Offers of gifts and benefits to Victoria Police employees
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LETTER OF TRANSMITTAL

To

The Honourable the President of the Legislative Council
And

The Honourable the Speaker of the Legislative Assembly

This report is presented to Parliament pursuant to section 28(2) of the Police Integrity Act 2008.

A number of matters have come to my attention that give me concern about the acceptance of gifts and benefits by Victoria Police employees. These include the much publicised acceptance by the former Chief Commissioner, Christine Nixon, of free return air travel to the United States, and other benefits in connection with that trip.

This report discusses the resolution of a complaint I received about the Chief Commissioner’s trip and the ethical issues for police who accept gratuities. It highlights the need for an effective policy and practice framework to guide police in how to respond to offers of gifts or benefits and recommends guidelines for such a framework.

Michael Strong
DIRECTOR, POLICE INTEGRITY
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Police occupy a unique position in our community. In order to maintain law and order and keep the peace, they are provided with significant powers and discretions. A police presence creates an air of authority and an expectation that police will intervene if trouble occurs. They have the power to interfere with a citizen's liberty, and to do so by force if necessary.

As with judicial officers and others who exercise such powers, we are entitled to expect that police performing their duties will act impartially and without fear or favour. We expect police, like all public sector employees, always to put their public duty above their private interests. We expect them to refuse gifts or benefits that may compromise or be perceived to compromise their impartiality. We expect them to reject offers from those who would curry favour with them, or who attempt to influence the way they discharge their duties.

These community expectations were ventilated in the public response to the acceptance by the then Chief Commissioner, Christine Nixon, of an invitation to her and her husband, Mr John Becquet, to be guests on the inaugural flight from Melbourne to Los Angeles of the Qantas A380 Airbus, and other benefits associated with that trip.¹

This report relates to matters that have come to my attention in the course of responding to a complaint I received about Ms Nixon’s acceptance of those benefits. Since the investigation and subsequent conciliation of that complaint, it has become evident that further consideration is needed of Victoria Police policy in relation to gifts or benefits.

As a result of issues uncovered in my investigation and the subsequent conciliation of the complaint, Victoria Police commenced a process of reviewing its policies and procedures in relation to gifts and benefits. I have had an opportunity to contribute to that process. I had hoped to publish the revised policy document with this report, but Victoria Police has yet to complete its review. Chief Commissioner Overland has informed me that he is awaiting the outcome of a review by the State Services Authority of relevant public sector policy and that he is concerned to minimise variance between policy applicable to police and policy applicable to other public sector employees. This delay is, nonetheless, regrettable, because it is now seven months since the issue arose and continuing uncertainty is not in the interests of good order and governance. I am advised that since the publicity surrounding Ms Nixon’s trip, the Ethical Standards Department of Victoria Police has received a number of requests for guidance in responding to offers of gifts and benefits. I am also aware of other examples of senior police accepting benefits in the form of free tickets to the races, sporting events, music festivals and the like. The acceptance of such benefits may, in some cases, have been appropriate. What concerns me is the absence of clear policy guidelines.

These factors dictate the need for publication, now, of this report.

Reports of this kind usually proceed from a recitation of the relevant facts, with findings as required. That will not be appropriate in this case because of the way in which the complaint against Ms Nixon was ultimately resolved. As is now well known, the complaint was resolved by conciliation pursuant to section 86N(6) of the *Police Regulation Act 1958*. What this means is that a negotiated outcome was achieved which was acceptable to the complainant and Ms Nixon and which accorded with my statutory objectives as Director, Police Integrity. Ordinarily, matters involved in a conciliation process remain confidential to the parties. However, as part of the conciliation process in this case, I informed Ms Nixon that I would be reporting to Parliament. I consider that this departure from the norm is warranted due to the circumstances of the matter, involving, as it did, the then Chief Commissioner of Police, and in the interests of my own public accountability.

**Victoria Police policy framework**

Currently, and at the time Ms Nixon accepted the Qantas invitation, ‘gifts’ and ‘benefits’ are, and were, dealt with in the Victoria Police Code of Conduct and the Victoria Police Manual.

