

# A-Z Guide

## GIFTS



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# Overview

1. Gifts are a feature of business relationships, but the receipt of gifts by employees in your organisation should not become a bone of contention amongst staff, and it should not compromise your business in any way.
2. Gifts come in many shapes and forms in the business environment, but they always provide the recipient with a benefit; your organisation should have discretion as to who enjoys that benefit.
3. Developing a policy on gifts is a sure way of minimising most of the problems associated with gifts particularly if the basic principle of that policy is a mandatory reporting of all gifts.
4. Relying on the integrity of your employees and business partners may not be the most sensible way of ensuring you are getting the best deal in a competitive business environment.

## Introduction

The giving and receiving of gifts is a common feature of business and corporate relations. At some point in time this will affect your organisation. How it will affect your organisation may depend on your organisation's gift policy.

The focus of this **A-Z Guide** is to reveal some of the issues with gifts and to provide some suggestions for how you might resolve these issues. You might wish to involve your employees in assisting you to decide what your organisation's gift policy will be.

Having a policy on gifts is a positive and proactive approach to managing the issues highlighted in this **A-Z Guide**, because everyone in your organisation understands what they should and should not do with gifts before or when they are received.

## Scope

Many different things can constitute a gift in certain circumstances. A gift may take the form of an object, a service, or an opportunity. Here are a few examples:

- Prizes from suppliers' competitions
- Rewards from loyalty programmes – "Fly buys"; "True Rewards"
- Airpoints
- "Freebies"
- Presentation and "thank you" gifts
- Discount cards and Bonus cards

**Note:** Ownership of some gifts may be complicated by the fact that the gift is received by the employee in the course of their employment and it is received in their name and is unable to be assigned. Airpoints earned by employees who travel as part of their employment are unable to be "owned" by anyone other than the individual employee. However, you may require employees who earn Airpoints because of travel associated with their employment to use those Airpoints only for travel associated with their employment.

In some instances, a gift may be better characterised as entertainment, for which you may consider it appropriate to have a separate policy.



# Ownership

## Issue

Most frequently, when gifts are given to an organisation in the course of business they are given to an identified individual, usually because that individual has been the key contact in the business relationship between the two organisations. Consequently, the receipt of a gift by any identified individual is an incident of their employment and occurs only because of the fact of the relationship between the two organisations. The gift in this circumstance is the property of the recipient organisation, not the individual.

## Problems

In any organisation there could be a number of employees who, in the course of their employment, frequently receive gifts from the organisations they deal with on your organisation's behalf. On the other hand, there will be other employees, whose work is no less valuable to your organisation, or to the services your clients receive, who do not receive gifts from other organisations in the course of their employment with you.

## Discord

If you allow some employees to retain the gifts received in these circumstances, then you may unintentionally generate resentment from your other employees. Gifts viewed as "perks" of employment should be able to be shared equally. Resentment in the workplace is harmful to both inter-staff relationships and employer-employee relationships, particularly if it remains unacknowledged and unaddressed.

## Benefit

Another problem with allowing some employees to retain gifts in these circumstances is that they may come to consider those gifts as a contractual entitlement. Perceptions about the ownership of gifts, changed and reinforced by the passage of time, may make your reclamation of your ownership and control of those gifts more problematic than it should be. It could also cause you additional difficulties if your organisation undergoes structural changes, or changes the way it does business, if an employee perceives that they have lost a benefit of employment when they can no longer receive and retain gifts received in the course of the employment.

## Solutions

There are a number of options open to you. More than one of the following options could apply at any one time to be incorporated into your gift policy. You may decide that the value of any gift will be a factor in determining what happens to it under your policy.

## No gifts



## Gifts

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You may decide that your employees may not receive individual gifts in the course of their employment. Then if a gift is addressed to an employee the employee is expected to forward the gift to their manager who, either returns it to the giver or donates it to a nominated charity or community agency. To avoid embarrassment where the organisation giving the gift is concerned, you may consider advising all your customers, suppliers, and organisations that you do business with that you have a no gift policy. Then those organisations can respond accordingly.



## Redistribution

You may decide that gifts received by employees in the course of their employment should be forwarded to their manager (or managers) who then deal with them so that all the employees (or the employees in the department) have an opportunity to receive them.

You may decide that all gifts are retained for redistribution at some time of year; the basis for redistribution may be meritorious performance, equal parcels, or some other agreed basis. As part of a gift policy of redistribution, you will need to require all gifts to be reported to management.

## Terms of Trade

### Issue

Most organisations have suppliers of one sort or another. Terms of trade are often adjusted where the volume of business generated for an organisation increases or is guaranteed.

Your organisation wants the best terms of trade available to it. In a competitive environment your business is valuable to your suppliers. You want to be assured that you are getting the best service, product, price and terms that are available.

### Problem

#### Conflict of interest

If you have employees who are responsible for purchasing goods and services on behalf of your organisation you should be confident that your employees' interests are not competing with yours at any time. If employees are able to receive, and retain, gifts as an incident of their positions, then an element of coercion or conflict of interests may become a problem.

### Solutions

#### Gift policies

If both your employees and your suppliers (either directly or via your employees) knows that your organisation has a policy which effectively nullifies the effects that gifts can have, then both your employees and your suppliers will provide your organisation the best terms of trade available in the marketplace.

The basic principle of any gift policy designed to solve this problem must be the mandatory reporting of all gifts to management.

#### Standard purchasing procedures

You may consider implementing policies and procedures that guide the employees who purchase goods and services on behalf of your organisation through that process. It may require them to consider, depending on the circumstances:

- Spending limits



Gifts

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- Tenders
- Minimum number of quotes
- Escalation to higher authority in certain instances
- Sign off



## Gifts

- Sampling
- Preferred providers – reviewed periodically
- Industry standards and quality standards and accreditation

### Fidelity clauses

Whether or not you put express fidelity clauses into your employment agreements, the law implies a duty of fidelity into all employment relationships. However, spelling your employees' obligations out in black and white not only notifies them of their obligations, but provides them with an explanation of when, and how, the duty of fidelity applies. Fidelity clauses set out in plain language that employees are expected to act in the best interests of their employers and that conduct prejudicial to the interests of an employer may be considered to be serious misconduct and grounds for instant dismissal.

## Cultural differences

Doing business in New Zealand is an increasingly multicultural experience. Cultural differences about gifts may have an impact on your business dealings with some organisations, particularly if your gift policy goes head-to-head with a custom of gift exchange when business deals are concluded. If you have concerns about your business relationships in this respect you may wish to seek the advice of either the Race Relations Commissioner or, the relevant embassy. You may also need to consider cultural differences about gifts if you have employees who travel overseas to do business on behalf of your organisation, and if you have extended your policy on gifts to these circumstances.

## Conclusion

Developing a gift policy and/or other policies on the standards of conduct expected of employees who have purchasing responsibilities is a constructive and proactive way of minimising some of the problems associated with gifts. It is also a transparent way of resolving resentment in the workplace over unfair practices concerning the receipt of gifts.

### Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

**This guide is not comprehensive and should not be used as a substitute for professional advice.**

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