

## Sydney Opera House Policy

<b>Title:</b>	Gifts and Benefits Policy
<b>Policy Number:</b>	2023/2
<b>Effective Date:</b>	3 May 2023
<b>Authorisation:</b>	Chief Executive Officer
<b>Authorisation Date:</b>	28 April 2023
<b>Superseded Policy:</b>	SOH125 – Gifts and Benefits Policy
<b>Accountable Director:</b>	Executive Director, People & Government
<b>Responsible Officer:</b>	Head of People & Development

### 1. CORE PROPOSITION

- 1.1. The Gift and Benefits Policy (Policy) sets out the Sydney Opera House (SOH) approach to managing Gifts and Benefits, so as to maintain an ethical workplace where Workers are not influenced by Gifts and Benefits.
- 1.2. SOH recognises that receiving Gifts and Benefits is part of business, particularly in the entertainment industry. However, regardless of why they are offered or given, Gifts and Benefits may create a sense of obligation that could compromise impartial and honest decision-making. Accepting Gifts and Benefits can also impact the public perception of SOH's integrity and in some instances be considered corrupt conduct.

### 2. DEFINITIONS

- 2.1. **Gift(s) or Benefit(s)** – any item, ticket, service, discount, hospitality, travel, accommodation, competitive scholarship, prize or award provided by an SOH customer, client, applicant, supplier, potential supplier or stakeholder from an external organisation, which has an intrinsic value and/or a value to the recipient or member of their family, relation, friend or associate.
- 2.2. **Gifts and Benefits Register** – the official register used to record details of Gifts and Benefits offered or given to Workers and maintained by SOH's People & Development (P&D) team.
- 2.3. **Worker** – has the meaning provided in the *Work Health and Safety Act 2011* (NSW) and includes all employees, and any other person engaged to undertake work in any capacity on behalf of SOH, including contractors, subcontractors and their employees.

### 3. SCOPE

This Policy:

- Applies to all Workers.
- Is consistent with the *Government Sector Employment Act 2013 (NSW)* and the Public Service Commissioner Directions (PSC Directions) concerning the implementation of the *Code of Ethics and Conduct for NSW Government Sector Employees and Managing Gifts and Benefits: Minimum Standards*.
- Does not apply to:
  - House seats or complimentary tickets offered to Workers in accordance with SOH's *Staff Ticket Use Policy*.
  - Discounts or benefits provided and managed in accordance with SOH's *Sponsorship Policy*, as long as they are set out in the partnership contract.
  - Gifts and Benefits provided by SOH to Workers generally, or to a group of Workers, to celebrate a milestone or under an approved SOH health and wellbeing, reward, recognition or celebratory program.
  - Gifts and Benefits provided by SOH to clients, stakeholders and others external to SOH, as these are covered in SOH's *Staff Expenses Policy*.

- Invitations to:
  - Workers to participate in national or international conferences or business events that may include free travel and accommodation. These activities should only be undertaken when there is no conflict of interest and in line with SOH's *Code of Conduct* and other SOH policies. The Worker should obtain approval from their manager or supervisor to participate in these events.
  - Sydney Opera House Presents (SOHP) Workers to attend third-party shows and performances where the Worker's attendance is related to their work responsibilities. These activities should be approved in writing by their manager or supervisor.

#### 4. ASSESSING THE APPROPRIATENESS OF GIFTS AND BENEFITS

4.1. Workers should always consider the purpose and appropriateness of a Gift or Benefit when deciding whether to accept or decline it in line with this Policy. Key questions Workers should consider include:

- Would I feel uncomfortable receiving the Gift or Benefit if it became public knowledge?
- Would I consider it unacceptable if someone in a similar position received the Gift or Benefit?
- Am I sure the person offering the Gift or Benefit is not trying to influence my behaviour?
- Would a reasonable person think I might be influenced if I accepted the Gift or Benefit?

Please refer to the decision flowchart in the Appendix for guidance on whether to accept or decline Gifts and Benefits at SOH.

4.2. Workers cannot accept Gifts and Benefits that:

- Are valued over **A\$100** and do not fall under the exemption to the value threshold (see 5.6). If a Gift or Benefit over A\$100 is inadvertently received (e.g. a Gift that arrived in the mail, wrapped Gift or an anonymous Gift received in a public forum), the Worker should declare the Gift or Benefit in line with section 6 of this Policy.
- Create an actual, potential or perceived conflict of interest. See SOH's *Code of Conduct* for guidance on how to manage conflicts of interest.
- Consist of cash, cheques, money orders or gift vouchers, as any of these could be considered a bribe. Bribery is an offence under the *Crimes Act 1900 (NSW)* and, as such, any bribery attempt should be reported to the SOH Chief Executive Officer (CEO) or disclosed in accordance with SOH's *Public Interest Disclosures Policy*.
- Act as an inducement, or be perceived by a reasonable person to have been given as an inducement, to behave in a certain way or make a decision, now or in the future. This is not only inconsistent with this Policy but constitutes corrupt conduct under the *Independent Commission Against Corruption Act 1988 (NSW)*.
- Are provided to a Worker in relation to advice or decisions about, but not limited to, SOH's procurement, contract management, recruitment or other "higher-risk" roles or activities (see 7.1 below).

4.3. Workers must immediately decline these Gifts and Benefits and notify their manager or supervisor in writing.

#### 5. ACCEPTING GIFTS AND BENEFITS

##### Gifts and Benefits that may be accepted without declaration and approval

5.1. Workers may accept the following minor/incidental Gifts and Benefits without declaration and approval by a Worker's manager or supervisor:

- Token gifts offered in business situations (seminars, conferences, trade shows and business events) to all participants, attendees or presenters. These items are not given as personal gifts and a reasonable person would not perceive token gifts as items

designed to influence or win favours. Token gifts could include pens, caps, stationery, coffee mugs, stress balls, mouse pads and memory sticks.

- Light refreshments (e.g. tea, coffee, water, juice) or a meal during a meeting or as a participant in a working group. This is considered basic courtesy and under similar circumstances, SOH would reciprocate by providing similar light refreshments/meals to attendees at meetings or working groups hosted by SOH.

#### **Gifts and Benefits that may be accepted only after declaration and approval**

- 5.2. Workers may accept Gifts and Benefits valued up to A\$100 but (unless minor/incidental as set out in 5.1) only after declaring the Gift or Benefit and seeking approval from their manager or supervisor as set out in section 6 of this Policy.
- 5.3. The value of a Gift or Benefit is assessed as the highest of the:
  - Estimated or actual price paid by the giver.
  - Estimated monetary value of the Gift or Benefit.
  - Price normally charged for the Gift or Benefit.
- 5.4. Certain Gifts and Benefits may be subject to Fringe Benefits Tax (FBT). For more information, see the *FBT Manual* on InTouch or contact the SOH Finance team.

#### **Cumulative Gifts or Benefits**

- 5.5. If a Worker is offered more than two Gifts or Benefits from the same person or organisation within six months, with a combined value of over A\$100, the subsequent Gifts and Benefits will be treated according to the cumulative value. As such, if the cumulative value of the Gifts and Benefits exceeds A\$100, subsequent Gifts and Benefits should be declined.

#### **Exceptions to the value threshold**

- 5.6. The following exceptions apply to the Gifts and Benefits value threshold of A\$100. However, these items must be declared as set out in section 6 of this Policy:
  - Free tickets to shows, events or functions offered to Workers to develop and maintain effective relationships with industry and community partners and stakeholders, including peer venues and attractions, resident companies and other presenters. SOHP Workers should note that events and performances attended for programming purposes are out of this Policy's scope and do not need to be declared (see section 3).
  - Competitive scholarships or awards won as a result of an open and competitive application process.
  - Customary or token gifts given in gratitude at ceremonies, business events or overseas delegations/missions where the refusal would be unreasonable or potentially offensive.

### **6. DECLARING GIFTS OR BENEFITS**

- 6.1. All Gifts and Benefits (except for the Gifts and Benefits described in section 5.1 of this Policy) must be declared within 5 working days of the Gift and Benefit being offered/received using the [\*\*Gifts and Benefits Declaration Form\*\*](#) (Form) via InTouch.
- 6.2. In line with PSC's Directions, the Form will record the following information:
  - Date of the offer or receipt.
  - Details of the receiver, including name and business unit.
  - Details of the giver, including name and organisation they work for.
  - Description of the Gift or Benefit and estimated value, where possible supported by evidence.
  - Reason for the Gift or Benefit, i.e. description of the context in which the Gift or Benefit was offered/received.
  - Disclosure of the relationship between the giver and the receiver.

- Name of the approving manager or supervisor.
- 6.3. Once the Worker completes the Form, the Worker's manager or supervisor receives a notification to decide whether the Worker can:
- Accept and retain (the Gift or Benefit can be retained by the Worker or SOH).
  - Accept and dispose of or donate (the Gift or Benefit can be accepted but must be disposed or donated).
  - Decline and return (the Gift or Benefit must be politely declined and returned by the Worker or manager/supervisor).
- 6.4. Once the manager or supervisor makes a decision, a notification is sent to the Worker, as well as to P&D for inclusion on the SOH Gifts and Benefits Register (Register). P&D will also save a record of the completed Form in the relevant filing system.
- 6.5. Where a Gift or Benefit must be disposed of, donated or returned, the Worker will receive guidance on how to do so.
- 6.6. SOH will ensure the Register captures the same information recorded in the Form and is transparent, secure and auditable. P&D will report Gifts and Benefits to SOH's Executive Team and implement quality assurance procedures to monitor the Register and Workers' compliance with this Policy.

## **7. OTHER THINGS TO CONSIDER**

### **Higher-risk roles or activities**

- 7.1. All Workers need to be conscious of their decision-making when managing Gifts and Benefits. However, Workers involved in the following "higher-risk" roles or activities should be extra cautious:
- Making, or advising on, purchasing decisions, e.g. procurement and contract negotiation and management.
  - Managing partnership accounts and undertaking business development activities.
  - Making decisions on community donations.
  - Administering, or advising on, grants.
  - Hiring and recruitment activities.