**Code of Conduct**

The relevant part of the Victoria Police Code of Conduct is as follows:

**Acceptance of gifts or benefits**

You are always in the public eye as a representative of Victoria Police. As such, the community will be quick to notice and to comment on, any activity which they believe to be likely to affect your honesty or impartiality. You are encouraged to interact with the community in your daily activities and sometimes you will be offered free or discounted food, alcohol, goods or services. However, gifts or benefits should not be accepted from any person or business unless objective assessment of the circumstances surrounding the giving of the gift or benefit indicates that no favour is expected and that no inference of improper association could be drawn by a reasonable person. Money or goods that can be readily exchanged for money cannot be accepted. Sometimes these offers are made in appreciation of work performed by you or Victoria Police and sometimes they are made as a genuine expression of goodwill or in the course of a business marketing promotion. You should not directly or indirectly solicit such offers. You must not directly or indirectly solicit or demand from any person or business a reward, commission (‘kickback’), loan, favour or other advantage or consideration.

**Offers to you as an individual**

If you are offered a personal gift or benefit, you may only accept it if, in all the circumstances, you are satisfied:

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2 Section 86N(6) of the *Police Regulation Act 1958* was replaced by section 40(6) of the *Police Integrity Act 2008* on 5 December 2008
• it is genuinely offered in the spirit of goodwill or as part of a wider business promotion or marketing activity

• there is no attempt, either directly or indirectly, to induce you or another employee to disregard any law, regulation or Victoria Police instruction

• the nature of the gift or benefit, or the integrity of the donor, is not likely to bring Victoria Police into disrepute

• it is not money or goods that can be readily exchanged for money

• it is not more than token value [emphasis added]

• it is not offered by persons connected with licensed premises, or

• it is not offered by persons connected with any undertakings directly or indirectly regulated or supervised by Victoria Police.

You must assess whether the offer or gift has some obligation attached or inferred. All offers must be brought to the attention of your supervisor.

**Offers to you as a representative of the Victoria Police**

Gifts or benefits are sometimes offered for the benefit of Victoria Police or to sponsor community, police or government initiatives. These may only be accepted by you if:

• they are received in accordance with Victoria Police sponsorship guidelines

• there is no attempt, either direct or indirect, to induce you or another employee to disregard any law, regulation or Victoria Police instruction

• there is no attempt, either direct or indirect, to secure favoured treatment for the donor

• if you feel the offer of a gift or benefit is made to you or to Victoria Police in an attempt to induce favoured treatment, decline the offer and report this to your supervisor, and

• if a donor later seeks favours or preferential treatment with a view to you forgoing your duty, you should indicate your gratitude for their past support, carry out your duty impartially and with integrity and advise your supervisor.

**Victoria Police Manual**

In the Victoria Police Manual instructions, under ‘Ethical Standards’ the following appears:

**Acceptance of gifts or benefits**

• Do not accept gifts or benefits from a person or business unless an objective assessment of the circumstances surrounding the gift or benefit indicates that:

  - no favour is expected in return for the gift or benefit
  - no inference of improper association could be made.

• Money or goods that can be readily exchanged for money must not be accepted.³

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Background to the complaint

As was widely reported, the Chief Commissioner and her husband, John Becquet, were non-paying guests on Qantas Airways Flight QF 93 departing from Melbourne at 11.15 AM on Monday, 20 October 2008. It was the inaugural flight from Melbourne to Los Angeles of the Qantas A380 Airbus. The Chief Commissioner and Mr Becquet were initially listed as business class passengers, but, when several first-class guests declined the invitation or withdrew, the Chief Commissioner and Mr Becquet were issued with first-class tickets.

Whilst in Los Angeles, the Chief Commissioner and Mr Becquet were accommodated for one night at the Sofitel Hotel, Beverley Hills. They attended, as Qantas guests, a dinner hosted by the American/Australian Association. The following day they attended a hosted lunch at the Getty Center.

