



GLAMORGAN
SPRING BAY
COUNCIL

Glamorgan Spring Bay Council

Gifts & Donations Policy

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1 Introduction

1.1 Purpose

The purpose of this Policy is to outline the obligations and responsibilities of Council's officials when dealing with offers of gifts or donations.

The Policy also assists Council officials to make appropriate judgments in relation to favours, gifts and donations and therefore avoid being placed in a situation where they may become vulnerable to undue influence or threaten community confidence in the fairness, impartiality and integrity of the Council.

1.2 Scope

The Policy applies to all favours, gifts and donations offered to or received by all Council officials in their role as officers of the Council.

In a private context gifts and donations are usually unsolicited and meant to convey a feeling on behalf of the giver such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this Policy.

Gifts, favours and donations may also be offered to individuals in the course of business relationships. Such gifts and donations are often given for commercial purposes and serve to create a feeling of obligation in the receiver.

Gifts and donations given in the course of business relationships is the focus of this Policy.

The Policy is to be applied in conjunction with provisions in the Council's Code of Conduct and other relevant Council policies and procedures.

1.3 Definitions

Bribe means a gift or benefit given specifically for the purpose of winning favours or to influence the decision or behaviour of a Council official to benefit someone or something.

Cash means money or vouchers which are readily convertible.

Conflict of interest means any situation in which an individual or corporation (either private or government) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.

Council official means Mayor, Councillors, Council staff (including staff engaged through an employment agency), Council Committee members, volunteers and contractors.

Cumulative gift means a series of gifts of nominal value from the same person or organisation over a specified period which may have an aggregate value that is significant.

Favour means an act of service beyond what is usual, which could have a commercial or other value and that may reasonably be considered to confer an obligation on the receiver.

Gifts or donations means an item, service, loan of money, loan of property or any other benefit with a monetary value of \$50 or more.

Gifts and Donations Declaration Form means a form to be completed (example template at attachment 1), when an individual receives a gift or benefit of a non-token nature above the nominal limit or receives a series of token gifts or donations in a specified time that may have significant aggregate value (Cumulative Gift).

Gifts and Donations Register – a register maintained by Council of all declared gifts and donations (attachment 2).

Gift of influence means a gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

Gift of gratitude means a gift offered to an individual or department in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions may be considered an example of gifts of gratitude.

Hospitality means the provision of accommodation, meals, refreshments or other forms of entertainment.

Nominal value is the monetary limit of the value of gifts or donations that may be accepted (i.e. total value of gift or benefit received). A gift or benefit is of nominal value when it has no significant or lasting value.

Public perception means the perception of a fair-minded person in possession of the facts.

Significant value means a gift or benefit that has a value above the nominal value limit.

Specified number means a gift or benefit that has a value above the nominal value limit.

Token means often mass produced (i.e. pens, calendars, ties or items with a company logo on them), offered in business situations to individuals. Usually have a value under the nominal value limit.

Non token means items that are of a more individual nature, with a value above the nominal value limit. Items may include, free or discounted travel; use of holiday homes; corporate hospitality at major sporting events; free training excursions; tickets to major events and access to confidential information.

Related Policies and Legislation

This Policy relates to and depends on other Council policies, as well as legislation, including:

- Local Government Act 1993
- Local Government (General) Regulations 2015
- Glamorgan Spring Bay Council – Code of Conduct
- Glamorgan Spring Bay Council – Employee Code of Conduct
- Integrity Commission Act 2009

1.4 Policy Review and Update Cycle

This Policy is to be reviewed every three years or in accordance with legislative requirements.

2 Policy

Council officials at all times and in all circumstances must be seen to be fair, impartial and unbiased and should actively discourage offers of gifts and donations and must not solicit gifts or donations.

Council officials must not take advantage of their official position to secure an unreasonable personal profit or advantage. People doing business with the Council should be encouraged to understand that they do not need to give gifts or donations to Council officials to get high quality service.

From time to time Council officials may be offered gifts or donations. In some limited circumstances gifts and donations may be accepted. Token gifts of nominal value may generally be received. Non – token gifts of significant value should not generally be accepted.

