GIFTS, BENEFITS AND BRIBES

STANDARD OPERATING PROCEDURE

JUSTICE AND COMMUNITY SAFETY DIRECTORATE

DOCUMENT INFORMATION

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OVERVIEW

All JACS employees and volunteers who represent the Directorate, are **required** to follow the standard operating procedures for declaring and accepting offers of gifts, benefits and bribes, and for the provision of gifts by the Directorate.

Gifts, benefits and offers of hospitality should generally **not** be accepted by ACT Public Service employees. This applies to volunteers who represent the Directorate.

Acceptance of all gifts or benefits (regardless of value) **must** be declared according to the instructions in this document. Where reasonably practical approval **must** be sought prior to acceptance of a gift or benefit.

Acceptance or offering of bribes is a criminal offence under the Criminal Code 2002. Any offers of suspected or actual bribes **must** be declined and reported as instructed in this document.

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1. PURPOSE

1.1 JACS recognises that gifts and benefits of low value – which present minimal risks to upholding integrity across the ACT Government – may be offered to, or by, employees and accepted in some circumstances. However, some offers could be intended to influence the attitudes or decisions of employees in favour of the giver. Such cases are considered the acceptance or offering of bribes. This is a criminal offence under the *Criminal Code 2002* and presents a major risk to the reputation of JACS, the ACT Public Service (ACTPS) and the ACT Government.

1.2 This standard operating procedure (SOP) seeks to ensure that the integrity of JACS and the ACTPS is not, and does not appear to be, compromised through the acceptance or offering of gifts, benefits or bribes. It sets out the procedures that employees should follow in:

- deciding whether to accept a gift, benefit or hospitality
- responding to suspected offers of bribes
- presenting a gift on behalf of JACS.

1.3 For information on providing hospitality on behalf of JACS, refer to the JACS Official Hospitality and Meeting Expenses Standard Operating Procedure.

2. SCOPE

2.1 This SOP applies to all permanent and temporary staff and officers employed by JACS[1] under the *Public Sector Management Act 1994*. This SOP also applies to volunteers who represent the Directorate.

2.2 Donations in the form of money, goods or services are not considered to be gifts or benefits and are therefore excluded from the scope of this SOP. For instructions on receiving or soliciting a donation refer to the ACT Public Service (ACTPS) Director-General Instructions.

3. COMPLIANCE

3.1 JACS employees and representatives of the Directorate **must** follow this SOP and the following policies, which they articulate:

- ACT Government Gifts, Benefits and Hospitality Policy (the ACTPS Policy)
- JACS Official Hospitality and Meeting Expenses Standard Operating Procedure
- JACS Fraud and Corruption Prevention Plan

[1] This SOP does not apply to the Judiciary and appointed members of the ACT Civil and Administrative Tribunal.

3.2 All JACS employees and non-government personnel representing the Directorate should be familiar with the policies outlined in section 3.1.

- Delegates approving the provision of official gifts should also refer to the *Financial Management Act 1996*, Whole of Government (WhoG) *Director-General Instructions (DGI) – 4.3 Gifts* and this SOP to understand their obligations. Delegates should regularly check their assigned instruments on iDelegate.

3.3 Failure to follow instructions may result in one or more of the following:

- Disciplinary action or dismissal
- Criminal prosecution.

4. WHAT TO DO IF YOU ARE OFFERED A GIFT

4.1 A gift, benefit or offer of hospitality includes any goods or services of value or personal benefit that are over and above employment or engagement entitlements. They can include free or highly discounted goods or services from an external organisation or members of the public. Gifts offered during the course of a business relationship may be intended to create a feeling of obligation in the receiver. The gift can be either official or personal. Some examples of gifts include flowers, chocolates (edible items), money, clothes, products or tickets. A detailed list of what constitutes a gift or benefit is included in the ACTPS Gifts Benefits and Hospitality Policy.

4.2 Electronic gifts such as USB drives and external hard drives pose an ICT security risk, as they could contain malicious code. Gifted electronic items **must** not be connected to official computer systems or other workplace devices.

4.3 ACTPS employees and non-government personnel representing the Directorate– including volunteers– and their family members should generally **not** accept gifts, benefits or offers of hospitality, if in doing so there is a perceived, potential or actual conflict of interest.

4.4 Sometimes it is not possible to refuse an offer of a gift or benefit. Or there may be legitimate reasons – outweighing the risk of a conflict of interest – for accepting it. This mostly occurs when a gift or benefit of low value is offered to JACS as thanks (e.g. flowers, chocolates, cake or a plaque). If accepted, the recipient **must** share such gifts and benefits with other employees within the work area wherever possible. For example, display flowers or make food available in a shared area for all interested employees.

4.5 When a gift or benefit cannot be refused or there are business reasons for acceptance you **must**, where practicable, obtain prior approval by completing a Declaration of Gifts, Benefits and Official Gift Presentation form.

4.6 Where prior approval is not practicable, you **must** declare acceptance of all gifts and benefits (regardless of value) within 14 days using the Declaration of Gifts, Benefits and Official Gift Presentation form. The declaration **must** be endorsed by your Business Unit

Head prior to approval from the Senior Executive Responsible for Business Integrity Risk (SERBIR).

4.7 All completed forms **must** be sent to the JACS SERBIR inbox. The Governance, Coordination and Reporting (GCR) section will record the information in the Directorate's Gifts Register in line with the ACTPS policy.

4.8 Employees **must** be conscious of repeated offers of gifts from one source. The cumulative value of gifts over time may be high, and repeated acceptance may become an expectation. This can compromise individuals and the Directorate.

4.9 Business Unit Heads and the SERBIR should refer to the ACTPS Gifts Benefits and Hospitality Policy for further instruction on options available for accepting or declining gifts and benefits.

4.10 If you are unsure about accepting or approving a gift or benefit, please contact Governance, Coordination and Reporting or the SERBIR.

5. WHAT TO DO IF YOU ARE OFFERED A BRIBE

5.1 Bribes are the offering of any undue benefit to, or by, any person in public office to influence their behaviours in that office and incline them to act contrary to the known rules of honesty and integrity. Bribes are given with the intention of influencing an individual to take or not take specific action, or make specific decisions that may be in favour of the giver.

5.2 Section 9 of the *Public Sector Management Act 1994* requires employees to report any fraud or maladministration that comes to their attention, or any reasonable suspicion they have of fraud or maladministration. If you believe you have been offered a bribe you **must** refuse it and report the incident to your Business Unit Head or the SERBIR.

5.3 ACT Corrective Services (ACTCS) custodial staff should report any bribes offered by detainees or others directly in writing to their Divisional Executive or to ACTCS Integrity via email to ACTCS-Integrity@act.gov.au in accordance with the ACTCS Ethical Conduct Policy. If appropriate, the incident may be dealt with under the detainee disciplinary provisions of the *Corrections Management Act 2007* or referred to the police for investigation. All other offers should be reported to the SERBIR in line with this SOP.

5.4 Immediately after a bribe has been offered, you should make notes about the approach. Notes **must** be signed and dated and should set out as clearly as possible what occurred, including:

- date, time and place of incident
- to whom the offer was made
- who offered the possible bribe
- the response to the offer

- any other relevant details of the offer.

5.5 You should keep a copy of all notes for your own records.

5.6 All notes **must** be sent to your Business Unit Head, for review and forwarded to the SERBIR for consideration. The Business Unit Head and SERBIR will decide whether to investigate the matter locally, or refer the matter to the Integrity Commission or the Australian Federal Police. In addition to notifying the SERBIR, if you wish to make a referral directly to the Integrity Commission, you can do so by completing their online reporting form.

5.7 JACS is required to record information relating to the receiving and giving of gifts and/or benefits and offers of bribes. The GCR section will record all information and reports relating to offers of bribes in the Directorate's Gifts Register in line with ACTPS policy.

6. WHAT TO DO IF YOU ARE GIVING AN OFFICIAL GIFT

6.1 Official gifts are items that are purchased by JACS for the sole purpose of presentation to individuals, organisations or groups external to the Directorate. They are given in an official capacity as a gesture of appreciation or goodwill. Some examples of gifts in this category include but are not limited to gift items with a commercial value, or memorabilia.

6.2 The Directorate recognises that the presentation of gifts, in the course of official duties, is a traditional custom in many countries and, on occasion, staff may be expected to give gifts and this custom should be respected.

6.3 The decision to spend public money on an official gift **must** be defensible. For example, it **must** represent an efficient, effective and ethical use of public money as required under the *Financial Management Act 1996*.