The A380 Airbus was not available for the return flight. The Chief Commissioner and Mr Becquet returned to Melbourne on Qantas Airways Flight QF 94 (Boeing 747-400) on Thursday, 23 October 2008. The Chief Commissioner travelled in the first-class cabin and Mr Becquet in the business class cabin.

The travel began to attract media interest while the Chief Commissioner and Mr Becquet were in Los Angeles. On her return on 24 October 2008, the Chief Commissioner released a statement to the media in which she said, in substance, that her husband, as a former Qantas manager, was the recipient of the invitation from Qantas, and she simply accompanied him. The Chief Commissioner said that because of the controversy surrounding her trip, and her desire to avoid damage to the reputation of Victoria Police, Mr Becquet had arranged to make a payment to Qantas representing the fare that would have been payable for the Chief Commissioner as part of Mr Becquet’s retirement benefits package. The amount paid, or tendered, was not disclosed. So far as the hotel accommodation was concerned, the Chief Commissioner is reported to have said the hotel room was included in the invitation extended to my husband and the fact that I stayed with him in the room did not add to the cost.

The Chief Commissioner also said my husband would have proceeded on the trip by himself had I not been able to take three days leave. This was said, I assume, to underscore her stated belief that her husband, not she, was the intended benefactor of the Qantas offer.

Mr Becquet is reported to have told Australian media, apparently in the presence of the Chief Commissioner, I am normally her handbag, on this she’s my handbag. On ABC radio on 23 October 2008 at 10:35 AM, the Chief Commissioner was asked by presenter Ali Moore, I would imagine that your husband is pretty used to being your handbag so it’s quite nice to have the - the boot on the other foot every now and again? The Chief Commissioner replied, It’s a real change, Ali, thank you.

The Chief Commissioner participated in a group photo shoot immediately prior to the flight. It may not have been apparent to the Chief Commissioner that the photographs would be used for promotional purposes, though it wouldn’t take much imagination to deduce that they might. The Chief Commissioner spoke publicly and positively about the flight, and the A380, on her return.
The complaint

A complaint was received by OPI, the substance of which was that the Chief Commissioner misrepresented the circumstances in which the invitation was issued and had therefore misrepresented the circumstances in which she had received a valuable benefit.

Section 86N(4) of the Police Regulation Act 1958 required me to investigate any complaint concerning the conduct of the Chief Commissioner.

In compliance with my statutory obligation, an investigation was commenced. Statements were obtained from a number of witnesses, principally Qantas employees.

The investigation focused on a number of issues:

- whether the travel package was offered to the Chief Commissioner in her capacity as Chief Commissioner;
- whether the travel package was accepted by the Chief Commissioner in her capacity as Chief Commissioner;
- whether the public statements made by the Chief Commissioner on her return, and the public statement made by Mr Becquet in the Chief Commissioner’s presence, were factually accurate;
- whether the Chief Commissioner’s conduct was lawful;
- whether the Chief Commissioner’s conduct contravened the Victoria Police Code of Conduct in relation to acceptance of gifts and benefits; and
- the likely impact of the Chief Commissioner’s acceptance of the travel package on the interpretation of the Code by other Victoria Police members and on compliance with the Code.

The investigation established that Ms Nixon’s involvement in the inaugural flight emanated from a conversation, or conversations, involving a senior Qantas executive at a social function in Sydney on 18 March 2008. There are differing versions of what was said, but it is clear that Mr Becquet’s past association with Qantas and his interest in the A380 were prominent in the discussions that led to the issue, that day, of an oral invitation to both Ms Nixon and Mr Becquet.

Mr Becquet ceased employment with Qantas in 1995, at which time he was manager of aircrew operations.

The senior Qantas executive told investigators that the invitation was issued because Ms Nixon, as Chief Commissioner, fitted the criteria of guests we wanted associated with the inaugural flight. He did not say he necessarily made this clear to Ms Nixon.

The oral invitation was formally confirmed on 12 September 2008 in a letter addressed to Ms Nixon, as Chief Commissioner, at her office (Appendix A). All subsequent arrangements were made between Qantas staff and Ms Nixon’s staff.
Mr Becquet, as a former Qantas manager, was entitled to heavily discounted travel on Qantas aircraft, subject to availability, for himself and his spouse. I am told that the cost to Mr Becquet of first-class return travel to Los Angeles on a Qantas aircraft, subject to availability, was $763.35 per person. However, my investigators established that the market value of the travel ‘package’ on the A380 (allowing for the upgrade to first class) and subsequent accommodation exceeded $20,000 per person.

**Benefit to Qantas**

As I said earlier, a senior Qantas executive told investigators that the invitation to Ms Nixon was issued because, as Chief Commissioner, she *fitted the criteria of guests we wanted associated with the inaugural flight*. The implication is obvious. The inaugural flight was a high profile event, intended to advertise Qantas’ A380 services. Ms Nixon was a very popular Chief Commissioner whose presence on the flight would add to its profile. This is what Qantas received in return for the benefit Ms Nixon received, whether she appreciated it or not. Indeed, she is reported to have said that *the plane was just magnificent*.

Sometimes it may be in the public interest, and therefore perfectly legitimate, for a senior public sector employee to accept a benefit for the purpose of lending his or her support to a major event, but Ms Nixon does not defend her acceptance of the Qantas offer on that basis.

**Private hearing**

Following the taking of statements, Ms Nixon was summoned to give evidence in private on Thursday, 13 November 2008. My Delegate, the Honourable Murray Wilcox, QC conducted the examination with the assistance of counsel. Some evidence was taken, but the examination was then suspended following a candid exchange between Ms Nixon and Mr Wilcox in the course of which Ms Nixon agreed to meet with me with a view to preparing a public statement.

**Conciliation**

On Friday, 14 November 2008, I met with Ms Nixon at my office. I drew her attention to the conciliation process permitted by section 86N(6) of the *Police Regulation Act 1958*. She agreed to participate in that process. During the discussion that followed, Ms Nixon was open and cooperative. Within the space of an hour we substantially settled on the form of a statement she would make. The complainant was contacted and expressed satisfaction with the course proposed. Equally, I was satisfied that the course proposed was consonant with my objects and functions under the *Police Integrity Act 2008*, and in the public interest.

That afternoon, the Chief Commissioner released a public statement (Appendix B). Immediately thereafter, I released a statement notifying the public of the outcome (Appendix C).
The appropriateness of the conciliation

In her public statement, Ms Nixon said that, contrary to her original belief, her position as Chief Commissioner had influenced Qantas’ decision to make the offer. Ms Nixon’s statement constitutes an admission that she contravened the Victoria Police Code of Conduct by accepting a gift of more than token value offered to her by reason of the office she held.

In my view, conciliation was entirely appropriate. The conciliated outcome was acceptable to the complainant, and the process enabled the issue to be resolved swiftly, fairly and in a way that was consistent with my legislative responsibilities. It demonstrated the way in which complaints against Victoria Police members involving allegations not warranting dismissal can be appropriately dealt with without the drawn-out process so often associated with police discipline investigations. It put into practice the methodology envisaged in the OPI report A Fair & Effective Victoria Police Discipline System. (October 2007).

I do not have the power to charge a member of the police force with a discipline offence. That power resides with the Chief Commissioner. The problem this creates, when one is considering the conduct of the Chief Commissioner, need hardly be stated. There is, nonetheless, a convoluted process by which - theoretically, at least - a discipline charge against a Chief Commissioner could be brought. There is no need for me to spell out that process in this report. There may be cases in which there would be no other appropriate course, but, in my opinion, this was certainly not such a case. I repeat, the conciliated resolution was the best outcome.

Subsequent events

Following the resolution of the complaint, I received a letter from a member of the public requesting that consideration be given to a prosecution of Ms Nixon for the summary offence created by section 95 of the Police Regulation Act 1958. It is unnecessary for me to express a view on the merits of this request because, in my opinion, the facts and surrounding circumstances (including Ms Nixon’s public acknowledgment of her inappropriate conduct) would strongly militate, on discretionary grounds, against any such prosecution.

On 8 December 2008, Ms Nixon informed me that Qantas had declined offers of payment made by both her and Mr Becquet, and had declined to nominate a charity to which payment could be made. Ms Nixon informed me that in lieu thereof she had made a donation of $5,000 to the Blue Ribbon Foundation.

On 4 February 2009, I was informed that action taken, or to be taken, by Victoria Police in the area of gifts and benefits included the following:

• At its meeting in December 2008, the Victoria Police Ethical Health Standing Committee gave in-principle approval to policy reform.

• The Code of Conduct and Victoria Police Manual had been revised and were to be considered by the Ethical Health Standing Committee on 18 February 2009.
• Victoria Police was preparing a comprehensive internal communications strategy to better inform employees of policy in this area.

• Victoria Police Education Department would review existing scenario-based training in relation to the operation of policy to ensure that programs reflect policy changes.

• Statements by the Chief Commissioner were published in the Police Gazette, via global email and within the Victoria Police Corporate News Bulletin making it clear that Ms Nixon's decision to accept the A380 flight did not provide a good example for Victoria Police members.

• The Victoria Police communications and education strategies would be further reviewed in the light of my report to Parliament.

Prior to her resignation, Ms Nixon assured me of the commitment of Victoria Police to the application of policy in the area of gifts and benefits.

Chief Commissioner Overland has discussed the issue with me and has written to me. He accepts the need for policy review. He told me he is awaiting the outcome of a whole of government policy review by the State Services Authority. He has assured me that, in the meantime, current policy is being applied.

At the end of the day it will be for the Chief Commissioner to determine Victoria Police policy and to ensure its implementation. My role will be to continue to monitor that process.
POLICY AND PRACTICE REFORM

Introduction

In my opinion, the present Victoria Police policy framework requires revision. There is a lack of guidance on what is meant by gifts of ‘token value’ and on the circumstances in which hospitality can be appropriately accepted. It is not sufficiently clear that gifts and benefits must never be accepted if there is a perception of influence, or of an obligation to reciprocate. Each of these issues is discussed in this report.

Principles

One of the ways in which the operation of the rule of law has been expressed is that in equal cases there should be equal outcomes. Public confidence in equality of outcomes and in the incorruptibility of the guardians of justice goes to the very heart of public confidence in our system of government. It follows that police, like the judiciary, must be conspicuously independent.

The ethical principles that underpin policy in the area of gifts and benefits are eloquently encapsulated by Mr Gary Crooke, QC, the Queensland Integrity Commissioner, in a paper presented in October 2007:

A decision to devote one’s career to the service of the public bespeaks selflessness. It embodies the acknowledgement that actions will be governed by the public interest and not self-interest.

It is a component of ethical behaviour to feel obliged to reciprocate when a kindness or gift is provided.

In the all important field of public perception, it is this perceived obligation to reciprocate that gives rise to the unacceptable conflict, heightened greatly when the relationship is one of actual or potential decision-maker and actual or potential candidate for a beneficial decision.

The test as to whether an unacceptable conflict of interest exists is the view of a reasonable member of the public, properly informed.

This is an objective test and means that self-righteousness in the mind of the person having the potential conflict is not to the point. Perception is reality.

The person involved in the potential conflict is not in the best position to judge what action should be taken to manage or avoid it. This is because of the obvious interest which he or she has in the matter.

The circumstances where public officials can accept gifts should be quite rare, either because acceptance could lead to the public perception of placing the decision-maker under an obligation or, alternatively, from the standpoint that it is never the individual that comes to own the gift but always the department or government which acquires the gift on the basis that it is obliged to use it in the public, and not a private, personal interest.
The challenge lies in reducing these principles to practical guidelines that will assist police, of all ranks, to determine whether, or when, to accept an offer of a gift or benefit. This issue has been the subject of significant attention by writers since the 1980’s. Some go so far as to advocate a blanket rejection of all gifts, arguing that they are a slippery slope to bribery and corruption. Some are concerned by what may be perceived as an attempt to buy ‘protection’ or cheap services. Attracting police, as customers or consumers, ensures a police presence calculated to deter other patrons from anti-social or criminal conduct, and can ensure a swift response if trouble occurs.