Council officials should at all times be aware of the wider situation in which an offer of a gift or benefit is being made. For example, Council officials should consider whether the donor is in or

may be seeking to enter into a business relationship with Council or may be applying to Council in relation to the exercise of Councils functions.

Council officials must avoid situations that suggest that a person or body, through the provision of gifts or donations is attempting to secure favourable treatment from Council.

When deciding whether to accept or decline a gift or donation, consideration should be given to both the value of the gift or donation and also the intent of the gift or donation being offered.

2.1 Acceptable Gifts and Donations

Gifts or donations of a token nature at or below nominal value may generally be accepted by Council officials without disclosing details to a Manager/Supervisor, General Manager or Mayor and without recording the details of the gift or benefit on the Gifts and Donations Declaration Form or Register (Refer Attachments 1 and 2).

That said, Council officials who receive more than the specified number of token gifts of a nominal value from the same person or organisation, in a specified period must disclose that fact in the gifts and donations register.

2.2 Token Gifts and Donations

Gifts or donations of a token nature do not create the appearance of a conflict of interest and include:

- Items with a company logo on them, ties, scarves, coasters, diaries, chocolates, flowers;
- Books given to individuals at functions, public occasions or in recognition of exceptional work done;
- Gifts of single bottles of reasonably priced alcohol given to individuals at functions, public occasions or in recognition of exceptional work done;
- Free or subsidised meals of a modest nature and/or beverages provided infrequently (and or reciprocally) that have been arranged for or in connection with the discussion of official business;
- Free meals of a modest nature and or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops;
- Invitations to approved social functions organised by groups such as Council Committees and community organisations.

2.3 Nominal Value

The nominal value is \$50. If a Council official has any doubt if a gift or donation is token or of nominal value they should discuss it with a Manager/Supervisor, General Manager or Mayor.

2.4 Non Acceptable Gifts and Donations

Accepting gifts of money is prohibited.

Council officials should generally not accept gifts or donations that appear to be non-token in nature or more than of a nominal value.

If a gift or donation of a non-token nature or above nominal value is offered and cannot reasonably be refused (as this action may cause embarrassment), the offer and receipt of the gift or donation must be declared via completion of A Gifts and Donations Declaration Form (at attachment 1) and the details must be recorded on the Council Gift Register (at attachment 2).

If a Council official refuses a gift or donation because they believe that the gift was a deliberate attempt to receive "special treatment", then such instances are to be reported to a Manager/Supervisor, the General Manager or Mayor.

2.5 Non Token Gifts and Donations

Gifts or donations of a non-token nature include:

- Free or discounted travel
- Use of holiday homes
- Tickets to major sporting events
- Corporate hospitality at a corporate facility or sporting venue
- Free training excursions
- Access to confidential information
- Discounted products for personal use
- Goods and services provided via a determination in a Will

At times a gift of a non-token nature may be given from one authority to another. Such gifts are often provided to a host authority. These gifts may be given as an expression of gratitude without obligation on the receiver to respond. The gratitude usually extends to the work of several people in the authority and therefore the gift is considered to be for the authority, not a particular individual.

2.6 Significant Value

For the purpose of this policy a gift or benefit with significant value has a value above the specified nominal value limit.

2.7 Actual or Perceived Effect of the Gift or Donation

Accepting gifts where a reasonable person could consider that there may be influence applied as a result of accepting the gift or donation is prohibited (gift of influence).

Where it is suspected that a gift or donation has been offered for the purpose of influencing the behaviour of someone acting in their official capacity, the gift or donation must be declined and the matter should be reported immediately to the relevant Manager/Supervisor, General Manager or Mayor.

2.8 Bribes

Council officials must not offer or seek a bribe. A person offered a bribe should refuse it and report the incident as soon as possible to their Manager/Supervisor, General Manager or the Mayor (in the case of Councillors). Council will take steps to report the matter to Police immediately.

Receiving a bribe is an offence under both the common law and the Local Government Act Section 339A of the Local Government Act 1993 (Misuse of Office).

