

15 February 2019

[personal information]

By email: [personal information]

Dear [personal information]

REQUEST FOR INFORMATION REGARDING GIFTS AND HOSPITALITY

1. We refer to your email dated 25 January 2019 requesting information about gifts and hospitality given to FMA staff, as follows:
 - Details of any instances where FMA staff have been given gifts by a private organisation since 2013.
 - What were the gifts and what were they for?
 - Details of any instances where a private organisation has hosted FMA staff at a hospitality function since 2013.
 - Where was the event held and what was it (sic) for?
 - What are the FMA's rules and policies around staff accepting gifts in a work capacity?
2. We have made decisions on your request under the Official Information Act 1982 (OIA), as set out below.

Details of any instances where FMA staff have been given gifts by a private organisation since 2013; and, Details of any instances where a private organisation has hosted FMA staff at a hospitality function since 2013

3. The FMA records details of gifts and hospitality on the same register, so we have grouped those details together in our response.
4. You will note that most of the information you have asked for is already publicly available, and that very few of the gifts and hospitality were provided by those we regulate.
5. The publicly available information is included in the written answers we have provided to the relevant Select Committees as part of Annual Review processes and/or Annual Estimates Examination

processes. That information is available at the links set out in the table below. The remaining information is attached in **Annexures A and B**.

Details of Gifts and Hospitality

Time Period	Location
18.04.11 - 09.02.15	Extracts from the FMA's Gifts Register provided for the Annual Review for the 2013/14 financial year: https://www.parliament.nz/resource/en-NZ/51SCCO_EVI_00DBSCH_ANR_60709_1_A425723/67d8bb6dc8346f14a15797ad69da2fddca415672
10.02.15 - 30.06.15	N/A - The Commerce Committee decided not to require the FMA to answer written questions in 2014/15. See Annexure A for the gifts and hospitality over this period.
01.07.15 - 30.06.16	Extracts from the FMA's Gift Register provided for the Annual Review for the 2015/16 financial year (ref p39): https://www.parliament.nz/resource/en-NZ/51SCCO_EVI_00DBSCH_ANR_71172_1_A540663/3d48d977d34ae51df5d25ae70e8e8b8ffc1f9a4b
01.07.16 - 30.06.17	Extracts from the FMA's Gifts Register provided for the annual Review for the 2016/17 financial year (ref p36): https://www.parliament.nz/resource/en-NZ/52SCED_EVI_75460_889/dee176153cb040730d2e458fec0b3024312f0c45
01.07.17 - 13.04.18	Extracts from the FMA's Gifts Register provided for the Annual Estimates Examination for the 2018/19 financial year. https://www.parliament.nz/resource/en-NZ/52SCED_EVI_78408_1387/93fbca6dc367fade71711d6a21bd6f0c836efedb
14.04.18 – Date of your request	N/A - Annexure B for the gifts and hospitality over this period.

6. We do not collect or hold some of the information that is covered by your request, being:

- Information on gifts and hospitality with an estimated value of less than \$50; and,
- Details about where events are held (although this can usually be inferred from the descriptions of events).

7. We are therefore required to 'refuse' those aspects of your request under section 18(g) of the OIA, on the basis that we do not hold that information and have no grounds for believing it is held by another relevant entity or connected more closely with the functions of another relevant entity.

What are the FMA's rules and policies around staff accepting gifts in a work capacity?

8. We have decided to grant this request by providing you with a copy of our current Sensitive Expenditure and Gifts Policy, which is attached as **Annexure C**. Please note that we have recently begun work to refine this Policy as a result of changes made to our procurement framework late last year.
9. Please feel free to contact [personal information] if you have any questions about this information.
10. You also have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely

[personal information]

Manager, Policy and Governance

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Annexure A: Gifts and hospitality received between 10 February 2015 and 30 June 2015