The difference between ‘gifts’ and ‘benefits’

These words are not defined in the present policy, nor is the distinction of great relevance. ‘Gift’ and ‘benefit’ are not mutually exclusive. A gift will usually be an object. A benefit will usually be the provision of a service, e.g. tickets to an event. Where consumables such as food and beverages are provided at, say, an event, it is convenient to refer to the entire ‘package’ as a benefit.

A fundamental rule applies to both ‘gift’ and ‘benefit’. They can never be accepted if their acceptance might be perceived by a fair-minded, independent observer as an attempt to curry favour in the hope of favourable treatment or consideration by the police member in the discharge of his/her duty. Equally, no gift or benefit should be accepted if it might be perceived that the police officer would feel an obligation to reciprocate in connection with the discharge of his/her duty.

Tokens of appreciation

Those who oppose a blanket ban on acceptance of gifts by police argue that the offer and acceptance of tokens of appreciation fosters good relations between police and their community and that it is natural and legitimate to allow those who wish to express genuine gratitude for the work of police to do so in such a way.

It is clear that, as a community, we are comfortable for police to accept token gifts of appreciation and acknowledgement when they provide excellent service or when they act above and beyond the call of duty. An example would be acceptance of a book voucher for giving a talk or presentation to a community group. The Department of Premier and Cabinet Gifts and Benefits Policy identifies pens, key-rings, coffee mugs and t-shirts as examples of ‘token gifts’.

I repeat, no gift or benefit, even of a token nature, can be accepted if it might be perceived by a fair-minded, independent observer as an attempt to ‘butter up’ the police officer in the hope of favourable treatment or consideration in the future. Equally, no gift or benefit should be accepted if it might be perceived that the police officer would feel an obligation to reciprocate. These perceptions are unlikely to arise if the gift is truly of

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token value, meaning minimal or nominal. Most in the community would regard a gift to the value of, say, $50 as minimal or nominal value, but would be less convinced if the gift was valued at, say, $150. On the other hand, a book, or a commemorative plaque, or a framed photograph or a desk ornament may have a value in excess of, say, $100, yet truly be a ‘token’ in the relevant sense. So, whilst specification of a maximum value of a token gift may be helpful in guiding police members, the danger is that it will ‘green light’ acceptance of any gift up to that maximum, without appreciation of the danger that anything more than a gift of nominal or minimal value may be perceived as an attempt to influence. This danger can be reduced by emphasising that the gift must be in the nature of a ‘token’, and by giving examples, rather than by emphasising a maximum.

**Networking**

This is a potentially troublesome area. My clear understanding is that there will continue to be a single policy for the whole of Victoria Police, so it must be as effective in guiding a senior constable in a ‘one-man’ station in the bush as it is in guiding the Chief Commissioner.

The current Code of Conduct encourages the development and maintenance of professional relationships with individuals and groups in local communities. Similarly, senior police, along with other public service agency heads, are encouraged to ‘network’ with a view to forming public or private partnerships and joint enterprises.

There can be no doubting that the attendance of police at many professional, community and cultural events at which hospitality is offered manifestly promotes effective policing and is to be encouraged and supported. The grey area is ‘corporate hospitality’. The principal reason corporations provide hospitality is to ‘sweeten up’ prospective clients, customer and partners. There may be various euphemisms for ‘sweeten up’, but that’s what it amounts to; it must be so, because how else could it be justified as a corporate expense. There are also occasions when corporations provide hospitality for altruistic purposes, or for a combination of altruistic purposes and commercial purposes.

A public sector employee entering this environment may believe that he/she is doing so for the right reason, namely the pursuit of the public interest. But it is an activity fraught with danger, in my view, because of the perceptions of influence, and obligation to reciprocate, that are likely to arise.

