

Gifts, Benefits and Hospitality Policy

June 2021



TAMALA PARK
REGIONAL COUNCIL
Building a sustainable community

Responsible Officer	Chief Executive Officer
Voting Requirements	Simple Majority
Initial Council adoption	17 June 2021
Review/Amendments	
Last Council adoption	17 June 2021
Review due	2022

PURPOSE/OBJECTIVE

The purpose of this Policy is to establish guidelines for appropriate conduct in circumstances where Elected Members, the Chief Executive Officer (CEO) and Employees are offered gifts, benefits, hospitality or are granted awards or win prizes, whether part of their official duties or while attending functions as Tamala Park Regional Council (TPRC) representatives.

SCOPE

This policy applies to all Elected Members, the CEO and/or Employees and operates in accordance with *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

POLICY STATEMENT

1. Responsibility

Elected Members, the CEO and/or Employees are responsible for ensuring that when any gift, benefit or hospitality offer is received the following are addressed:

- A high standard of integrity and accountability is maintained;
- Legislative requirements and community expectations are met;
- Council activities are not influenced or perceived to be influenced by the receipt of gifts, benefits or hospitality; and
- Gifts that are accepted or declined are properly disclosed and managed.

Elected Members, the CEO and Employees must:

- At all times be ethical, transparent, fair and honest in the conduct of official duties;
- Be aware that corruptly receiving a gift (including a benefit or hospitality) is an offence under the *Local Government Act 1995*;
- Be fully accountable and responsible for their actions and ensure that the methods and processes they use to arrive at decisions are beyond reproach and can withstand audit scrutiny;
- Not present a conflict of interest with their performance as an Elected Member, CEO or Employee;
- Not seek, solicit or use their position with the TPRC to obtain gifts or benefits from external organisations or people;
- Ensure that a person or organisation is not placed in a position in which they feel obliged to offer gifts, benefits or hospitality to secure or retain TPRC business;
- Report any incidences immediately to the CEO, where a bribe and/or cash are offered.

2. The GIFT Test

- G (Giver)** **Who is providing the gift, benefit or hospitality and what is their relationship to me?**
Does my role require me to select contractors, award grants, regulate industries or determine a Council policy? Could the person or organisation benefit from a decision I have made?
- I (Influence)** **Are they seeking to influence my decisions or actions?**
Has the gift, benefit or hospitality been offered to me publicly or privately? Is it courtesy, a token of appreciation or valuable? Does its timing coincide with a decision I am about to make, have made or contributed to?
- F (Favour)** **Are they seeking a favour in return for the gift, benefit or hospitality?**
Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers in the last 12 months? Would accepting it create an obligation to return the favour?
- T (Trust)** **Would accepting the gift, benefit or hospitality diminish public trust?**
How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends, associates or a member of the community think?

3. Principles

3.1 Gifts must never be sought

Elected Members, the CEO and/or Employees must not solicit, demand or request gifts or any personal benefit for themselves or another person by virtue of their position.

3.2 No sense of obligation

No gift should be accepted that could influence or be perceived to influence an Elected Member, CEO and/or Employee in the performance of their public duty.

3.3 Prohibited Gifts

In addition to other limitations imposed by this Policy, the below gifts are classified as prohibited gifts for Elected Members and the CEO:

- monetary gifts of any value; and
- an individual gift from a person or organisation with a value exceeding \$1,000 must not be accepted.

In addition to other limitations imposed by this Policy, the below gifts are classified as prohibited gifts for Employees:

- monetary gifts of any value; and
- an individual gift from a person or organisation with a value exceeding \$300 must not be accepted.

3.4 Gifts of Appreciation

A person or organisation wishing to demonstrate their appreciation for services received from the TPRC or an Employee, should not involve the presentation of a gift or benefit. Acceptable alternatives may include a letter of thanks or a thank you card as these are considered less likely to result in a situation that may compromise or be perceived to compromise either party.

3.5 Token Gifts

Gifts of token value may be accepted by an Elected Member, CEO and/or Employees provided that the gift does not create a real or perceived sense of obligation that may lead to a perception of preferential service as a result of the gift.

The following should be used as a guide for an Elected Member, CEO and/or Employee in determining whether to accept token gifts. Such gifts may be accepted only when the following have been considered:

- a) Such a gift is offered in an open or public forum and refusal would be obviously discourteous;
- b) Acceptance would not cause any potential perceived or actual compromise or conflict of interest;
- c) The gift does not have a significant monetary value (as a guide, less than \$10); and
- d) The gift is not offered on a regular basis.

There is no requirement to record token gifts in the Gifts Register.

3.6 Offer to attend a “Free” event

There is no such thing as a free event. In these circumstances there needs to be a reasonable calculation or assessment of the value of attendance as a member of the “paying public”. Refer to the Attendance at Events Policy.

3.7 Official Gifts

From time to time a person or organisation may offer gifts of goodwill to the TPRC through conferences or social, cultural, community, industry events where gifts are presented or exchanged. It is reasonable for an Elected Member, CEO and/or Employee to accept the gift on behalf of TPRC and such gifts shall be considered to be the property of the TPRC.

3.8 Hospitality

Elected Members, CEO and/or Employees in an official capacity will from time to time receive invitations of hospitality to attend various functions and events. Where hospitality is only modest in nature and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

Such incidental refreshments at meetings, working lunches, community events or similar are not considered to be a gift and need not be recorded unless they occur at a frequency that may give rise to the perception of a conflict of interest under the Act.

If acceptance of the hospitality is likely to create the impression that an attempt is being made to compromise the impartiality of the Elected Member, CEO and/or Employee, or could be perceived as a conflict of interest, the offer of hospitality should be politely declined and recorded.

Where possible any offer of hospitality made to an Elected Member, CEO and/or Employee should be declared and approved prior to the event, in accordance with the Attendance at Events Policy.

4. Procedural Guidelines

4.1. Declaration of Gifts

Nothing in this Policy shall be construed to override the provisions of the Act.

4.1.1. Individual Gift (Single item) – Elected Members and CEO

An Elected Member or CEO must disclose a notifiable gift where the value exceeds \$300, or where a gift is one of two or more gifts given by the same person or organisation within a period of one (1) year that are in total value exceeding \$300.

No Elected Member or CEO is to accept a gift valued at \$1,000 or more or where the value is one of two or more gifts given to the Elected Member or CEO by the same person or organisation within a period of one (1) year that are in total valued \$1,000 or more.

An Elected Member or CEO may accept a gift with a value of less than \$300. It is the Elected Member and/or CEO's discretion to complete a Disclosure of Notifiable Gifts, Benefits and Hospitality Form if the provision of the gift could be perceived as influencing any decisions of the relevant person.

The following gifts are considered not to have created an interest:

- Attendance at events which have been approved by the council in accordance with the Attendance at Events Policy;
- Gifts from the following entities:
 - WALGA;
 - ALGA;
 - Local Government Professionals WA;
 - A State public service department;
 - A Federal, State or Territory government department; or
 - Another local government or regional government.

Note: these still have to be disclosed and entered on the gifts register if received in the capacity of Elected Member or CEO.

4.1.2. Multiple Gift (More than one item in the same batch) – Elected Member and CEO

An Elected Member or CEO may receive a multiple gift from a person or organisation on behalf of TPRC on the condition that the value of the multiple gift is less than \$1,000.

Note: A batch of individual tickets to attend a community event is defined as a multiple gift, whereas, a basket of confectionery gift wrapped is defined as an individual gift.

The Holder of a multiple gift is not permitted to receive a benefit from the batch and must notify the CEO immediately by completing a Disclosure of Notifiable Gifts, Benefits and Hospitality Form ensuring the details on what has been received is clear and precise. The Form is to be returned to the CEO within 10 days of acceptance.

The CEO shall determine the disbursement of the individual item.

The recipient of each individual item must also complete a Disclosure of Notifiable Gifts, Benefits and Hospitality Form and return to the CEO for reconciliation with the Form submitted by the Holder. The Holder is to ensure the recipient is aware of their responsibility to disclose the item on the Disclosure of Notifiable Gifts, Benefits and Hospitality Form and submit to the CEO.

The Holder is not permitted to accept further multiple gifts from the same provider within one (1) year if the individual items total \$1,000 or more.

4.1.3. Individual Gift (Single item) – Employees

An Employee must disclose a notifiable gift where the value is between \$50 and \$300, or where a gift is one of two or more gifts given by the same person or organisation within a period of one (1) year that are in total value not exceeding \$300.

No Employee is to accept a gift valued at \$300 or more or where the value is one of two or more gifts given to the Employee by the same person or organisation within a period of one (1) year that are in total valued \$300 or more.

4.1.4. Multiple Gift (More than one item in the same batch) – Employees

An Employee may receive a multiple gift from a person or organisation on behalf of the TPRC on the condition that the value of the multiple gift is less than \$300.

Note: A batch of individual tickets to attend a community event is defined as a multiple gift, whereas, a basket of confectionery gift wrapped is defined as an individual gift.

The Holder of a multiple gift is not permitted to receive a benefit from the batch and must notify the CEO immediately by completing a Disclosure of Notifiable Gifts, Benefits and Hospitality Form ensuring the details on what has been received is clear and precise. The Form is to be returned to the CEO within 10 days of acceptance.

The CEO shall determine the disbursement of the individual item.

The recipient of each individual item must also complete a Disclosure of Notifiable Gifts, Benefits and Hospitality Form and return to the CEO for reconciliation with the Form submitted by the Holder. The Holder is to ensure the recipient is aware

of their responsibility to disclose the item on the Disclosure of Notifiable Gifts, Benefits and Hospitality Form and submit to the CEO.

The Holder is not permitted to accept further multiple gifts from the same provider within one (1) year if the individual items total \$300 or more.

4.2. Disclosure of Gifts Exemption

Nothing in this Policy shall be construed to override the provisions of the Act.

An Elected Member, CEO or Employee is not required to disclose a gift if the gift is not received in their capacity as a Council Member / Employee, if it is a gift that the person would have received even if the person were not a Council Member, CEO and/or Employee.

While the circumstances surrounding the provision of a gift or why people are invited to a celebration of an occasion may differ, examples of gifts that generally wouldn't have to be disclosed include:

- Wedding or birthday gifts;
- Gifts from relatives;
- Gifts received through a will;
- Gifts received through your ordinary course of employment (for Council Members); or
- The temporary loan of personal property belonging to a relative, acquaintance, neighbour etc

In all cases, including those above, consider the nature of the relationship between you and the donor when forming your decision to disclose receipt of the gift. The onus is on you, as Council Member or CEO, to prove that you did not receive the gift in the capacity of Council Member or CEO if an allegation is made.

4.3. Notifiable Gifts Register

All gifts received by an Elected Member or CEO that exceeds the value of \$300, and for gifts received by Employees for the value of \$50 to \$300, must be declared by completing the Notifiable Gifts, Benefits and Hospitality Form and return to the CEO within 10 days of acceptance of the gift and/or invitation. The disclosure must include the following:

- A description of the gift;
- The name and address of the donor;
- The date on which the gift was received;
- The estimated value of the gift at the time it was made;
- The nature of the relationship between the person who made the gift and the person who received the gift;
- In the case of a travel contribution;
 - A description of the travel; and
 - The date of travel.

The full address of the donor is required to be disclosed, but to balance privacy with transparency, only the town or suburb of the donor's address will be published online.

4.4. Disposing of Gifts That Are Unable to be Returned

In instances where returning the gift would be inappropriate due to protocol, the gift is anonymous and/or returning it would cause significant embarrassment, the CEO will determine how the gift will be disposed of.

4.5. Awards and Prizes Won at Conference/Seminars

Circumstance where an Elected Member, CEO and/or Employee is able to keep a prize or award is restricted to personal payment for the attendance, or the Elected Member, CEO and/or Employee pays for the raffle ticket that wins the prize or award. Prizes or awards valued at over \$300 that are won at functions attended at the TPRC's expense, must immediately become the property of TPRC.

4.6. Other Benefits Must Not to be Accepted

Other benefits which may be offered and must not be accepted under any circumstance include:

- Benefits under loyalty schemes where the TRPC is able to obtain the benefit;
- Discounts on commercial items;
- Discounts from local suppliers not available to the general public;
- Offers for coffee/drinks/lunch/food when meeting with external service providers to the TPRC where they occur often and may be perceived as a conflict of interest; and
- Offers of articles or accessories where the TPRC has business dealings with the person or organisation may lead to perceptions of improper influence.

4.7. Reporting

The Elected Member and CEO Gifts, Benefits and Hospitality Register must be updated within 10 days of a disclosure being made. With the current version made available on the TPRC's website.

The Employee Gifts, Benefits and Hospitality Register must be updated within 10 days of a disclosure being made. It is not a legislative requirement for the Employee register to be made available on the website, and this is up to the discretion of the CEO.

DEFINITIONS

Acceptance means the date the gift was received, not the date of the event or function.

Act means the Local Government Act 1995.

Benefit means an item which is believed to be of value to the receiver such as a service i.e. access to a sporting event, preferential treatment, access to confidential information, accommodation, pleasure or vacation trips.

Bribe means a corrupt inducement to reward.

Donor means a person or organisation that provides a gift to TPRC.

Gift of Appreciation means a gift that is presented to an Elected Member, CEO and/or Employee to express their appreciation and a feeling of goodwill on behalf of the giver where there is no expectation of repayment or reciprocal arrangement. These gifts are generally a one-off occurrence.

Holder means the custodian of the multiple gifts of TPRC prior to the gift being disbursed.

Hospitality means where a meal or service is offered which has a value and is not viewed as being connected to official Council business or part of the accepted meal at a conference or seminar.

Item means an article or thing.

Monetary Gift means cash, cheques, gift cards, frequent flyer points, money orders, travellers cheques and direct deposits, lottery tickets and scratchies.

Multiple Gifts means a voluntary transfer of something without the expectation of receiving something in return and includes but is not restricted to, tickets, vouchers, flowers, confectionary or personal accessories.

Notifiable Gift means a gift between \$300 and \$1,000 or; 2 or more gifts from the same donor within a one (1) year period that's combined value is between \$300 and \$1,000.

Official Gift means a gift received by an Employee as the representative of the Tamala Park Regional Council. These gifts may be received from an organisation bestowing a corporate gift (i.e. plaques, vases, trophies, art work) or souvenir to the TPRC, or as a token of appreciation for a contribution to a conference or industry event.

Organisation means company or corporation.

Prohibited Gift means a gift worth \$1,000 or more or; 2 or more gifts from the same donor within a one (1) year period that's combined value is \$1,000 or more.

Relative is defined in s5.74 of the Act and means a spouse or de facto partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner, or a spouse or de facto partner of any relative, whether or not the relationship is a natural relationship or a relationship established by a written law.

Token Gift means of such nature and value that it could not reasonably be regarded as capable of influencing any actions or decision of the relevant person in relation to the matter.

Value means the face value or estimated retail value.

LEGISLATION / LOCAL LAW REQUIREMENTS

Local Government Act 1995

Local Government (Administration) Regulations 1996

ATTACHMENTS

- Gift Framework – Attachment A
- Interests relating to gifts – Attachment B
- Approval to participate when interest relating to a gift – Attachment C
- Disclosure of Gifts, Benefits or Hospitality Form