### **Hospitality**

- 7.2. Hospitality offers are considered a Gift and Benefit and therefore their acceptance must be in line with this Policy and should always be accompanied by a great deal of transparency and consultation with the Worker's manager or supervisor. Examples of hospitality offers include but are not limited to, restaurant meals, invitations to corporate boxes or functions held at private homes.

### **Travel and accommodation**

- 7.3. Workers should never seek or solicit an upgrade from a travel or accommodation provider related to official travel. If the provider seeks to upgrade the Worker for operational reasons (e.g. an airline provides an upgrade to business class because economy class is overbooked), the Worker may accept the upgrade but should use the Form to declare it.

## **8. TRAINING, SUPPORT AND COMMUNICATION ACTIVITIES**

SOH will:

- Make this Policy available to all Workers, undertake awareness-raising activities and offer support to Workers who may have questions or require guidance on the application of this Policy.
- Provide training on managing Gifts and Benefits at SOH to new starters during their induction and to all Workers annually as part of SOH's Annual Compliance Training Program.

- Publish this Policy on SOH's website, along with a statement to communicate expected behaviours around Gifts and Benefits to customers, suppliers and other stakeholders.

## 9. COMPLIANCE

- 9.1. The mismanagement of Gifts and Benefits may result in serious consequences, including the risk of loss of public trust, damage to SOH's reputation, financial loss and possible legal action.
- 9.2. For Workers who are SOH employees, any breaches of this Policy are considered a failure to comply with the *SOH Code of Conduct* and will be dealt with under the Code. This includes disciplinary action and SOH's right to notify a relevant statutory authority and/or agency where there is a breach of legislation.
- 9.3. For Workers who are not SOH employees, any breaches of this Policy will be dealt with in accordance with their engagement contract and may have contractual consequences.

## 10. RESPONSIBILITIES

- 10.1. **Workers** are responsible for complying with this Policy and seeking assistance if they do not understand any aspect of it.
- 10.2. **Managers and supervisors** are responsible for:
  - Ensuring that Workers under their supervision understand and comply with this Policy and complete any required training.
  - Deciding whether Gifts and Benefits given to their reports can be accepted.
- 10.3. **Head of P&D** is responsible for:
  - Ensuring new starters and existing Workers receive training on the appropriate management of Gifts and Benefits in line with this Policy.
  - Recording all Forms received on the relevant system and updating the Register as soon as possible after receiving the completed Form.
  - Monitoring all Forms received and their inclusion in the Register, investigating declarations that do not comply with this Policy and if necessary referring matters to the director responsible for people-related matters.
  - Conducting an internal audit of the Register at the end of each financial year and regularly reviewing the Register to ensure completeness.
  - Reporting Gifts and Benefits to SOH's Executive Team every six months, focusing on trends in the number and types of Gifts and Benefits offered to and accepted by Workers.
- 10.4. **The director responsible for people-related matters** is responsible for:
  - Providing the SOH Finance team with access to the Register on a quarterly basis to calculate any FBT that may be payable in respect of Gifts or Benefits received by Workers.
  - In collaboration with the Head of P&D, dealing with any Policy breaches and referring matters to the relevant authorities where there is a breach of legislation.
  - Depending on the seriousness of the Policy breach, referring the matter to the SOH Executive Team to discuss actions to be taken.
- 10.5. The **General Counsel** is responsible for deciding whether Gifts or Benefits offered to the CEO can be accepted or must be declined.

## 11. RELEVANT LEGISLATION AND GUIDANCE

- Crimes Act 1900 (NSW)
- Government Sector Employment Act 2013 (NSW)
- Independent Commission Against Corruption Act 1988 (NSW).
- NSW Auditor General's Report: Managing Gifts and Benefits, 2013

- NSW Ombudsman’s Gifts and Benefits
- NSW Public Service Commission, Behaving Ethically: A guide for NSW Government Sector Employees
- Public Service Commissioner, Direction 1 of 2022, Managing Gifts and Benefits: Minimum Standards
- Public Service Commissioner, Direction 2 of 2022, Code of Ethics and Conduct for NSW Government Sector Employees.

**12. SOH SUPPORTING DOCUMENTS**

- Code of Conduct
- Corporate Cards Policy
- Fraud and Corruption Policy
- Fringe Benefit Tax Manual
- Public Interest Disclosures Policy
- Staff Expenses Policy
- Sponsorship Policy
- Staff Ticket Use Policy
- Staff Travel Policy.

**Version History**

<b>Version</b>	<b>Approved by</b>	<b>Approval date</b>	<b>Effective date</b>	<b>Sections modified</b>
1.0	Chief Executive Officer	28 April 2023	3 May 2023	New policy.

**APPROVED**



Chief Executive Officer  
Date: 28/04/2023

## APPENDIX