The Chief Commissioner has informed me that this particular issue is under active consideration at present and that he has consulted widely (as, indeed have I) to ensure an optimal policy setting. In this regard the guiding principles, in my opinion, should be as follows:

- The hospitality should not be accepted if it might be perceived by a fair-minded, independent observer as an attempt to curry favour with the police officer, or with Victoria Police generally, in the hope of favourable treatment or consideration.
• The hospitality should not be accepted if it might be perceived by a fair-minded, independent observer that the police officer would feel an obligation to reciprocate by showing favour in the discharge of his/her duties.

• The offer of hospitality should be treated as a gift unless a fair-minded, independent observer, apprised of the relevant facts, would conclude that the clear and dominant purpose of the acceptance of the hospitality was the pursuit of the public interest, rather than private interest.

Pursuit of the public interest must not only be the dominant purpose, but must manifestly be so. That purpose will not be manifest if the link is tenuous or woolly.

If the hospitality is offered by way of thanks or appreciation to an individual police officer, it is difficult to conceive that the public interest test would be satisfied, in which case the offer should be treated as the offer of a gift and should not be accepted unless it is of token value only.

It is equally difficult to conceive that the public interest test would be satisfied where the hospitality is offered by a commercial entity to an individual police member in order to show appreciation to Victoria Police generally. On the other hand, if the commercial entity made a donation to a worthy cause with which Victoria Police was appropriately connected, the relevant public interest may be more evident.

One view that has been put to me is that if the attendance of the police officer is not of sufficient importance to justify Victoria Police paying for his/her attendance, the public interest test would not be satisfied. This may be a useful guide, though there will be occasions when it will be appropriate for the member to attend, but inappropriate to tender payment.
CONCLUSION

The circumstances in which hospitality might be offered to Victoria Police members are infinitely various. This creates challenges in the framing of appropriate policy. Yet in an era when corporate boxes and marquees are ubiquitous, the need for a clear policy statement by Victoria Police has never been greater. I am authorised by the Ombudsman, Mr Brouwer, to say he shares this view, and, indeed, that he has mounting concerns about the level of acceptance of hospitality by public sector employees. It is an issue which, I believe, Mr Brouwer himself will take up. Indeed, there is useful discussion of the issue in the Ombudsman Victoria report Conflict of Interest in the Public Sector published in March 2008. A valuable ‘toolkit’ to assist public sector employees is available on the website of the New South Wales Independent Commission Against Corruption. I am informed that the Victorian State Service Authority is proposing to publish a Gifts and Hospitality Policy for Victorian public sector employees.

Approval and transparency

Obviously, the revised Victoria Police policy must provide for a clear and auditable approval and registration process. Conspicuous independence will not be achieved in the absence of transparency.

Education and leadership

Written policy has very little impact unless reinforced by appropriate education, workplace culture and leadership. Police need a sound understanding of the ethical principles underpinning policy. That understanding cannot be gained by rote. Nor can it be gained solely from hypothetical examples and scenarios. Unless there is firm grasp of the underlying ethical principles, the employee will be confused when faced with a situation not covered in the scenarios. The employee must be able to make a sound judgment, rather than simply following a rule. Managers must lead by example.

The underlying ethical principle in this instance is that police must avoid conflicts of interest and manage potential conflicts of interest. I am concerned that many police have a limited understanding of these concepts and their potential impact on their perceived integrity. Nor am I confident Victoria Police has a comprehensive strategy to deliver education to members about identifying and managing conflicts of interest, though Chief Commissioner Overland assures me this is in hand. In my opinion, it must be an area of priority.

OPI will welcome any further opportunity to work with Victoria Police in these important areas.
APPENDIX A

24/10 2008 07:35 FAX 61289114349

12 September 2008

Ms Christine Nixon
Chief Commissioner
Victoria Police
Level 16, Building C
Victoria Police Centre
637 Flinders Street
MELBOURNE VIC 3000

Dear Chief Commissioner,

On behalf of our Chief Executive Officer, Geoff Dixon, it is my pleasure to formally invite you and John to join Geoff and Dawn, and other invited guests, on the inaugural commercial flight of Qantas’ Airbus A330. Operating as QF30, the flight will depart Melbourne for Los Angeles on 20 October 2008 at 11.15am.

