

Policy: Gifts and Donations from Directly Managed Customers

Purpose

To provide guidance in the provision of gifts or donations in estates of direct managed customers.

NSW Trustee (as Manager) may determine to provide a gift to a relative or close friend of a direct managed customer that is of a seasonal nature or is given because of a special event (such as a birthday or marriage).

NSW Trustee (as Manager) may also determine to provide a donation of a nature that the direct managed customer made when they had capacity to do so or that they might reasonably be expected to make.

[Section 76](#) of the [NSW Trustee and Guardian Act 2009](#) in relation to gifts and donations specifies as follows:

- (1) *A manager (in this case NSW Trustee) may use property of the estate of a managed person for the following gifts:*
 - (a) *a gift to a relative or close friend of the managed person that is of a seasonal nature or is given because of a special event (such as a birthday or marriage),*
 - (b) *a donation of a nature that the managed person made when the managed person had capacity to do so or that the managed person might reasonably be expected to make.*
- (2) *A manager may make a gift under this section only if the value of the gift is not more than what is reasonable having regard to all the circumstances and, in particular, the managed person's financial circumstances and the size of the managed person's estate.*

However, in some cases, the request may also be supported by [Section 59](#) of the [NSW Trustee and Guardian Act 2009](#), which (in part) refers to:

The maintenance of the spouse of the person or any child, parent or other person dependent upon the person, or for whose maintenance the person provided when not a managed person or would be expected to provide.

This Section also refers to the maintenance (including future maintenance), clothing, medicine and care, past and present, of the person. An example could be the purchase of a motor vehicle for someone other than the direct managed customer that will also be used for their benefit. These issues should be discussed with your Manager or Senior Manager as required.

Policy statement

The provision of gifts and donations will be authorised if there are reasonable grounds to justify the payments and they are affordable. The needs of a direct managed customer must not be put at risk by releasing funds for a gift or donation.

The exercise of NSW Trustee & Guardian's authority under this policy does not extend to the provision of loans. NSW Trustee & Guardian cannot approve a loan from a direct managed customer's estate. For a loan to be considered for approval, NSW Trustee & Guardian would need to prepare and submit a Report and Proposal for consideration by the Supreme Court of NSW Equity Division Protective. However, consent to take this action must first be obtained from the Director Trustee Services via the Manager Trustee Services.

Scope

Direct managed customers

Legislative context

[NSW Trustee and Guardian Act 2009](#)

Document information

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Owner:	Senior Manager, Trustee Services
Approver:	Director, Trustee Services
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