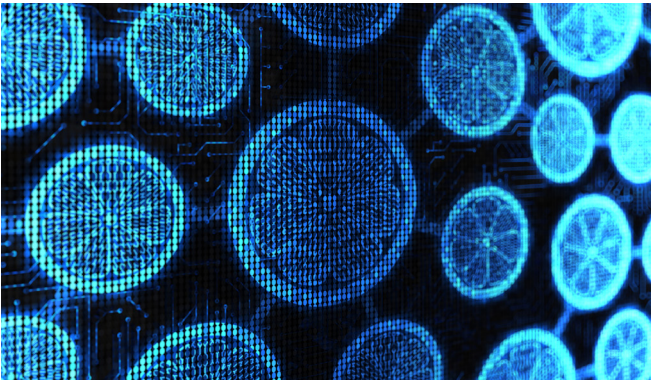




**FOOD STANDARDS**  
Australia New Zealand  
Te Mana Kounga Kai - Ahitereiria me Aotearoa

# ACCEPTANCE OF GIFTS AND OTHER BENEFITS POLICY



## Table of Contents

1.	Introduction.....	2
2.	Legislative Context .....	2
3.	Responsibilities for Employees and Delegates .....	3
4.	Accepting Gifts and Benefits .....	4
5.	Declaring Gifts and Benefits.....	5
6.	Giving Gifts and Benefits.....	7

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## 1. Introduction

The nature of work in Food Standards Australia New Zealand (FSANZ) is such that employees may be in situations where external stakeholders are likely to offer gifts or benefits. For FSANZ to carry out its functions as a fair, impartial and professional agency, and for the public to be confident that it will do so, employees must be able to demonstrate that they cannot be improperly influenced in the performance of their duties by offers of gifts or benefits.

The acceptance of an offer of a gift or benefit by a FSANZ employee in connection with their employment can lead to situations that may undermine an agency's reputation and professional integrity, as well as result in serious consequences for the employee. Also the gifting by FSANZ of equipment or other assets to other agencies or stakeholders is governed by strict legislative requirements.

FSANZ employees must comply with this policy as well as any legislative controls outlined within this policy. Accepting a bribe is an offence under the Commonwealth [Criminal Code Act 1995](#) (the Criminal Code) and a breach of the APS Code of Conduct.

This policy and procedure applies in all instances where employees deal with gifts and benefits offered or given to them in their roles as public officials. It applies to all FSANZ employees, contractors and anyone acting on behalf of FSANZ.

## 2. Legislative Context

FSANZ manages the provision of gifts and benefits to employees pursuant to the:

- *Public Governance, Performance and Accountability Act 2013* (PGPA Act) Part 2-4, Division 8, subdivision A, section 66 and subdivision B, section 67. An official must not make a gift of property unless:
  - a) The property was acquired or produced to use as a gift
  - b) The gift is expressly authorised by law or by the Finance Minister
  - c) It is made in accordance with the PGPA rules
- APS Code of Conduct, specifically states that employees must:
  - behave honestly and with integrity in connection with their employment
  - comply with any lawful and reasonable direction given by someone in FSANZ who has authority to give the direction

- take reasonable steps to avoid, any conflict of interest (real or apparent) and disclose details of any material personal interest of the employee in connection with their employment
- not improperly use inside information or the employees duties, status, power or authority:
  - to gain, or seek to gain, a benefit or an advantage for the employee or any other person
  - to cause, or to seek to cause, detriment to FSANZ, the Commonwealth or any other person
- at all times behave in a way that upholds the APS Values and Employment Principles, and the integrity and good reputation of FSANZ and the APS.

### **3. Responsibilities for Employees and Delegates**

Employees have an obligation to apply reasonable judgement with gifts and benefits offered or given to them in their roles as public officials. The employee must consider all relevant information including:

- why the gift is being offered
- how the offer is made
- public perception
- inappropriateness to decline the offer

Employees must not:

- accept a gift or benefit of money or items which can be readily converted into money including shares, lottery tickets or similar
- ask to receive a gift or benefit of any kind
- accept a gift or benefit if they think a reasonable person is likely to expect the employee to be influenced as a result of the gift or benefit
- accept a gift or benefit if they think they might feel obligated to the person, even if the gift or benefit is given 'with no strings attached'
- take advantage of their public position in order to obtain a personal benefit or gain for themselves, their families or for any other person

If, at any time, any employee is in any doubt regarding the receipt of a gift or benefit, they must discuss the issue with their Manager or the Operations Manager.

Managers and Supervisors must:

- liaise with the Operations Manager if at all unsure of what should be done with the gift or benefit
- provide direction to their team in regard to whether or not they can keep a token gift or benefit

#### **4. Accepting Gifts and Benefits**

Employees are reminded that there may be occasions where gifts or benefits are offered with the intent to ingratiate the giver or receiver to engender a relationship that will bring future favourable treatment. These situations often begin with 'token' gifts and can then progress to more valuable gifts, followed by demands for favours or perhaps the sharing of official information. This places the recipient in a compromising situation where they can be accused of willingly offering the information or favours in exchange for appropriate 'reward' by the giver.

Employees must not accept a personal invitation to a meal from a current or potential vendor. Employees may attend vendor sponsored group events where light meals are included, with approval from their manager.

#### **Categories of Receivable Gifts and Benefits**

##### *'Token' Gifts*

A gift that is considered 'token' in nature is likely to be low in value. Such gifts are generally made as a matter of protocol or public relations, for example as part of an official visit, attendance at a conference, or in appreciation for being a guest speaker. Examples of token gifts may include:

- chocolates and other promotional material such as inexpensive pens, diaries, books, key rings, coffee mugs
- clothing, such as a cap or T shirt bearing a corporate logo

Such token gifts are not likely to be seen as compromising to FSA NZ employees. However, the employee must advise their manager of them receiving the gift or benefit. Generally approval will be given for 'token' gifts to be retained by the receiving employee. These gifts will generally not need to be entered on the Gifts and Benefits Register.

### *'Non-Token' Gifts*

A gift or benefit considered to be 'non-token' in nature will generally have a monetary value of more than \$100, all such gifts or benefits must be advised to the Operations Manager.

Examples of non-token gifts are:

- entertainment/hospitality such as seats at sporting or theatre events or golf days (excluding meals provided as part of training/conferences/official meetings)
- items such as alcohol, pens, stationery and competition prizes of more than \$100 in value
- sponsored travel
- discounts on commercial items
- free or discounted places on training and development courses other than contra-deals associated with the presentation of papers
- accommodation or hire car discounts (this does not include offers made to all staff through the FSANZ contracted travel provider)

At the time of offer of a gift or benefit, employees need to consider whether or not they accept the item offered. Where the offer of a gift or benefit is considered to be, or would reasonably seem to be offered to induce favourable treatment, then or in the future and/or is a 'non-token' gift or benefit, the offer must be politely declined.

### *Food Samples*

As part of the assessment process, FSANZ might require an applicant to provide a sample of food to which the application relates. The *Food Standards Australian New Zealand Act 1991* provides that all samples given to FSANZ for any purpose of the Act become the property of the Commonwealth and may be dealt with, or disposed of, in any manner that FSANZ considers appropriate. FSANZ has delegated this power to the Chief Executive Officer (CEO), whose authority must be obtained before dealing with or disposing of, any food samples provided to FSANZ.

## **5. Declaring Gifts and Benefits**

Employees must declare any offer or acceptance of any gift or benefit at the first available opportunity after receiving the gift or benefit. All gifts and benefits are considered to be the property of FSANZ and must be dealt with as follows:

- if the gift or benefit is deemed to be a 'token' gift or benefit the employee must advise their manager and their manager will decide if the employee can retain the gift or benefit
- if the gift is 'non-token', the employee must advise the Operations Manager for inclusion on the Gifts and Benefits Register

The Operations Manager may request a written declaration from the employee if the employee:

- is offered or receives a gift or benefit of high value (\$100 or more)
- believes a gift or benefit that has been offered to them, is done so in order to seek or gain a favour
- considers the gift or benefit has been offered with the intention of compromising the employee

Written declarations must include:

- a description of the gift or benefit that was received or offered
- who offered the gift or benefit and the date upon which that offer was made
- the relationship of the person or organisation who offered the gift or benefit to the FSANZ employee(s)
- the estimated value of the gift or benefit
- whether, in the opinion of the employee, the gift or benefit compromises either their position, or that of FSANZ, in any way
- whether the acceptance of the gift or benefit whilst in itself may not be intended to compromise either the individual employee or FSANZ, could be seen to be inappropriate, if the situation were subject to public scrutiny.

The Operations Manager must enter the details into the Gifts and Benefits Register and review the content of the written declaration from the employee and determine the outcome for the gift, which could be:

- i. the gift or benefit will be retained by FSANZ and used for official purposes
- ii. the gift or benefit may be returned to the employee for personal use
- iii. the gift or benefit is declined and returned to the person or organisation who offered it
- iv. the gift or benefit may be sent for destruction or disposal
- v. the gift or benefit may be donated to a charitable or worthy organisation

- vi. the gift or benefit is given to the social club to be used to raise funds for a charity
- vii. some other reasonable and appropriate action may be taken with the gift or benefit.

The Operations Manager will then provide a written response to the employee outlining the proposed outcome. A copy of the response must also be retained on the Gifts and Benefits file.

Employees must then act in accordance with the direction given to them in either accepting or declining the gift or benefit on behalf of FSANZ.

Employees must also be aware that the completion of a declaration in itself does not entitle any employee to retain the gift or enjoy the benefit and they must await a formal response.

## **6. Giving Gifts and Benefits**

Where a gift of property is being contemplated, the General Manager, Food Safety and Regulatory Affairs, is to consider whether approval in a particular case would create an onerous or undesirable precedent. For example, situations where it would be difficult for the Commonwealth not to approve other requests for such gifts and lead to significant losses of Commonwealth revenues.

Approval to give a gift should be documented and an estimate of the items value must be included in the approval either on a cost basis or through market research.

Offers of hospitality or entertainment should only be provided if they are necessary to foster and maintain relationships that are important for the effective implementation of FSANZ programs and activities. Approving hospitality and entertainment expenditure is subject to the Finance Delegations.

There are strict legislative requirements under section 66 and 67 of the PGPA Act. An official must not make a gift of property unless:

- a) the property was acquired or produced to use as a gift
- b) the gift is expressly authorised by law or by the Finance Minister
- c) it is made in accordance with the PGPA Rules.