Accommodation has been booked at the Sofitel Los Angeles from Sunday 19 October (to enable guests to go direct to their room on arrival) to Wednesday 22 October. An inaugural dinner will be held on the evening of arrival with the remainder of the time free.

It is anticipated that the majority of the group will depart Los Angeles on the evening of 22 October. However, we would be pleased to book a later return flight for you should you wish to extend your stay.

I realise that your schedule is extremely busy but do hope that you and John may be able to join Geoff and Dawn on this very significant occasion.

Yours sincerely,

John Borghetti
EXECUTIVE GENERAL MANAGER

Qantas Airways Limited
ABN 69 009 959 561
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Telephone 61 03 2324 1000
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Chief Commissioner’s LA travel

On 24 October, I was asked by OPI to respond to concerns related to my recent travel with my husband to Los Angeles. I understand that later a formal complaint was received by OPI. I have cooperated with OPI in the subsequent investigation.

Pursuant to a conciliated resolution, I now release the following statement.

On 18 March 2008 my husband and I received an oral invitation to join the inaugural flight of the Qantas A380. My belief then was that the offer was made because of my husband’s past connection with the airline and his interest in the A380. The oral offer was formally confirmed in a letter on 17 September 2008 addressed to me as Chief Commissioner. My husband was very enthusiastic about the prospect of joining the inaugural flight. He has been very supportive, and patient, during my term as Chief Commissioner. I was in need of a break, so we decided to accept the offer and take the trip.

I now accept that my position as Chief Commissioner influenced Qantas’ decision to make the offer, and also influenced aspects of the flight arrangements made thereafter. I have come to understand that Qantas regarded me as a guest in my own right, and not merely as the partner of my husband. I should have given the offer more careful consideration. I probably should have sought independent advice.

At the time, I did not believe that my conduct contravened the Victoria Police Code of Conduct. As I now appreciate, my acceptance of the free travel was inadvisable. I accept that the free travel involved a gift of more than token value within the meaning of the Code of Conduct.

I accept that my conduct has not provided a good example for Victoria Police members to whom gifts and gratuities may be offered. I very much regret that this
has occurred. I accept that there is an urgent need for Victoria Police policy in this area to be clarified and, if necessary, strengthened. Victoria Police will work with the OPI and the State Services Authority to achieve this objective.

Because my husband is entitled to discounted travel from Qantas, for himself and for me, it is difficult to determine the true value of the benefit I received. On 30 October 2008, my husband and I have made a payment to Qantas representing the value of my travel under the Qantas staff travel scheme. In the circumstances, I have decided to pay an appropriate additional amount, to be advised by Qantas, to better reflect the value of the benefits I received. Qantas has indicated this amount will be given to charity.

Christine Nixon

Chief Commissioner
MEDIA ALERT

STATEMENT BY DIRECTOR, POLICE INTEGRITY

A complaint received by OPI in relation to Chief Commissioner Nixon’s air travel to Los Angeles has been resolved by conciliation pursuant to section 86N(6) of the Police Regulation Act 1958.

The Chief Commissioner has publicly acknowledged that her acceptance of the free travel involved a gift ‘of more than token value’ within the meaning of the Victoria Police Code of Conduct and therefore contravened the Code. She has acknowledged a lack of judgment, for which she has given reasons. She has acknowledged that there is a need to clarify and, if necessary, strengthen policy in relation to gifts and gratuities offered to police members. OPI will work with Victoria Police to ensure that this occurs.

I am satisfied that resolution, in this way, of the complaint made against the Chief Commissioner is consonant with my statutory objects and functions, and is in the public interest.

I will further elaborate upon my reasons in a report to Parliament. The policy review will commence immediately.

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