

2.32 GRATUITIES

OBJECTIVE

To outline the circumstances in which gratuity payments may be made to an employee of the Shire of Gingin. This policy should be read in conjunction with section 5.50 of the *Local Government Act 1995* (WA) and *Local Government Administration Regulations 1996* (WA), specifically Regulation 19a.

POLICY

When an employee leaves their employment or is made redundant, they may be given a good or service as a token of appreciation for their commitment and service to the Shire of Gingin.

A gratuity payment is paid in addition to any amount which an employee is entitled to under a contract of employment or industrial instrument. This policy does not form a contractual entitlement for any employee of the Shire of Gingin.

Commitment

The Shire of Gingin is committed to recognising long serving employees within the parameters set by the *Local Government Act 1995* and the associated regulations.

Eligibility for gratuity payments

A gratuity payment entitlement is subject to completed years of service and is only payable at the time an employee finishes their employment with the Shire for one of the following reasons:

- resignation (not as a result of any performance management or investigation or disciplinary process being undertaken by the Shire);
- retirement; or
- redundancy.

An employee is not eligible to receive a gratuity payment under this policy where an employee:

- has been dismissed for any reason other than redundancy; or
- resigns following commencement of a disciplinary investigation or performance management process.

Prescribed amounts of gratuity payments

The total gratuity payment made to any employee cannot exceed the value limitations imposed by Regulation 19A of the *Local Government (Administration) Regulations 1996*, which are as follows:

Employee Category	Value Limitation
A person who accepts voluntary severance by resigning as an employee and who is not a CEO or a senior employee whose employment is governed by a written contract in accordance with s.5.39 of the <i>Local Government Act 1995</i>	The value of the person's final annual remuneration
All other employees	\$5,000

Within the above constraints, the following will apply:

1. Employees leaving after ten years of continuous service with the Shire of Gingin

Eligible to receive an Eligible Termination Payment (ETP) through the payroll system to the value of \$500.00 (net), plus \$100.00 (net) for each year served after ten years. The payment is to be grossed up to include the tax payable.

2. Employees leaving after five to ten years of continuous service with the Shire of Gingin

Eligible to receive an ETP payment through the payroll system up to the value of \$500.00 (net), calculated at \$50.00 (net) for each year of service. The payment is to be grossed up to include the tax payable.

3. Employees leaving after less than five years of continuous service with the Shire of Gingin

An ETP payment through the payroll system shall be at the discretion of the Chief Executive Officer, but shall be of a value less than \$250.00 (net), calculated at \$50.00 (net) for each year of service. The payment is to be grossed up to include the tax payable.

4. Part Pay Out of Accrued Sick Leave (*cl. (b) Policy 2.25 Part Pay Out of Accrued Sick Leave in Certain Circumstances*)

Cl. (b) of Policy 2.25 (repealed 16 March 2021) will continue to apply to those employees employed before 16 March 2021.

Employees in this category who are 55 years of age or older and who have been employed by the Shire of Gingin for a continuous period of five years or more will be entitled, upon retirement, to a payment of 50% of the cash value of unused sick leave accrued as an employee of the Shire.

The above prescribed gratuity payments are not subject to GST.

Determining continuous service

For the purpose of this policy, continuous service shall be deemed to include:

- any period of absence from duty on approved annual leave, long service leave, paid compassionate leave, paid personal/carer's leave and public holidays;
- Any period of authorised paid absence from duty necessitated by sickness of or injury to the employee up to a maximum of three months in each calendar year, but not including leave without pay or parental leave; or
- any period of absence that has been supported by an approved worker's compensation claim up to a maximum absence of 12 months.

For the purpose of this policy, unless otherwise determined by Council resolution, continuous service does not include:

- any period of unauthorised absence from duty;
- any period of unpaid leave; or
- any period of absence from duty on unpaid parental leave.

Financial liability for taxation

An employee who accepts a gratuity payment, either as a gift or monetary payment, is responsible for any attributable tax liability arising for the employee and/or the Shire.

Payments in addition to this policy

The Shire of Gingin may, by resolution, determine to make a gratuity payment that is greater than prescribed in this policy but does not exceed the amount prescribed in Administration Regulation 19A, subject to Local Public Notice requirements prescribed in section 5.50(2) of the Act.

The Shire is prohibited by section 5.50 of the Act from making any payment to an employee finishing their employment which exceeds the amount prescribed in Administration Regulation 19A.

Financial implications

The Shire of Gingin acknowledges that at the time the policy was introduced, the financial implications to the Shire of Gingin were understood and that these financial implications had been investigated based on the workforce position current at that time.

The Shire of Gingin will take reasonable steps to notify employees prior to the variation of this policy or the introduction of any new gratuity policy.

Consequences of breaching this policy

This policy constitutes a lawful instruction to employees. Any breaches of the policy may lead to disciplinary action.

Variation to this policy

The Council may periodically review this policy and may, by resolution, amend or revoke this policy or adopt a new policy. The Shire will take reasonable steps to notify employees when the policy is amended or revoked or a new policy is adopted by the Council.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Local Government Act 1995 s. 5.50</i> <i>Local Government (Administration) Regulations 1996 Regulation 19A</i>
Industry Compliance	Nil
Organisational Compliance	Shire of Gingin Code of Conduct

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2023
Department	Office of the CEO - HR		

Version	Decision Reference	Synopsis
1.	16/03/2021 - Item 11.1.4	Policy adopted.