policy apply to?

It applies to all colleagues considering whether to accept (personally or on behalf of family or friends) a gift, reward, benefit or other item of hospitality (work-related or not) from a member of the public or organisation with whom (or with which) official contact has been made.

If you are in an area concerned in any way, either directly or indirectly, with contracts, purchasing or the letting of consultancies, you should exercise the utmost care.

In areas where the offer of gifts is a frequent occurrence, Deputy Directors or Chief Professional Officers can consult HR about the possibility of introducing guidance specific to their needs.

### What are the key requirements?

- Cyber Security and Defence are responsible for ensuring the security and integrity of the Scottish Government's assets and information. To mitigate any potential risks, Cyber Security are required to inspect all electrical and ornamental gifts received by staff. No ornamental gifts should be installed in an office or electrical gift plugged in until they have been inspected by Cyber Security. Further advice and guidance can be obtained from [Cyber Security and Defence](#)
- You must record information about all gifts, rewards and hospitality offered with an estimated retail value of £15 and above in eHR
- You must consider set criteria when considering accepting such a gift, reward or hospitality
- Special considerations are given to gifts from overseas governments or organisations Special considerations apply to gifts and hospitality from overseas Governments or organisations, where there may be particular difficulty about refusing a gift without the risk of apparent discourtesy.
- HR Help must be consulted before accepting: a fee; an invitation to a concert, event or other function subsidised by a company for PR purposes; an award or prize that in anyway relates to your official duties
- Directors must approve attendance at conferences or functions that are intended, overtly or otherwise, as sales events and where hospitality may be dispensed
- HR Help can advise in any case where you feel doubt about the propriety of acceptance of any gift, hospitality or benefit by yourself or a member of your family

### Last review

This policy was last reviewed in March 2021Con.

### Related policies

This policy should be read in conjunction with guidance on confidentiality and official information, which sets out the rules on undertaking speaking engagements and writing articles involving the use of official information or experience.

Information in relation to Frequent Traveller Schemes, including air miles, is available within the Travel section of the Intranet.

## Procedures

### Guiding principles

When considering an offer of a gift, reward or hospitality you should bear in mind that:

- your conduct should not foster the suspicion of any conflict between your official duty and your private interests
- your actions when acting in an official capacity should not give the impression to any member of the public, to any organisation with which you deal or to your colleagues that you have been or may have been influenced by a gift or consideration to show favour or disfavour to any person or organisation the correct course of action will be determined by the context in which the offer is made. The nature of the relationships with outside organisations varies across the organisation and at different working levels, and the types of offers range widely. What is legitimate in one circumstance may be improper (or illegal) in another.

### Process

1. Consider whether it is appropriate to accept (personally or on behalf of family or friends) a gift, reward, benefit or other item of hospitality from a member of the public or organisation with whom (or with which) official contact has been made.

Criteria to consider	Guidance
Type	A distinction can be drawn between gifts, which in general should be refused (although there are exceptions) and conventional hospitality which normally may be accepted.
Relationship	The danger of creating an apparent obligation or embarrassment varies according to the relationship between the department and the outside body. It is particularly acute where the relationship is, or could be, contractual or regulatory. Contacts which are merely promotional or information gathering are less sensitive.
Legitimate interest	There is a clear obligation on both the Scottish Government and the outside body concerned to be able to demonstrate that the contact is legitimate in terms of normal working relationships. Your official position must, therefore, accord with this obligation.
Value	Gifts and benefits of a trivial or inexpensive nature or promotional gifts intended as advertising material and of little value can be distinguished from more substantial offers. All gifts which have a retail value clearly under £15, and which are acceptable in terms of the other criteria, may be accepted without reference to the HR.Help. Gifts which have a retail value between £15 and £30 must be reported to the HR.Help, and subject to the other criteria, may be accepted or retained on the judgement of the recipient. All gifts worth more than £30 in terms of retail value must be reported to the HR.Help

Criteria to consider	Guidance
	and may be retained only with the HR. Help's approval. For hospitality there is a similar distinction on the basis of value, as between, for instance, working lunches and more expensive social or sporting functions, travel or accommodation.
Frequency	Acceptance of regular invitations, particularly from the same source, would breach the required standards of conduct. Isolated acceptance of, for example, a meal, or tickets to a public, sporting, cultural or social event may be acceptable if attendance is justifiable in the interest of the Scottish Government.

2. If the following circumstances apply, seek approval from the appropriate authority:

- If the question of a fee arises HR Help should be consulted. You may be permitted to retain the whole or part of a fee if the work involved has been undertaken substantially outside office hours or official time spent on the work has been made up.
- Approval should be sought from your Director to attend Conferences or functions, in connection with your official duties, overtly or otherwise, intended by the organisers as sales promotions and where hospitality may be dispensed.
- HR Help should be consulted before invitations, whether work-related or not, to occasions such as concerts or sports events organised or subsidised by a commercial firm as a public relations exercise are accepted. Many invitations to a particular event may be received throughout the Scottish Government and it is essential that the number of invitations accepted is not so great as to cause adverse comment.
- You should consult HR Help if you are approached by an outside organisation about the offer of an award or prize in any way connected with your official duty. Retention of the award or prize will normally be allowed, having due regard to considerations of propriety and risk of public criticism, provided the award or prize is offered in recognition of personal achievement and not in the nature of, or such that it could be construed as, a gift, an inducement or payment for a publication or invention to which other rules apply.

3. Record the offer and the decision to refuse or accept in eHR.

You are required to record information about all gifts and hospitality offered with an estimated retail value of £15 and above in the case management section of the eHR self-referral facility.

The information you are required to record is:

- Type (Benefits, Cash/Cheque, Vouchers, Goods, Hospitality)
- Description
- Name of organisation
- Relationship
- Date offered
- Date received

- Circumstances in which the gift/hospitality was offered
- Estimated retail value (less than £15, £15-£30, over £30 - if over £30 you must specify the amount)
- Is it a group gift/hospitality
- Does acceptance give rise to an actual or potential conflict of interest
- Has gift/hospitality been accepted
- Comments from employee
- Comments from manager

### Gifts from Overseas Governments and Organisations

Although the principles set out above apply generally to such gifts, on some occasions it may be necessary that the gift be accepted and a gift offered in return. In such cases guidance should be obtained from the Foreign and Commonwealth Office, through HR Help.

If you are offered a decoration or medal from a foreign government the Foreign and Commonwealth Office must be consulted, through HR Help.

When the acceptance of a gift is reported, it is open to the Scottish Government to follow one of the following courses:

- the gift may be disposed of by sale; or
- it may be retained and, where appropriate, arrangements made for you to use or display the gift on some future occasion as a mark of politeness; or
- if the gift is of small value, you may be allowed to retain it.

In all cases of non-exempt gifts imported by you or on your behalf or sent from abroad, liability to duty and Value Added Tax should be resolved with HM Customs and Excise, Branch VI3, New King's Beam House, 22 Upper Ground, London SE1 9PJ. This responsibility lies with you if the gift has been retained.

HM Customs and Excise must also be consulted if, having been relieved of duty and tax at the time of importation, the gift is to be disposed of within 2 years. Again this responsibility falls to you if the gift has been retained.

## FURTHER SUPPORT

### Examples

You may be asked to accept speaking engagements etc in connection with your official duties and these may give rise to gifts or offers of fees. The rules on undertaking speaking engagements and writing articles involving the use of official information or experience are set out in ( [Confidentiality and Official Information guidance on the intranet](#) ); the concern here is solely with rewards for such activities. Hospitality, for instance in the form of a working lunch, may be accepted. A token gift in lieu of a fee may be accepted if it is of a trivial or ephemeral nature. If the question of a fee arises, the HR Help should be consulted. You may be permitted to retain the whole or part of a fee if the work involved has been undertaken substantially outside office hours or official time spent on the work has been made up.

You may also be invited in connection with your official duties to conferences or other functions which are, overtly or otherwise, intended by the organisers as sales promotions and where hospitality may be dispensed. Approval to attend should be sought from your Director. Where the nature of official duties obliges you frequently to attend such functions, continuing authority may be given for attendance and participation by you while you occupy that particular post and while such duties are required. On receiving such invitations you should be alert to the need to avoid subsequent allegations of corruption.

Invitations, whether work-related or not, to occasions such as concerts or sports events organised or subsidised by a commercial firm as a public relations exercise present a particular problem, because many invitations to a particular event may be received throughout the Scottish Government. In such circumstances it is essential that the number of invitations accepted by Scottish Government staff is not so great as to cause adverse comment. In order to avoid such a situation line management should consult [HR](#) who will advise whether the invitation(s) may be accepted.

### Guidance

[HR](#) is available to offer advice in individual cases.

### Forms and systems

All offers should be recorded using the eHR system.