6.4 Expenditure on minor gifts of a protocol or public relations nature is acceptable when the presentation furthers the aims of JACS. In addition to this SOP, specific circumstances in which official gifts can be purchased and presented are outlined in the ACTPS Gifts Benefits and Hospitality Policy.

6.5 JACS officials **must** not give a gift when the gift could be interpreted as an attempt to improperly influence a person, organisation or group.

6.6 Employees **must** submit a Declaration of Gifts, Benefits and Official Gift Presentation form to their Business Unit Head or SERBIR for approval before purchasing the proposed gift.

6.7 All official gift presentations **must** be approved by the Business Unit Head if less than $40 in value, or by the SERBIR if over $40 in value and cannot exceed $300 per gift.

6.8 With approval from the Business Unit Head or SERBIR, a memorial gift –such as flowers or a donation in lieu– may be purchased using Government funds and presented to the family of a longstanding ACT Government employee who is recently deceased. This decision is discretionary and will be undertaken on a case-by-case basis.

6.9 Consideration **must** be given as to the appropriateness of any gifts presented on behalf of JACS. An inappropriate item, such as alcohol or lottery tickets, **must** not be given as a gift. JACS officials **must** not give cash or any other form of money as an official gift.

6.10 The gift should as much as possible be closely related to the ACT and be produced locally.

6.11 When providing the gift, the official should make it clear that the gift is not a personal gift from the official, but is presented on behalf of JACS or the ACT Government.

7. ROLES AND RESPONSIBILITIES

Role	Responsibilities
All JACS Employees	• Ensure compliance with the ACTPS Gifts Benefits and Hospitality Policy, JACS Official Hospitality and Meeting Expenses Standard Operating Procedure and accompanying form, and this standard operating procedure. • Ensure all gifts, benefits and offers of bribes are reported.
Business Unit Heads	• Endorse the recommended approach to be taken in response to the receipt of a gift or benefit within the business unit. • Approve provision of gifts up to the value of $40. • Ensure that all activities and decisions are carried out in accordance with the ACTPS Gifts Benefits and Hospitality Policy, JACS Official Hospitality and Meeting Expenses Standard Operating Procedure and accompanying form, and this standard operating procedure. • Forward all Declaration of Gift, Benefits, and Official Gift Presentation forms to the SERBIR in a timely manner.
SERBIR	• Approve the receipt of all gifts. • Approval for the purchasing and provision of gifts that are over the value of $40, but not exceeding $300. • Ensure that all activities and decisions are carried out in accordance with the ACTPS Gifts Benefits and Hospitality Policy, JACS Official Hospitality and Meeting Expenses Standard Operating Procedure, and this standard operating procedure. • In regard to offers of bribes, the SERBIR will in consultation with the Business Unit Head if appropriate: ○ decide whether to investigate the matter, or

Role	Responsibilities
	○ refer the matter to the ACT Integrity Commission or Australian Federal Police.
Governance, Coordination and Reporting Section	• Manage the Directorate's Gift Register and all associated reporting including Annual Report. • Provide advice and assistance when required.

8. ENQUIRIES

If you are uncertain about whether you can or cannot accept a gift, please discuss the matter with your Business Unit Head or contact:

Governance, Coordination and Reporting

Email: JACSGCR@act.gov.au

Or for confidential advice contact the SERBIR at JACSSerbir@act.gov.au.

DETAILS

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Stakeholders:	All JACS employees and volunteers who represent the Directorate.
Document/Legislation References:	*Public Sector Management Act 1994* *Financial Management Act 1996* JACS Fraud and Corruption Prevention Plan Whole of Government (WhoG) Director-General Instructions (DGI) – 4.3 Gifts ACTPS Gifts Benefits and Hospitality Policy Declaration of Gifts, Benefits and Official Gift Presentation Entertainment and Hospitality Approval or Declaration for Fringe Benefits Tax Form iDelegate Register

AMENDMENT HISTORY

Version	Issue Date	Amendment Details	Author	Approved by
1.0	2021	Original policy/factsheet document converted to standard operating procedure. Review and update undertaken.	Content Writer, Governance, Coordination and Reporting	Director-General
1.1	September 2024	Reviewed and updated in line with the development of the JACS Official Hospitality and Meeting Expenses Standard Operating Procedure.	Governance, Coordination and Reporting	Director-General