1. Australian Public Service (APS) agency heads may occasionally receive gifts and benefits from people and organisations in the performance of their official duties.
2. This guidance requires all agency heads to publicly disclose all gifts or benefits accepted and valued at over $AUD100.00 (excluding GST). Reporting gifts and benefits accepted by agency heads in the performance of official duties helps to maintain public confidence in the integrity of APS agencies and the APS more broadly.
3. The 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
* there is consistency in relation to agency heads’ management of gifts and benefits across APS agencies and Commonwealth entities and companies.
1. Agency heads must:
* publish a register of gifts and benefits they accept that are valued at over $AUD100.00 (excluding GST) on their departmental or agency website on a quarterly basis;
* provide a link to the agency head gifts and benefits register to the Australian Public Service Commission (the Commission) for publication on the Commission’s website;
* collect and store the relevant information, and manage their register, in accordance with their agency’s procedures;
* update the register within 31 days of receiving a gift or benefit; and
* publish a ‘nil’ declaration on the gifts and benefits register where agency heads have not accepted any gifts during the reporting period.
1. This guidance highlights the risks that accepting certain gifts and benefits can pose on public confidence in APS agencies and the APS more broadly. It has been developed in line with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and the Code of Conduct contained in the *Public Service Act 1999* (PS Act). This policy should be read in conjunction with agency-specific policies.
2. This guidance commences on 1 December 2021.

### Why should gifts and benefits be declared?

1. Agency heads must uphold and promote the APS Values and Employment Principles and abide by the Code. In doing so, the acceptance and declaration of gifts and benefits must be considered in the context of:
* impartiality;
* accountability;
* ethical conduct;
* behaving honestly and with integrity;
* avoiding any conflict of interest; and
* not improperly using the agency head’s duties, status, power or authority to gain, or seek to gain, a benefit or an advantage.
1. Often gifts and benefits received by agency heads involve official hospitality and low-value mementos offered by visiting dignitaries and delegations. Accepting a gift or benefit of this nature is unlikely to be inconsistent with an agency head’s obligations; however, agency heads must take reasonable steps to avoid any conflict of interest (real or apparent) when dealing with gifts and benefits.
2. Public confidence in APS agencies and the APS more broadly can be damaged when gifts and benefits that create a conflict of interest are accepted or not properly declared. The appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.

### Who needs to declare gifts and benefits?

1. The declaration and reporting obligations contained within this guidance apply 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 to the official duties of agency heads.

#### Further distribution and application of this guidance

1. Secretaries of departments should circulate this guidance to all statutory office holders and heads of Commonwealth entities and companies within their portfolios.
2. 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.
3. Although not a requirement under this guidance, 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).
4. Agencies may choose, in particular, to require some or all employees to declare gifts and benefits received over this threshold. Consideration may be given to requiring declaration from employees engaged in the following activities:
* procurement and recruitment;
* regulating individual or business activities;
* distributing goods, services or funds; and
* making binding decisions.

### What gifts and benefits need to be declared?

1. 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.
2. Examples include tangible gifts, free or discounted travel or accommodation, entertainment, hospitality (see ‘Receipt of Hospitality’ section), discounts, exclusive memberships such as airline lounges or other clubs or venues, or other preferential treatment.
3. 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.
4. Any gift or benefit received with a value of more than $AUD100.00 (excluding GST) must be published in accordance with this guidance. Agency heads will otherwise comply with all internal policies in relation to gifts and benefits.
5. Gifts received which are valued at $AUD100.00 (excluding GST) or less are to be dealt with in accordance with the agency’s policies.
6. 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).
1. Where recording the estimated value of the gift or benefit may cause offence, the dollar figure is not required to be recorded.
2. 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.

#### What gifts and benefits do not need to be declared?

1. Agency heads, like all APS employees, routinely receive gifts and benefits that are not related to their public duties. This guidance does not require declaration of the following gifts and benefits:
* gifts and benefits that are not accepted;
* gifts and benefits that are made in a will;
* gifts and benefits 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
* gifts and benefits that form part of an approved assistance program, such as a disaster relief arrangement.

### Can certain gifts and benefits be accepted?

1. 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 apparent conflict of interest, and whether it is part of an exchange of gifts between official representatives of governments.
2. Where the agency head determines that to refuse a gift or benefit would cause embarrassment or offence, the agency head may deal with the gift in one of the following ways:
* 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; or
* dispose of the gift in an alternative way that would not offend the giver.
1. Any gift of property owned by the Commonwealth must be made in accordance with the PGPA Act or any other relevant agency-specific policy.

### Receipt of hospitality

1. Hospitality can be accepted if it is in accordance with the agency head’s official duties.
2. Hospitality may be included as part of another declarable benefit – such as membership of an exclusive airline lounge.
3. 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.

### How to publish accepted gifts and benefits

1. Agency heads will create and maintain a register of gifts and benefits accepted. See below for a suggested template.

**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)* |
|  |  |  |  |  |  |  |

1. Agency heads in the national intelligence community may provide this information through a separate agreed arrangement, such as classified annual reports.
2. Agency heads must update their register of all gifts and benefits accepted with a value of more than $AUD100.00 (excluding GST), within 31 days of receiving the gift or benefit. Where agency heads have not accepted any gifts during the reporting period, a ‘nil’ declaration must be included on the gifts and benefits register.
3. Registers must be published quarterly by 30 April, 31 July, 30 October, and 31 January each year, as set out below.

|  |
| --- |
| **QUARTERLY REPORTING & PUBLICATION CYCLE**  |
| **Reporting Coverage** | **Report Publication Date** |
| 1 Oct - 31 Dec  | 31 Jan\* |
| 1 Jan – 31 Mar | 30 Apr |
| 1 Apr – 30 Jun | 31 Jul |
| 1 Jul – 30 Sept | 31 Oct |
| **Registers must also be updated:** |
| within **31 days** of receiving a gift or benefit |

* + **Note:** To allow for the adjusted reporting cycle, the first register to be published following the date of commencement of this guidance (1 December 2021) will cover an extended timeframe of 3 September 2021- 31 December 2021. After this date, the reporting cycles will be as set out above.
1. Agency heads (with the exception of agency heads in the national intelligence community) will arrange for a web link to their register to be provided to the Commission for publication on the Commission’s website (by email to gifts@apsc.gov.au). Should the location of the register (on the agency’s website) change at any time, the agency head will provide an updated link to the Commission at the next quarterly report publication date.

#### Airline lounge memberships – reporting requirements

1. In circumstances where agency heads are gifted airline lounge memberships (including those which are invitation-only), these must be recorded in their agency’s gifts and benefits register annually or when circumstances change, such as a new or cancelled membership.

###  What about my privacy and the privacy of others?

1. 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.

### Contact

1. For further guidance, contact gifts@apsc.gov.au.