Date	Recipient's Position	Description	Value	Giver	Reason
22/05/15	Manager, Government and Industry Relations	Ticket to Canon Media Awards	\$160	Event manager	Market engagement
22/05/15	Director of External Communications	Lunch at Trans-Tasman Business Circle	\$450	Event manager	Market engagement
22/05/15	Manager, Government and Industry Relations	Lunch at Trans-Tasman Business Circle	\$450	Event manager	Market engagement
22/05/15	Chief Executive	Lunch at Trans-Tasman Business Circle	\$450	Event manager	Market engagement
19/05/15	Head of ICT	Dinner	\$100	Spark	Gift from FMA supplier
31/03/15	Personal Assistant	Cosmetics	\$80	Orbit Travel	Gift from FMA supplier
31/03/15	Executive Assistant	Cosmetics	\$80	Orbit Travel	Gift from FMA supplier
19/03/15	Principal Consultant, Monitoring	Bottle of wine	\$50	Sovereign	Thank you gift for giving a presentation
13/05/15	Manager, Issuer Disclosure Surveillance	Bottle of champagne	\$70	BDO	Thank you gift for giving a presentation
04/03/15	Chief Executive	Gift hamper	\$50	Institute of Directors	Thank you gift for giving a presentation
04/03/15	Director of Primary Markets & Investor Resources	Gift hamper	\$50	Institute of Directors	Thank you gift for giving a presentation

Annexure B: Gifts and hospitality received since 13 April 2018

Date	Recipient's position	Description	Value	giver	Reason
18/12/18	Various staff	Gift hamper	\$70	Tenzing	Gift from FMA supplier
31/10/18	Executive Assistant	Raffle prize of night at Hotel Grand Windsor	\$300	Orbit Travel	Gift from FMA supplier
31/10/18	Executive Assistants (2), Personal Assistant, receptionist	Lunch	\$112 (in total)	Accor Group/Pullman Hotel	Gift from FMA supplier
06/09/18	Principal Adviser	Ticket to Workplace Saving Conference	\$1,445	Financial Services Council	Thank you gift for giving a presentation
06/09/18	Chief Executive	Wine gift pack	\$50	Financial Services Council	Thank you gift for giving a presentation
24/08/18	Executive Assistant	1x double pass to Warriors games	\$80	Air NZ	Gift from FMA supplier
21/05/18	Director, Market Engagement	Lunch	\$70	Chief Executive of Trustees and Executors	Personal relationship independent of FMA
11/05/18	Senior Investigator	Gift hamper	\$100	An investor compensated as a result of the action taken by the FMA against Prince & Partners	Thank you gift for regulatory work



SENSITIVE EXPENDITURE AND GIFTS POLICY

Policy Statement

1. This policy provides guidance for sensitive expenditure and gifts. It should be read subject to the FMA's other policies such as the procurement and purchasing guidelines, expense claims policy, travel policy, credit card payments policy, Instrument of Delegation for Corporate Functions (financial, HR, communications) and the code of conduct. This policy will be monitored by the Chief Executive (CE) and managers on a risk-based assessment.

Purpose

2. To outline the FMA's guidelines and expectations for employees where sensitive expenditure is incurred on the FMA's behalf and to inform employees of expectations surrounding the acceptance of gifts, prizes, fees, entertainment or hospitality received from a third party in connection with an employee's role or duties.

Scope

3. This policy applies to all FMA employees, contractors, secondees and those employed on a fixed term, or casual basis (**employees**).

General

4. Sensitive expenditure is expenditure by a public entity that could be seen as giving some private benefit to an individual staff member that is additional to the business benefit to the entity of the expenditure. Travel, accommodation, and hospitality spending are examples of areas where problems often arise. It also includes expenditure by a public entity that could be considered unusual for the entity's purpose and/or functions. Sensitive expenditure must comply with the Controller and Auditor-General's guidelines on *Controlling Sensitive Expenditure for Public Entities* (<http://www.oag.govt.nz/2007/sensitive-expenditure>).

Expenditure on Travel and Accommodation

5. Travel and accommodation expenditure should be economical and efficient, having regard to purpose, distance, time, urgency, and personal health, security, and safety considerations. See FMA's Travel Policy for detail. Prudence needs to be displayed in choosing accommodation. The price of accommodation should be conservative while taking into account location and the security of employees. The FMA uses a travel management company and accommodation should be booked through them as early as possible. The FMA's appointed travel management company is listed in **Appendix 1**.

6. The FMA has approved accommodation providers in Wellington and Auckland. Alternatives to these may be used if they are lower cost or there is limited or no availability in the approved hotels.
7. Where possible special accommodation discounts and offers made by the event organiser will be accessed.
8. Where the stay is with a friend or relative rather than in commercial accommodation, prudence needs to be displayed for costs that may be paid, if any, and prior approval for any costs is to be sought from the CE or a Tier 2 manager.
9. The traveller must return a copy of the accommodation invoice, whether paid directly by the FMA or not, to their team administrator for matching to the travel authority.

Meals

10. The FMA will cover reasonable costs of meals while employees are travelling. These costs need to be modest and conservative and will be monitored. Please see the guidance notes in **Appendix 2** below.
11. Separate meal expenses may not be claimed for meals provided as part of another package paid for by the FMA.

Transportation

12. All transportation should be selected based on prudence and practicality. Taxis or hotel transport may be used. Where practical, transportation should be shared to reduce costs. Transportation expense will be monitored.

Mini-bar expenditure

13. It is the FMA's policy that mini bar expenses are not to be incurred except in extremely rare circumstances where there is no available meal or refreshment provision and it is unreasonable to travel to access meals or refreshment.
14. As a control any mini bar expenditure must be accompanied by a receipt and a written explanation and is subject to approval by the CE or a Tier 2 manager.

In-house movies

15. Any in-house movie expenditure is the responsibility of the employee who incurs the expense. The FMA is not responsible for in-house movie expenses. Any outstanding in-house movie accounts need to be paid directly to the hotel upon checkout by the employee concerned.

Tipping

16. The FMA will pay for tips during international travel for places where tipping is accepted local cultural practice and at the prevailing generally accepted levels.
17. The FMA will not meet the costs of tipping by employees while they are on the FMA's business in New Zealand.

Entertainment and hospitality expenditure

18. Entertainment and hospitality can cover a range of items from tea, coffee, and biscuits to catering, such as meals and alcohol. It also includes non-catering-related items, such as entity-funded entry to a sporting or cultural event. Expenditure on entertainment and hospitality is sensitive because of the range of purposes it can serve, the opportunities for private benefit, and the wide range of opinions as to what is appropriate.
19. The FMA's general approach is that where, for a legitimate business purpose, prudent expenditure that is within approved budgetary limits, has been incurred on entertainment and/or hospitality for an event involving stakeholders, foreign dignitaries, employees, or FMA Board Members, then in such case this will be covered by the FMA. Examples of legitimate business purpose where such expenditure may be considered appropriate include:
 - Expenditure incurred to support internal organisational development, such as coming together as a team or as an organisation, to recognise a positive business outcome, achievement or milestone;
 - Expenditure incurred to host stakeholders and market participants to celebrate or acknowledge a milestone or an achievement of the FMA or to otherwise facilitate or publicise one or more of the FMA's objectives; and
 - Expenditure incurred to purchase a gift (where it is customary or culturally appropriate to do so) or to host a guest, including foreign dignitaries, of the FMA.
20. Where such expenditure is proposed, prior written approval should be obtained on a one-up basis, as follows:
 - (i) staff should obtain approval from their Tier 2 manager;
 - (ii) a Tier 2 manager should obtain approval from the Chief Executive; and
 - (iii) the Chief Executive, for amounts in excess of his/her delegated financial authority, should seek the FMA Board's approval. For lesser amounts, the Chief Executive must act in conformity with this policy. The Chief Executive is required to publicly disclose such expenditure in accordance with the State Services Commission's expenditure disclosure requirements for chief executives of Statutory Crown entities.

Note that a Tier 2 manager must only approve, and incur, expenditure falling within their approved budget.

21. When seeking approval for entertainment and hospitality expenditure, the business purpose, objective and the cost of the proposed entertainment and/or hospitality should be stated. As an

indicative guide, \$50 per person is generally considered the upper level for any entertainment and/or hospitality proposed.

22. For Board dinners, ExCo dinners, the FMA staff conference or dinner events involving foreign dignitaries an indicative guide of \$100 per person is generally considered the upper level for any entertainment and/or hospitality proposed.
23. The Chief Executive or the Board may override these indicative guides in exceptional circumstances.
24. Entertainment and hospitality expenditure will be monitored by the Chief Executive and the relevant Tier 2 manager on a risk-based assessment. Receipts for costs incurred must be retained and submitted to the FMA's Chief Operating Officer. In this regard, please refer to the expenses claims policy and the credit card payment policy.

Alcohol expenditure

25. Moderation and prudence needs to be displayed for all alcohol expenses. The FMA will generally not meet the alcohol expenses incurred by employees unless such expenditure is permitted under this policy or have been pre-approved by the relevant manager. Alcohol expenses should also conform to the cultural norms while at international events. Alcohol expense will be monitored by the CE or Tier 2 managers on a risk-based assessment.
26. Please also refer to the guidance on meals below, entertainment and hospitality expenditure above and FMA's drug and alcohol policy.

Frequent flyer programmes and airline club memberships (including air points)

27. Air points generated by travel for the FMA's business are to be redeemed for future FMA travel. Where Air points are not able to be used for the FMA's travel, they remain the property of the individual.
28. Where individuals travel frequently on FMA business, the CE may approve an individual joining one frequent flyer programme or airline club. The CE may also approve the renewal of any frequent flyer membership. For the purpose of this policy, fifteen or more return domestic trips per annum is a guide. The FMA has a corporate membership to Air New Zealand's Koru Club and any new memberships will be part of this.

Other loyalty rewards schemes

29. There are occasions where loyalty rewards are accrued to a staff member's personal rewards programme when purchasing goods and services on behalf of the FMA. Examples of loyalty rewards schemes are supermarket schemes like Fly Buys and retailers schemes like Farmer's Cards.
30. Any loyalty rewards accruing to employees from carrying out their official duties should generally be treated as the property of the FMA and applied for the benefit of the FMA. Where the value of the rewards are likely to be insignificant, the staff member accruing the benefit should notify their manager if the benefit could be used for the procurement of further goods and services for the FMA's benefit.

Gifts

31. Employees must not in any circumstances accept gifts of money. Where employees are offered a gift (regardless of value) they must consider whether it might be seen to compromise their integrity or the integrity of the FMA. If an employee considers that this would be the perception then, if practicable, the employee must decline the gift before it is accepted. If in doubt the employee must decline, or where practicable discuss with the relevant manager before accepting the gift. Gifts or benefits can range from one-off offers of small gifts to ongoing discounts on goods and services.
32. Examples of gifts include:
 - meals and hospitality
 - prizes
 - tickets to, and hospitality at, cultural or sporting activities
 - free products
 - money
33. In determining whether or not to accept or decline a gift, consideration should be given to whether the gift would be seen by others as either an inducement or a reward which might place the employee under an obligation to a third party. It should also be considered whether FMA would be otherwise compromised or exposed in any way by acceptance.
34. In exercising this judgement consideration should be given to why the gift is being offered, how it fits within FMA's objectives of advancing relationships, and how acceptance of it would be perceived by reasonable members of the public.
35. There will be occasions where differing cultural traditions and protocols require an exchange of gifts. Where a gift is offered in these situations it should be accepted. Each situation should be judged on its own merits and with cultural sensitivity.

Reporting the Gift for the Gifts Register

36. Where a Gift has been accepted and it is valued at more than \$50.00 (GST exclusive) (**Reportable Value**) the employee must within one month after accepting the Gift, provide details of the Gift to the Governance team for recording in the gifts Register.
37. Where an employee receives more than one gift from the same person or entity in any financial year, and the combined value of all the gifts exceeds the Reportable Value at the end of the year, each of the gifts accepted must be reported to the Governance team for recording in the Gifts Register.
38. If there is any doubt about whether the value of a gift exceeds the Reportable Value it should be declared. The details to be recorded in the Gifts Register are the name of the staff member, date of receipt, description, value, giver, reason and what happened to the Gift.

Disposal or Use of Gifts

39. The following applies to gifts which have been accepted and which were not provided on the basis of immediate consumption by the recipient.
40. Employees may at their discretion retain gifts at the value of, or less than, the Reportable Value, subject to paragraphs 31-35.

41. Gifts with a value of more than the Reportable Value must be disposed of, or used, as considered appropriate by the employee's manager or the Director, People and Capability.
42. Appropriate ways to dispose of, or use, gifts include:
 - (i) donation to FMA and consumption at office functions
 - (ii) auction to FMA staff with the proceeds going to catering at staff functions or charity
 - (iii) for ornamental Gifts, display in FMA offices.

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APPENDIX 1: FMA's Appointed Travel Management Company

1. The FMA's appointed travel management company is Orbit Business Travel.

APPENDIX 2: Guidance on meal expenditure

1. The FMA will pay for breakfast, where it is not already provided with accommodation, this should generally not be at the hotel, but a more reasonably priced establishment unless the safety of the employee might be compromised. As a guideline breakfast allowance is in the target of NZD\$15 – NZD\$20.
2. Lunch will not normally be paid for by the FMA unless there is a business reason and the expenditure is pre-approved by the CE or manager. For international travel or external visits such as monitoring visits, where facilities are not available to the traveller, lunch may be paid for and the value should be in the target of NZD\$15-NZD\$20.
3. Dinner should be conservative, generally the FMA will only pay for two courses, and one drink, which may be alcoholic. As a guideline, dinner allowance is a maximum of \$50.

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