

Tel: 0131-244-8550

Head of Operational Planning
Operations Directorate

Our Ref FOI 14244

Dear [REDACTED],

10th February 2015

Thank you for your request dated the 13th January 2015 under the Freedom of Information (Scotland) Act 2002 (FOISA) for;

- a list of all gifts which have been received or offered to members of staff by inmates, their family and inmates friends. This should include any people visiting inmates; and
- the details of the gifts (what it was), the prison where the gift was received and what was done with it (returned, kept by staff, kept by SPS, etc).

You asked that;

- this information cover the last three years;
- the list should include any items which have been given to staff members as a 'gift' or 'donation'; and
- the list should include any items which may be deemed as 'illegal' – for example a weapon or drugs, or any other item which is not allowed in a prison.

We received your request on the 13th January 2015 - this gave a statutory deadline of the 10th February 2015 for responding under the terms of the Freedom of Information (Scotland) Act 2002.

We have now completed our search for the information you request, please see the following.

- There have been no such gifts received or offered to SPS staff members by inmates, their family, friends or people visiting inmates in the years 2012-2014.

You may be interested in the following extract from the SPS Finance Policy & Guidance Manual that provides relevant information to SPS staff regarding the acceptance of gifts.

"5.3.1 Legal Position

(a) It is an offence under the Prevention of Corruption Act 1906 for civil servants, in their official capacity, to accept any money, gift or consideration as an inducement or reward for:

- *Doing, or refraining from doing anything; or*
- *Showing favour or disfavour to any person.*

(b) Furthermore, under the Prevention of Corruption Act 1916, any money, gift or consideration received by a civil servant from a person or organisation holding or seeking to obtain a government contract will be deemed by the courts to have been received corruptly unless proved to the contrary.

5.3.2 Guiding Principles

With this in mind, the following statements are given as guidance to employees:

- (a) Staff must not foster the suspicion of any conflict between their official duty and their private interest;*
- (b) Staff acting in an official capacity must not give the impression that they have been or may have been influenced by a gift or consideration to show favour or disfavour to any person or organisation;*
- (c) Staff must refuse gifts if they or SPS are in any doubt about the propriety of accepting them.*
- (d) To avoid any possible conflict, donations should not be accepted from commercial organisations. Refer to Chapter 2, Appendix 3 for detail of delegated authority.*

5.3.3 Response to Offers

Staff must report any kind of gift, hospitality, offer or matter, which raises a conflict of interest, through their line manager to the Primary/Secondary Accountable Officer who has delegated authority to decide on the propriety of accepting.

Any breaches or suspected breaches of this code of ethics should be reported to:

- (a) Line manager and the Personnel Department, as required by the Employee Code of Conduct; and*
- (b) Procurement Policy & Services so they can consider any necessary response to the behaviour of a supplier.*

5.3.4 Gifts

*The general principle is that **gifts should be refused**. There are exceptions to this rule in the cases of:*

- (a) For delivery of a lecture or a broadcast. Primary/Secondary Accountable Officers have delegated authority to accept invitations to give talks or lectures about their own work and the work of their establishment/directorate...*
- (b) Trivial or inexpensive, occasional and seasonal (e.g. pocket diaries, calendars, keyrings, etc);*
- (c) From an overseas government or non-commercial organisation when refusal could appear discourteous or a gift should be offered in return;*
- (d) For the use of prisoners.*

5.3.5 Delegated Authority

Primary/Secondary Accountable Officers have delegated authority to decide on the propriety of accepting gifts offered or made to their staff. In the case of a gift offered by a commercial organisation, reference should be made to the Procurement Manual or advice should be sought from Procurement Policy and Services. Factors to take into account when making a decision will include:

- (a) The type of gift;*

(b) It's value;

(c) The frequency with which the gifts are offered from the same source;

(d) The relationship between the member of staff and the individual/organisation making the offer; contracts which are promotional, influential or information gathering are less likely to create obligation or embarrassment than those which are regulatory or which involve or could lead to contractual business between SPS and the contract;

(e) Legitimate interest; the reason or the contact on both sides and the position of the member of staff concerned.

If you are unhappy with this response to your request, you may ask us to carry out an internal review, by writing to The Chief Executive, Calton House, 5 Redheughs Rigg, Edinburgh, EH12 9HW. Your request should explain why you wish a review to be carried out, and should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If you are not satisfied with the result of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

Yours sincerely,

Head of Operational Planning
Operations Directorate