

Local Government Disclosure

HANDBOOK

FOR LOCAL GOVERNMENT ELECTIONS



CCC EXHIBIT

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Purpose

This handbook is issued by the Electoral Commission of Queensland (“the Commission”) to assist Candidates and Third Parties/Donors in relation to the financial disclosure provisions of the *Local Government Electoral Act 2011* (“the Act”).

Candidates and Third Parties/Donors have an obligation to familiarise themselves with all relevant legislative provisions. Failure to do so cannot be used as an excuse for failing to comply with any legislative requirement.

The forms referred to throughout this handbook are listed with both their full title and the form code to assist in finding the correct form. These forms are approved by the Commission and where required must be used when lodging returns.

All disclosure returns submitted to the Commission must be completed in full. If not complete, the Candidate, Group of Candidates or the Third Party/Donor must state the nature of the particulars that have not been obtained and the reasons why. The names and addresses of any persons who are able to provide particulars is required with this submission.

Introduction

Candidates and Group of Candidates

Third Parties

Assistance and Enquiries

Candidates and Group of Candidates

Candidates

A Candidate means a person whose nomination for election as a Councillor or Mayor for a local government, has been certified by the returning officer as having met the prerequisites for nomination under the Act.

Group of Candidates

A Group of Candidates in an election means a group of individuals, each of whom is a Candidate, if the group was formed:

- to promote the election of the Candidates; or
- to share in the benefits of fundraising to promote the election of the Candidates.

A group wishing to nominate must give the returning officer a record of its members after they have nominated and before nominations close; and at the same time, give the returning officer an instrument appointing an adult as the group’s agent.

Disclosure Period

Differing disclosure periods apply depending upon whether a Candidate is a sitting Councillor seeking re-election, a person who has stood for election in the past, who is contesting an election for the first time or who is standing for election as part of a Group.

The disclosure periods for all Candidates ends 30 days after polling day, unless otherwise extended.

Disclosure Period – Candidates

For a **current Councillor** seeking re-election the disclosure period starts the day the Candidate was most recently elected as a Councillor and ends 30 days after the polling day for the current election.

For a **candidate who was previously a candidate** for a local government election within the last 5 years, the disclosure period starts 30 days after polling day for the most recent election that the candidate contested, and ends 30 days after the polling day for the current election.

For a **new candidate** that hasn’t stood as a candidate in the past 5 years, the disclosure period starts the earlier of:

- the day the person announces their candidacy; or
- the day the person nominates as a Candidate in the election; and
- ends 30 days after the polling day for the current election.

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Disclosure Period – Group of Candidates

For a group of candidates the disclosure period starts 30 days after polling day for the last quadrennial election and ends 30 days after the polling day for the current election. The disclosure period is the same regardless of whether or not group members have or have not previously nominated for a local government election.

Disclosure Returns

Candidates and Groups of Candidates in an election must provide a disclosure return to the Commission within 15 weeks after polling day, detailing:

- the total amount of gifts received and the number of donors;
- the total value of loans received and the number of persons who made the loans;
- the relevant details of all gifts of \$200 or more received; and
- the relevant details of all loans of \$200 or more received.

The disclosure return of a successful Candidate in an election will be provided to the Chief Executive Officer of the local government for which the election was held.

All disclosure returns submitted to the Commission are public documents and will be published on the Commission's website, www.ecq.qld.gov.au.

Candidates who benefit from funds controlled by other candidates are to disclose the benefit received. For example the expenses incurred by one candidate purchasing corflutes or banner advertising for another candidate must be disclosed on both candidates disclosure returns.

The agent of a Group of Candidates is responsible for lodging the disclosure return on behalf of a group.

Nil Returns

Where a Candidate or Group of Candidates does not receive any gifts or loans during the disclosure period for the election, a Nil Return must be given to the Commission.

Gifts received

If the sum value of all gifts received by a Candidate or Group of Candidates from an entity during the disclosure period is \$200 or more, the disclosure return must include the relevant details of the gifts received. This includes:

- the sum value of the gifts;
- the date the gifts were made;
- the name of the donor; and
- the residential or business address of the donor.

Candidates and Group of Candidates

And if the gift was made by an unincorporated association, additional details of:

- the association’s name; and
- the names and residential or business addresses of the members of the executive committee.

And if the gift was made by a trust fund or foundation, details also of:

- the title or description of the trust or foundation;
- the names and residential or business addresses of the trustees; and
- the name and residential or business address of the person under whose instructions the lawyer or accountant is making the gift (if relevant).

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Loans received

If the value of a loan received by a Candidate or Group of Candidates, other than from a financial institution, during the disclosure period is \$200 or more, the disclosure return must include the relevant details of the loan received. This includes:

- the date on which the loan was made;
- the value and terms of the loan; and
- the name and residential or business address of the person who made the loan. And if the loan was made by an unincorporated association, extra details of:
 - the association’s name; and
 - the names and residential or business addresses of the members of the executive committee.

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And if the loan was made by a trust fund or foundation, additional details of:

- the title or description of the trust or foundation;
- the names and residential or business addresses of the trustees; and
- the name and residential or business address of the person under whose instructions the lawyer or accountant is making the loan (if so made).

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Particular loans not to be received

It is unlawful for a Candidate or Group of Candidates to receive a loan from any person (other than a financial institution) unless the relevant details of the loan are kept. The relevant details required are the same as those for loans of \$200 or more. Otherwise, an amount equal to the value of the loan may be recovered by the State.

Candidate must operate a Dedicated Account

Candidates and Groups of Candidates must keep a separate account with a financial institution for the running of their election campaigns. This account is known as a dedicated account.

All reasonable steps must be taken to ensure the dedicated account is not used in any way, other than for those outlined below.

What must be deposited into a dedicated account?

A Candidate or Group of Candidates **must** ensure that **all** amounts received by them or on their behalf in their capacity as a candidate during the disclosure period for the election are paid into their dedicated account. This includes:

- all gifts received by the Candidate or Group of Candidates for the election; and
- all amounts received as loans by the Candidate or Group of Candidates for the election.

A Candidate or Group of Candidates **must** ensure that **all** expenditure incurred for the conduct of their election campaign during the disclosure period for the election, is paid out of their dedicated account.

Third Parties

A Third Party/Donor in an election is an entity other than:

- A Political Party
- An Associated Entity of a Political Party
- A Candidate; or
- A member of a committee whose purpose is to assist in the election campaign of a Candidate or Group of Candidates in an election.

Third parties are most commonly people who make donations to candidates or entities who conduct some type of campaigning activity.

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Disclosure Period

The disclosure period for payments or gifts from a Third Party/Donor starts the day after notification of the election is published in the local newspaper and ends at 6pm on polling day for the current election.

A Third Party/Donor in an election must provide a disclosure return to the Commission within 15 weeks after polling day, detailing:

- the relevant details of all donations made;
- the relevant details of all expenditure incurred for Political Activities; and
- the relevant details of all gifts received.

However if none of the donations made, expenditure incurred, or gifts received by the Third Party/Donor require disclosure, then the Third Party/Donor is not required to provide a disclosure return to the Commission.

All disclosure returns submitted to the Commission are public documents and will be published on the Commission's website.

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Gifts received to enable political activity

For gifts received by a third party the disclosure period differs from the payments and gifts. If the sum value of all gifts received by a Third Party/Donor from an entity is \$1000 or more, for the period starting 30 days after polling day for the last election and ending 30 days after polling day for the current election, the disclosure return must include the relevant details of

the gifts received. The relevant details for third party returns as well as the details pertaining to donations are the same as those for candidate returns, and are outlined on page 3-4.

Expenditure incurred for political activity

If the sum value of all expenditure incurred by a Third Party/Donor for political activities during the disclosure period is \$200 or more, the disclosure return must include the relevant details of the expenditure. This includes:

- the sum value of the expenditure;
- the date on which each expenditure occurred; and
- the particular purpose for each expenditure.

What is a political activity?

A Third Party/Donor incurs expenditure for a political activity if the Third Party/Donor incurs expenditure for or by way of;

- publication by any means (including radio or television) of material which may influence voting at an election;
- public expression of views on an issue in an election; or
- a gift to a person on the understanding that it will be applied for a purpose mentioned above (or for the making of a donation).

Rules about gifts

A gift may take the form of money, property or the provision of a service.

Where the gift is a gift of property, the gift is to be valued at the current market value for the property.

Where the gift is a provision of a service, the value of the gift is the amount that would be reasonably charged for the service if it was provided on a commercial basis.

Where the gift is a payment for the attendance at, or participation in a fundraising activity, the value of the gift is the gross amount of the payment, regardless of the value of anything received in return for the payment.

Particular gifts not to be received

It is unlawful to accept a gift if the relevant details of the gift are not known to the person receiving the gift, or at the time a gift is made, the person receiving the gift has grounds to believe the details provided are not correct. Otherwise, an amount equal to the value of the gift may be recovered by the State.

Assistance and Enquiries

Contact Details

The Funding and Disclosure Unit is available to provide general guidance and assistance in relation to disclosure matters. The Commission will not provide specific legal, financial or other professional advice.

Contact: Electoral Commission of Queensland
Funding and Disclosure Unit

Postal Address: GPO Box 1393
BRISBANE QLD 4000

Phone: 1300 881 665

Email: fad@ecq.qld.gov.au

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