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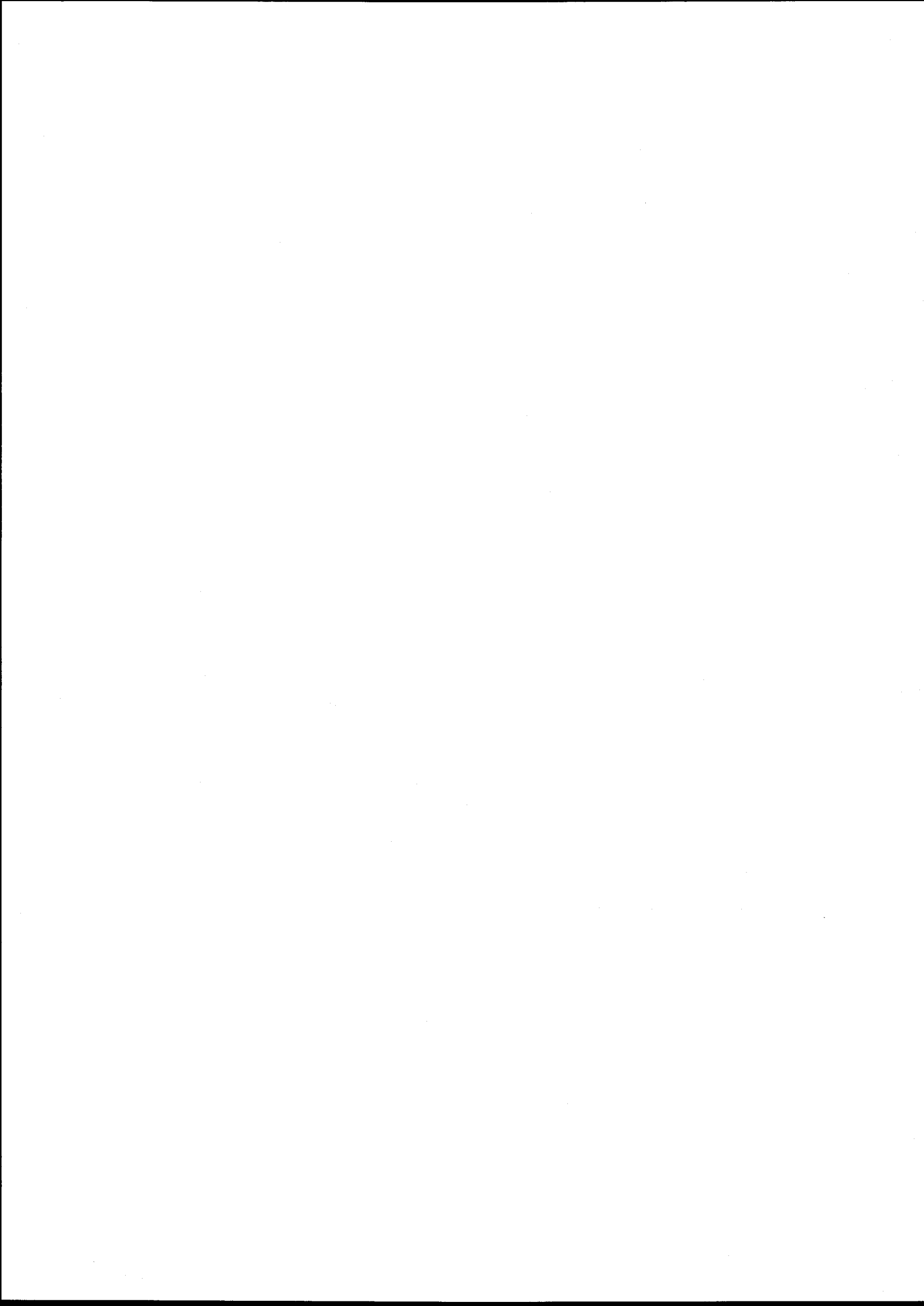
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Local Government and Planning