2.9 Family Members – Receiving of Gifts or Donations

Council officials must take all reasonable steps to ensure that immediate family members do not receive gifts or donations of a non-token nature or gifts or donations above the nominal value. Immediate family members include parents, spouses, children and siblings.

2.10 Records – Gifts and Donations Registers

Council officials, who receive more than five token gifts or donations near the nominal value limit from the same person or organisation, (cumulative gift) must disclose that fact on the Gifts and Donations Declaration Form and Register (attachment 1 and 2).

If an official of the Council receives a non-token gift or donation in circumstances where it cannot reasonably be refused or returned, the receipt of the gift or donation should be

disclosed and the details recorded on a Gifts and Donations Declaration Form (at attachment 1) and in the Gifts and Donations Register (at attachment 2).

The Register will be available for public inspection.

The content of the Registers will be monitored by the General Manager on a monthly basis.

2.11 Notification Period

A Councillor is to give notice within 14 days of receiving a gift or donation. The notice must be in writing to the General Manager and include:

- The name of the councillor who received the gift or donation.
- The name of the donor (if known)
- The councillor's relationship to the donor (if known)
- The suburb/locality where the donor resides (if known)
- The date on which the gift or donation was received; and
- The estimated monetary value of the gift or donation.
- If the gift or donation is received while the councillor is outside Australia, notice is to be provided within 14 days of returning to Australia.

2.12 Disposal of Gifts

A Manager/Supervisor, General Manager or Mayor will determine whether a gift or donation of a non-token nature should be disposed.

There are options for the disposal of gifts that have been accepted because they could not reasonably be refused, but should not be retained by an individual. Examples of such circumstances where gifts or donations may be received include:

- Gifts accepted for protocol or other reasons, where returning it would be inappropriate;
- Anonymous gifts (received through the mail or left without a return address);
- A gift received in a public forum where attempts to refuse or return it would cause significant embarrassment; or
- A gift or donation of significant value provided to a Council official through a Will, where the relationship between the giver and recipient was essentially a Council related business relationship.

Options for disposal include:

- Surrendering the gift to Council for retention;
- Distributing the gift or donation amongst a selection of Council's officials - where a reasonable person would agree that the allocation was appropriate, (public perception); or
- Donating the gift to an appropriate charity.

3 Breaches of Policy

All Council officials are obliged to comply with this policy and sanctions may be applied if the policy is breached.

Any person may report an alleged breach of this policy by an official of the Glamorgan Spring Bay Council to the General Manager or Mayor as appropriate who shall investigate any report received and take such action as it is considered necessary.

If this policy has been breached, such action may include counselling, censure motions, disciplinary action (including termination of employment), the laying of charges and the taking of civil action.

4 Implementation of Policy

Implementation of this Policy rests with the General Manager.

5 Attachments

1. Gifts and Donations Declaration Form
2. Gifts and Donations Register

GSBC GIFTS AND DONATIONS DECLARATION FORM

Council Officials name	
Department/role within organisation	
Date gift offered	
What is the gift?	
What is the dollar value (approximate) of the gift?	
Who is the gift from: Individual (provide name) Organisation (provide name)	
Where was the gift offered? (i.e. at a function, over the counter, through the mail, at a meeting.....)?	
Recipients relationship to the donor	
Should the gift or donation be accepted or declined ?	
If the gift was accepted, should it be retained by the employee or organisation?	
If the gift was retained by the organisation should it be disposed of?	
Council Official's signature	
Date	
Name of Responsible Officer (ie Supervisor, General Manager, Mayor)	
Responsible Officer's comments	
Office Use	
Date details recorded on Gifts and Donations Register	
Executive Officer's signature	

GSBC GIFTS AND DONATIONS REGISTER

This register shows reportable gifts and donations that have been offered to and received by Council Officials for the financial year. The register also includes instances where Council Officials have received more than the 5 token gifts or donations of a nominal value from the same person or organisation, in a financial year.

Date gift/donation received	Description of gift or donation	Estimated monetary value of gift/donation	Name of donor/organisation	Name of recipient	Recipients relationship to the donor (if known)	Locality/suburb of donor (if known)	Disposal Yes/No	Name and signature of accountable Council officer

General Manager:

Register review date: