

Gifts, Benefits and Hospitality Procedure

This Procedure applies to all Transport for NSW (TfNSW) staff including TSSM and TSSE staff.

The term 'staff' is used in this Procedure to cover all permanent and temporary staff.

This Procedure also applies to labour hire workers and staff seconded to TfNSW.

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1. Background

1.1 About this document

Individuals may be offered gifts or benefits (including hospitality) for a variety of reasons and in many different circumstances. The way these situations are managed is crucial to avoiding unprofessional and unethical conduct, or the perception that such conduct has occurred.

This procedure expands on the *Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits* by providing guidance on responding to various situations when being offered a gift, benefit, hospitality or a bribe.

1.2 What is a gift, benefit or hospitality?

Gifts and benefits include any item, service, prize, hospitality or travel provided by a customer, client, applicant, supplier, potential supplier, or external organisation which has an intrinsic value or a value to the recipient, a member of their family, relation, friend or associate.

Gifts and benefits may take many forms and include but are not limited to:

- cash, gift voucher or gift card;
- shares or other monetary equivalents;
- manufacturer's samples or products;
- goods and services for personal use;
- sponsored travel or attendance at public events, such as sporting events or entertainment;
- use of facilities, such as gyms or holiday homes;
- hotel discounts or special accommodation rates not connected with official duties;
- discounts on goods and services such as car hire, commercial items, food and beverages;
- function or event invitations;
- membership to clubs e.g. sporting clubs/social clubs;
- prizes won as a result of entering a competition while on official duty, such as a lucky door prize at a seminar or supplier-run competition; and
- other forms of preferential treatment or favouritism.

1.3 Key definitions

All terminology in this procedure is taken to mean the generally accepted or dictionary definition with the exception of the following terms which have a specifically defined meaning.

For the purpose of this Procedure, the following definitions apply:

Term	Definition
Benefit	a non-tangible item of value (for example, a new job or a promotion, preferential treatment or access to confidential information) that one person or organisation confers on another.
Bribe	a gift or benefit offered to or solicited by a public official to influence that person to act in a particular way and to induce the public official to act in a way that is contrary to the known rules of honesty and integrity. Bribery includes offences committed under section 249B and associated sections of the <i>Crimes Act 1900</i> (NSW), involving acts of offering or soliciting a corrupt commission or reward to or by a public official to influence that person in a particular way.
Ceremonial Gift	<p>an official gift provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.</p> <p>Ceremonial gifts are the property of TfNSW, irrespective of value, and should be accepted by individuals on behalf of TfNSW.</p>
Contract Management	the management of contracts made with customers, vendors, partners, or staff.
Cumulative Gifts	also referred to as serial gift giving, it is a series of gifts or benefits given to staff by an organisation over a 12 month period.
Gift	any item, service, prize, hospitality or travel, provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/or a value to the recipient, a member of their family, relation, friend or associate.
Gifts and Benefits Portal	the official record that details gifts and benefits received by TfNSW staff and how they were managed. This is maintained by Transport Shared Services (TSS)
Hospitality/ Moderate Hospitality	<p>free or subsidised meals or beverages provided to staff infrequently (and/or reciprocally) by individuals and representatives of other agencies (including private sector organisations) associated with meetings or visits in connection with official functions.</p> <p>Moderate hospitality does not extend to meals equal to or above \$25.</p>
Significant Event	lavish and expensive events, travel or accommodation, an offer of hospitality that appears disproportionate in relation to normal day-to-day relations
Token Value	a gift or benefit with a value of less than \$25

2. Procedure

Where possible, all gifts or benefits above token value, other than those presented as part of an official function or delegation should be appropriately declined.

Staff who are directly involved in procurement (e.g. as a member of a procurement team, Tender Evaluation Panel or engaged in low-end purchasing) are prohibited from accepting any gift or benefit from a supplier, or potential supplier of goods, works or services to any Transport agency.

For instance, suppliers and tenderers may attempt to influence procurement processes by offering gifts and benefits (including hospitality) to staff involved in making procurement related and contract management decisions. Further information is available in the [TfNSW Procurement Policy](#).

The table below summarises the management of gifts, benefits and hospitality.

Gifts, benefits or hospitality with a token value of less than \$25	May be accepted without being declared (unless explicitly prohibited under section 2.3)
Gifts, benefits or hospitality with a value of \$25 or more, and not exceeding the value of \$100	May be accepted with appropriate prior approval, and must be declared (unless explicitly prohibited under section 2.3)
Gifts, benefits or hospitality that exceed a value of \$100	Must not be accepted, and must be declared
Significant Events (including those that exceed a value of \$100)	Can only be attended by Level 3 managers and above, with prior approval of the one-up manager (see section 2.12) (unless explicitly prohibited under section 2.3)

2.1 Gifts, benefits and hospitality of token value that can be accepted without declaration

Gifts, benefits and hospitality with a token value of less than \$25 can be accepted, as long as they are not covered by the prohibitions in section 2.3. In these cases no further approval or recording is required.

Some examples of gifts of token value and moderate hospitality include pens, pamphlets, food and beverages that are provided by another agency or individual as part of normal work related activities including interviews, business meetings, conferences and seminars where they are given to all participants.

However, token gifts such as pens, stationery etc. which have 'branding' must be avoided as this may give the perception to others that you are advertising a certain private entity.

2.2 Gifts, benefits and hospitality above token value that can be accepted with approval and declaration

In some circumstances, it may be inappropriate or not possible to refuse a gift or benefit. For example:

- a ceremonial gift where it may cause cultural offence to decline;
- a gift given publicly (e.g. to a guest speaker at a conference) and to refuse it may cause embarrassment;
- certain work-related hospitality functions, where attendance directly benefits TfNSW, after being approved and declared e.g. Women in Transport functions;

Any gift or benefit above the token value of \$25 must be declared and approved. In those cases the donor must be advised that the gift has been accepted on behalf of TfNSW and that it may be put on display in the office. It must not be assumed that by accepting the gift the staff member can keep the gift. Where a gift is perishable or consumable, and hence unsuitable for permanent display, it may be used within TfNSW, at the discretion of the Level 3 manager or above (whose decision must be recorded in the Gifts and Benefits Portal). If there is any doubt about the intention of the gift giver or the value of the gift, individuals must discuss the issue with their manager and seek their direction on whether the gift could, in any way, compromise their role, including in the case of a decision of accepting a gift that has to be disposed of and how the gift is to be disposed of.

Individuals should use the Decision Test and Decision Flowchart (after section 2.3) to assist them in deciding whether or not to refuse any gift or benefit. ,

2.3 Gifts and benefits that must not be accepted

Individuals should consider the Decision Flowchart and the requirements below to help decide whether to accept or refuse a gift or benefit. Individuals are to refuse gifts and/or benefits that are:

- likely to influence them, or be perceived to influence them, in the course of their duties or raise an actual, potential or perceived conflict of interest;
- could bring them or TfNSW into disrepute;

Individuals must also refuse a gift and/or benefit from a person or organisation about which they will likely make or influence a decision particularly offers:

- made by a current or prospective supplier;
- made during a procurement or tender process by a person or organisation involved in the process;
- made during the process for contract management;
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extends to their relatives or friends;
- with no legitimate business benefit;
- of money, or something used in a similar way to money or easily converted to money;

- where, in relation to hospitality and events, the department will already be sufficiently represented to meet its business needs;
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;
- made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector agencies; and
- made in secret.

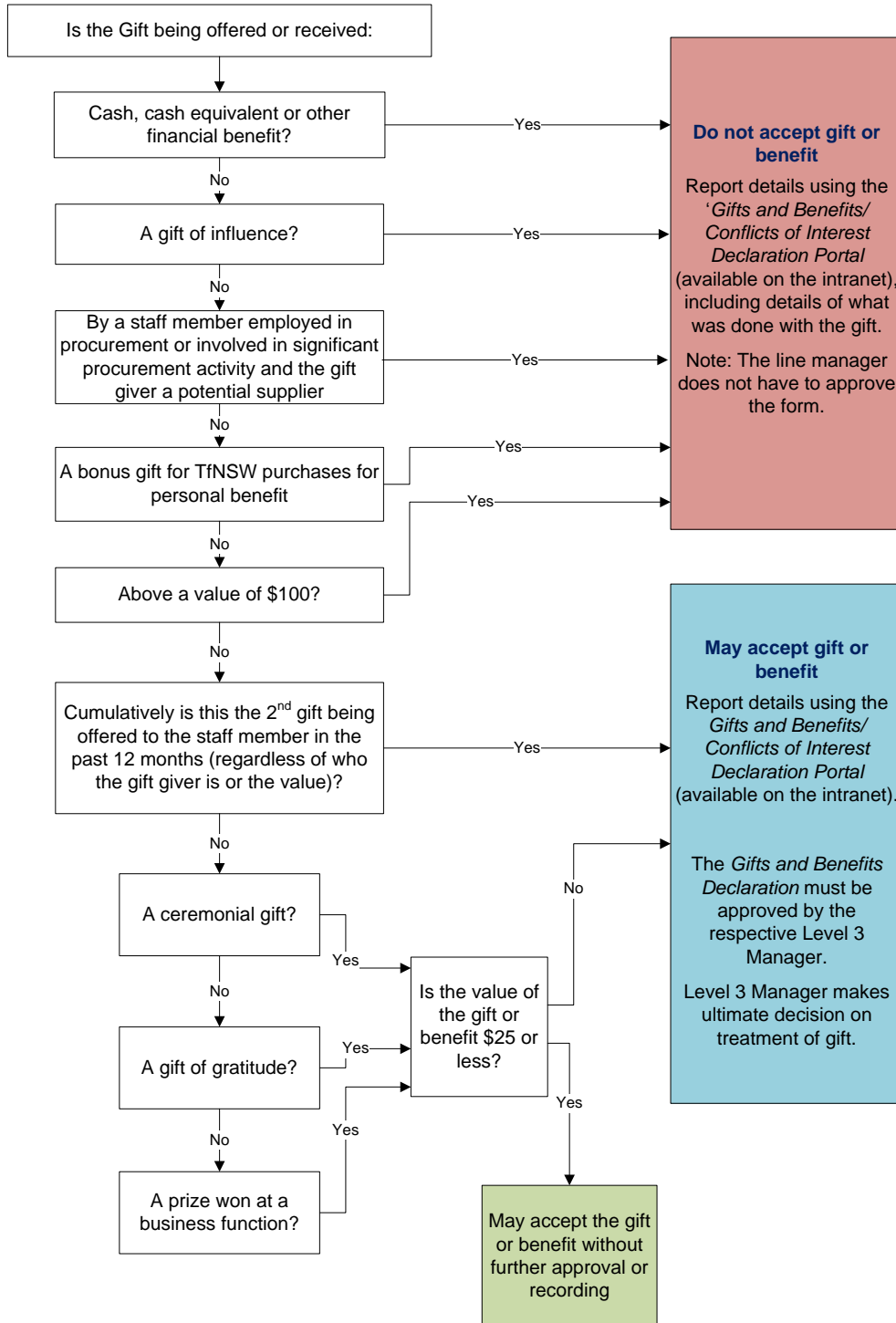
If an individual considers they have been offered a bribe or inducement, the offer must be reported to the Director – Audit and Risk who will coordinate a report of any criminal or corrupt conduct for the Secretary who will report the matter to the NSW Police and the *Independent Commission against Corruption (ICAC)*.

When deciding whether to accept an offer, individuals should first consider if the offer could be perceived as influencing them in performing their duties, or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

The following decision test and flowchart should be applied:

G	Giver	<p>Who is providing the gift, benefit or hospitality and what is their relationship to me?</p> <p>Does my role require me to select suppliers, award grants, regulate industries or determine government policies or manage performance as part of contract management? Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p>Are they seeking to gain an advantage or influence my decisions or actions?</p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or a valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p>Are they seeking a favour in return for the gift, benefit or hospitality?</p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months?</p> <p>Could it be perceived that accepting it creates an obligation to return a favour?</p>
T	Trust	<p>Would accepting the gift, benefit or hospitality diminish public trust?</p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

Decision Flowchart for gifts and benefits



2.4 Declaration of gifts and benefits (including hospitality)

All gifts and benefits that are declined must be declared using the 'Gifts and Benefits /Conflicts of Interest Declaration Portal'. This Portal is accessed by the following link [Gifts and Benefits, Conflicts of Interest & Private Interests Declaration Portal](#).

Gifts and benefits (including hospitality) must be declared using the 'Gifts and Benefits /Conflicts of Interest Declaration Portal'. This includes gifts and benefits that are declined, but excludes gifts and benefits of token value and moderate hospitality.

- **Declined Gifts and Benefits** – the *Gifts and Benefits Declaration* must be completed by the staff member. The declaration will workflow to TSS and will be held in a secure database. The declaration does not have to be approved by the line manager.
- **Gifts and Benefits above token value** - the *Gifts and Benefits Declaration* must be completed by the staff member *before* a gift or benefit above token value is accepted. The declaration must be submitted to the respective Level 3 or above manager who makes the ultimate decision on the treatment of the gift. Once a decision is made, the staff member will receive an email notification and the declaration will workflow to TSS and will be held in a secure database.

2.5 Cumulative gifts of token value

If an individual is offered two or more gifts of token value within a twelve month period and whether or not they were provided from the one company/individual source, they are regarded as a cumulative gift. Such gifts or benefits must be declared, even if declined, using the 'Gifts and Benefits/Conflicts of Interest Declaration Portal'.

Example A: Bob receives a box of chocolates (estimated value \$10) from ABC company in May 2018, he accepts the chocolates without declaration and approval as there is no conflict of interest. In January 2019, Bob receives a food hamper (estimated value \$15) from XYZ company. In this case Bob has to complete the Gifts and Benefits Declaration declaring the receipt and acceptance of the chocolates from ABC company and declaring the food hamper from XYZ company and submit to the Level 3 manager to make a decision regarding acceptance/non acceptance of the food hamper.

Example B: In January 2018, Jane receives an offer from PQR company to attend a seminar in May 2018 where the entry fee of \$20 has been waived. Jane accepts the offer as there is no conflict of interest. In March 2019 Jane receives a food hamper (valued at \$20) from PQR company. In this case Jane can accept the food hamper without declaration and approval as there is more than 12 months gap between receipt of the two gifts.

2.6 Benefits or Hospitality where prior approval is not obtained

There may be limited circumstances where it is not possible to obtain prior approval before availing of the benefit or hospitality. Examples include, but are not limited to:

- an on the spot offer of lunch or dinner immediately following a meeting with an external party;
- a seat upgrade when undertaking air travel for business purposes;

In such cases the gift, benefit or hospitality (if more than token value) should be declined

unless declining the gift would be inappropriate for cultural, protocol or other reasons or declining the gift would cause significant embarrassment to TfNSW e.g. gift from a visiting overseas delegation.

If the gift, benefit or hospitality is accepted in such cases the Gifts and Benefits Declaration should be submitted as soon as practicable with reasons for accepting the gift and approval obtained from the delegated officer.

2.7 Senior Executives declaring gifts, benefits or hospitality

Where the Secretary or a Deputy Secretary declares an offer and acceptance or declination of a gift, benefit or hospitality using the 'Gifts and Benefits/Conflicts of Interest Declaration Portal', the declaration will workflow to TSS and will be held in a secure database. The Secretary or a Deputy Secretary's executive support staff may also complete the declaration on their behalf.

2.8 Gifts that cannot be returned

There may be circumstances where a gift may not easily be returned. Examples include, but are not limited to:

- gifts accepted for cultural, protocol or other reasons, where returning it would be inappropriate;
- a wrapped gift that the recipient does not open in the presence of the gift giver;
- anonymous gifts received through the mail or left for the official without a return address; and/or
- a gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.

In such circumstances, the gift must be declared using the 'Gifts and Benefits/Conflicts of Interest Declaration Portal' and must be given to the Secretary. The Secretary will determine the appropriate outcome for the gifts.

2.9 Disposal of gifts

In some circumstances it may be appropriate to keep the gift within TfNSW for the ultimate benefit of the public purse, such as a gift that is useful for TfNSW's work. Similarly, gifts from visiting delegations or personalised gifts such as plaques with TfNSW's name engraved will be retained by TfNSW.

Gifts that cannot be returned should be disposed using the following options:

- sharing the gift among all staff members e.g. a computer printer that could be networked;
or
- donating the gift to an appropriate charity.

2.10 Acceptance of prizes

Any gift or benefit, apart from a token value gift or benefit that is won as a result of entering a competition while engaging in official duties e.g. lucky door prizes at seminars must be treated as a gift and must be declared.

If TfNSW has a purchaser business relationship with the organisation that provided the prize or is likely to have a business relationship, then acceptance of the prize may lead to a perception of improper influence. In such circumstances the prize should be declined.

2.11 Sponsored travel

Offers of travel sponsored by private organisations or groups must not be accepted. This includes cases where transport, accommodation or expenses are paid for by someone other than the staff member or TfNSW. Acceptance of such travel may lead to the perception that the individual is favouring the organisation concerned or using their position to gain a benefit. This does not include travel provided by registered industrial organisations of which an individual is a member.

Sponsored travel that would not be acceptable under this procedure is not made acceptable by being undertaken during a period of leave.

Offers of sponsored travel by bodies such as an inter-governmental or international agency, another government, an educational institution, a non-profit organisation, a recognised humanitarian organisation or broad-based industry group may be acceptable.

Offers of sponsored travel or entertainment must be referred to the Level 1 manager for consideration and approval.

2.12 Attendance at significant events

Only Level 3 managers and above can attend significant events (as determined by the delegated officer), and only with prior approval. Approval to attend a significant event must be sought from the relevant level two manager. This will ensure consistency across the organisation.

Attendance at significant events can provide senior staff (Level 3 managers and above) with opportunities to make important business connections that will be of considerable benefit to the organisation. There may also be an important representational role for senior staff at such events. However, managers must ensure that acceptance of such offers does not create a conflict of interest and there is a demonstrated business purpose for attending. Senior staff should consider the following examples of acceptable and unacceptable levels of detail to be included in the Gifts and Benefits/Conflicts of Interest Portal when recording the business reason:

Unacceptable

- Networking
- Maintaining stakeholder relationships

Acceptable

“Individual is responsible for evaluating and reporting on the outcomes of the ABC Company sponsorship of Event A. Individual attended Event A in an official capacity and reported back to TfNSW on the event.”

“Individual presented to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The gift was accepted on behalf of TfNSW.”

A significant event (refer to definitions) may include, but is not limited to:

- meals;
- invitations to Christmas parties and social events;
- invitations to industry award ceremonies; and/or
- invitations to free lunchtime seminars.

It is not appropriate to accept offers of paid travel or accommodation in relation to attendance at such events.

If alcohol is served at an event staff must decline any offer of alcohol if the event is held during work hours. The *TfNSW Drug and Alcohol Policy* applies for all events held during work hours.

Outside of work hours where alcohol is being offered as part of the meal or event, the staff member should pay for any alcohol consumed and must take a responsible approach to its consumption. If the option to pay for the alcohol is not available the staff member must not consume any alcohol.

2.13 Provision of gifts and benefits to others

It is acceptable practice to offer moderate hospitality to individuals and representatives of other agencies who visit TfNSW for work related activities. It is also acceptable to give tokens of appreciation to individuals who have given non-paid presentations to staff. Such gifts must be approved by a Level 3 Manager or above and should be of a token value of less than \$25.