Disclosure of Election Gifts

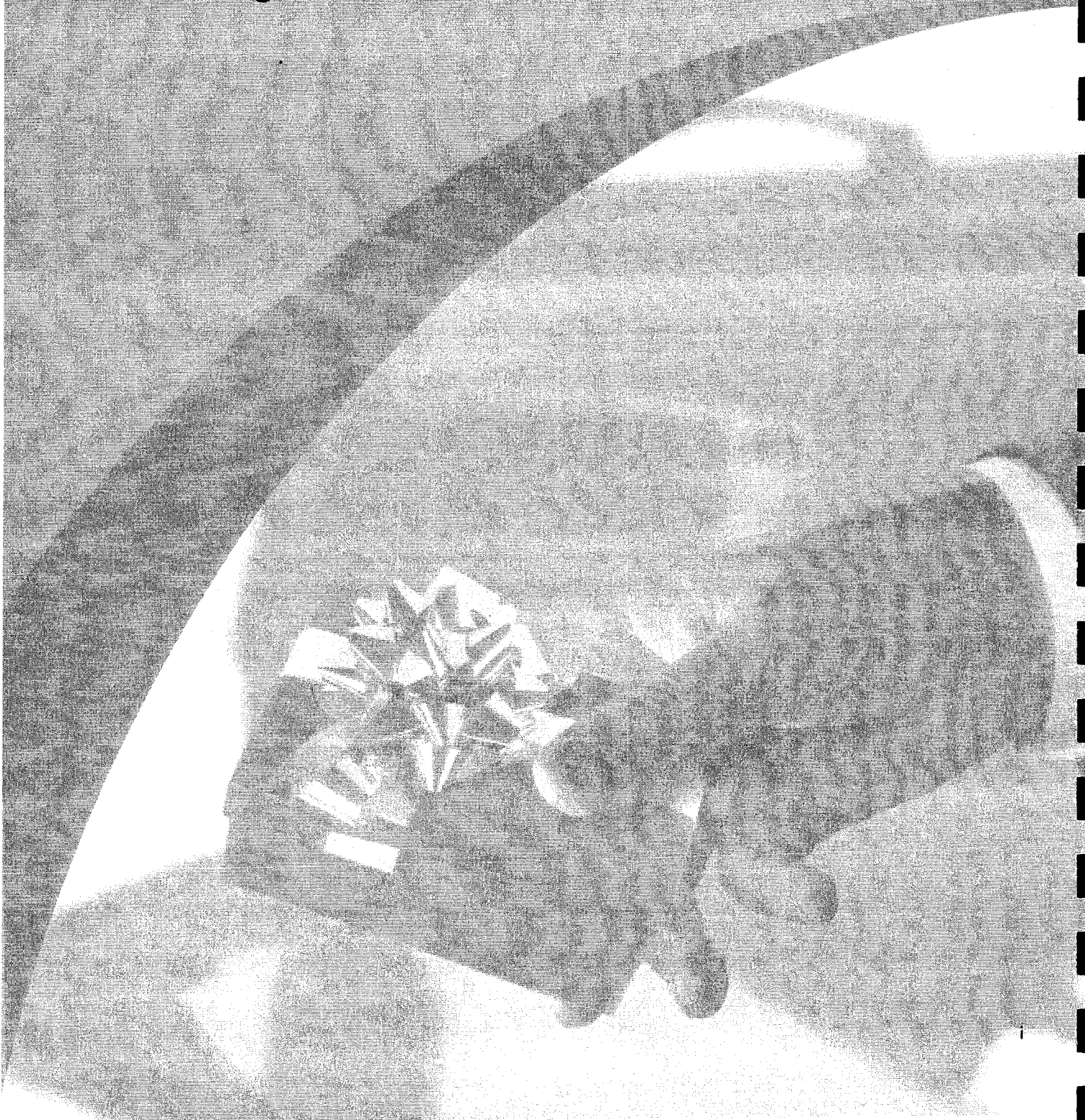
Guidelines for candidates and councillors
for local government elections



Queensland Government
Department of Local Government and Planning

Disclosure of Election Gifts

**Guidelines for candidates and councillors
for local government elections**



Acknowledgements

This Handbook is produced by the Department of Local Government and Planning.

The Department acknowledges the assistance of the Electoral Commission of Queensland for granting permission to utilise material drawn directly from its publication *Election Funding and Financial Disclosure Handbook Volumes 1-4*.

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The General Manager
Local Government Services
Department of Local Government and Planning
PO Box 31
BRISBANE ALBERT STREET Q. 4002

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Section 1
Introduction

Section 1

1.1 Purpose

The purpose of this Handbook is to provide guidance to candidates in all local government elections (ie. quadrennial, fresh or by-elections) and third parties on their responsibilities to disclose election donations and gifts under the *Local Government Act 1993* (the Act).