It is also acceptable to give ceremonial gifts to visiting delegations from overseas agencies. These should be of a token value of less than \$25.

2.14 Staff recognition and gifts given between staff members

This procedure is not intended to apply to staff recognition incentives. Where gifts and/or benefits are offered to recognise staff, TfNSW must apply the conflict of interest principles outlined in the [Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits](#).

Gifts purchased collectively by staff and presented to an individual on the occasion of an important personal event (e.g. wedding, birthday, leaving gift) are not covered by this procedure. Staff must comply with the *Transport Code of Conduct* when gift giving between each other. It would be inappropriate for a subordinate to give a personal gift to a superior and vice versa as there could be a perception of favouritism.

Staff must be aware when collecting for a gift that colleagues do not feel obligated to contribute to the gift e.g. it is not appropriate to ask junior staff to contribute to an extravagant gift for a senior manager.

2.15 Complaints Management

If staff have concerns about the application of this procedure to determine the way in which a matter should be managed, they are able to raise those concerns in accordance with the [Grievance Management Procedure](#).

3. Accountabilities

The [Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits](#) provides a detailed list of responsibilities.

	Accountability
Transport Shared Services	<ul style="list-style-type: none"> Maintain a centralised electronic register of declared gifts and benefits. Restrict access to the register to the Secretary, organisationally nominated delegates, and any other individual permitted by law. Provide a point of contact for anyone wanting information or advice about the meaning or application of this Procedure.
Fraud and Corruption Prevention Unit	<ul style="list-style-type: none"> Undertake an annual review of the Gifts and Benefits Register to identify and manage any emerging risks and report the finding to the Director Audit & Risk. Discuss with management appropriate action in terms of compliance. Routinely review information on gifts and benefits to staff, for example in staff newsletters or other communication documents. Undertake regular review of staff training and knowledge of the Gifts and Benefits Register and compliance with recording requirements.
Workplace Conduct and Investigations Unit (WCIU)	<ul style="list-style-type: none"> Receive and assess complaints and allegations relating to breaches of this procedure.

<p>All TfNSW Staff, Labour Hire workers and staff seconded from other organisations</p>	<ul style="list-style-type: none"> • Do not, for themselves or others, seek or solicit gifts, benefits and hospitality. • Refuse all offers of gifts, benefits and hospitality that: <ul style="list-style-type: none"> ○ are money, items used in a similar way to money, or items easily converted to money; ○ give rise to an actual, potential or perceived conflict of interest; ○ may adversely affect their standing as a public official or which may bring their public sector employer or the public sector into disrepute; or ○ are non-token offers without a legitimate business benefit. • Declare all gifts, benefits and hospitality (valued at \$25 or more) on the Gifts and Benefits Portal, and seek approval from their manager to accept a gift and/or benefit. • Refuse bribes or inducements and report inducements To the Director – Audit and Risk
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4. Document history

Date & Procedure No	Approved by	Amendment Notes
27 October 2014 CPr14009	Executive Director, People and Corporate Services	Approved
30 June 2015 CPr14009.1	Executive Director People and Corporate Services	Decision Flow Chart for Gifts and Benefits incorporated as attachment. Change in delegation to approve attendance at events
15 September 2015 CPr14009.2	Deputy Secretary People and Corporate Services	Approved
22 February 2016 CPr14009.3	Deputy Secretary People and Corporate Services	Approved
29 April 2019 CPr14009.4	Director Workforce Relations and Management.	Changes made as recommended by Principal Manager Fraud and Corruption Prevention Unit
29 July 2019 CPr14009.5	Director Industrial and Workplace Relations	Updates to obsolete job titles, Division/Branch name and template changes to front page.

5. Attachments

The following documents relating to this Procedure can be found on the intranet at the following location:

1. [Transport Code of Conduct](#)
2. [Transport Conflicts of Interest Policy](#)
3. [TfNSW Conflicts of Interest Procedure](#)
4. *Procurement Standard*
5. [Gifts and Benefits/Conflicts of Interest Declaration Portal](#)