1.2 Who will this Handbook be relevant to?

This Handbook will be relevant to the following people:

- candidates for election as Councillors of a local government;
- groups of candidates;
- third parties who participate in local government elections;
- campaign committees of candidates and groups of candidates;
- Chief Executive Officers of local governments; and
- members of the public, and public and private organisations (insofar as supporting greater transparency in local government decision-making).

The information in this Handbook is not relevant to:

- organisations registered as a political party under the *Electoral Act 1992*; and
- campaign committees for candidates for election as a Councillor who have been nominated by the registered officer of a political party and the party discloses donations received by the committee.

1.3 Who can candidates and third parties contact for more information?

Chief Executive Officers of the relevant local government should be the starting point for enquiries.

Local Government Services in the Department of Local Government and Planning and the Local Government Association of Queensland can be contacted on (07) 3225 8655 or (07) 3000 2222 respectively.

Candidates nominated by registered political parties may choose to consult party secretariats. Candidates may also refer enquiries to private legal advisers.

1.4 Local government legislation

The *Local Government Act 1993*, Sections 413A-441 provides for the disclosure of election gifts and third party expenditure in respect of local government elections. A consolidated version of those provisions is contained in Section 6 of this Handbook.

It should be noted that all *Local Government Act 1993* references refer to Reprint No. 8 (as at 4 March 2003) of the Act.

Section 2

Disclosure of Election Donations By:

Candidates (whether or not nominated by a Registered Political Party);
Groups of Candidates;
Third Parties; and
Campaign Committees

Section 2

2.1 Introduction

This Handbook sets out the responsibilities of all candidates (whether nominated by a registered political party or not), groups of candidates, third parties and campaign committees in respect of the provisions of the *Local Government Act 1993* (the Act), concerning disclosure of political donations.

The Act establishes four different categories of disclosure periods for candidates for local government elections which are defined in Sections 419-422 of the Act. Candidates must disclose particulars of gifts received by them in a return relating to a disclosure period.

A third party (ie. a person other than a registered political party, an associated entity or a candidate) may be required to submit a return under Section 430 of the Act disclosing details of gifts received and used to incur expenditure for a political purpose. The disclosure period for third parties is defined in Section 424 of the Act.

The Act uses the term 'gifts' rather than the term 'donations', or 'political donations' or 'election donations'. For simplicity, where this Handbook uses the term donation or political donation or election donation, the reference includes 'gift'.

Gifts received by a candidate or a group of candidates include gifts received by the candidate's campaign committee or the group of candidates' campaign committee, for and on behalf of the candidate or the group.

A 'Registered Political Party' means an organisation registered as a political party under the *Electoral Act 1992*.

2.1.1 Disclosure by candidates

(Sections 426, 427 & 427A)

A candidate is a person whose nomination as a candidate is effective (ie. certified by the Returning Officer). A person who nominates as a candidate but withdraws the nomination prior to noon on nomination day is not required to submit a return.

The responsibility to disclose election gifts does not detract from the statutory obligation imposed on all Councillors to disclose certain gifts of more than \$500 in amount or value in their register of interests (refer to Section 247 of the Act and the *Local Government Regulation 1994*).

Whilst this Section of the Handbook will assist candidates nominated by a registered political party to understand their obligations, liaison with the party on record keeping requirements and any other matter pertaining to party requirements is advisable.

To be nominated by a 'Registered Political Party' – the person must be nominated on the nomination form (Election Form 9) by the registered officer of the political party that endorsed the person as a candidate for election.

2.1.2 Disclosure by groups of candidates

(Section 427A)

A group of candidates is a group formed to promote the election of the candidates for a particular local government, but does not include a political party or an associated entity.

A group's campaign committee is a campaign committee of a group of candidates for an election, formed to help the election campaign of the group.

Each individual candidate who is a member of the group of candidates is required to submit a return under Section 427A of the Act, **only when gifts are received by the group or the group's campaign committee.**

2.1.3 Disclosure by third parties

(Section 430)

A third party (ie. a person other than a registered political party, an associated entity or a candidate) may be required to submit a return under Section 430 of the Act disclosing details of gifts received and used to incur expenditure or reimburse expenditure for a political purpose (refer to Section 2.1.4).

An associated entity is defined in the Act as an entity that is controlled by one or more registered political parties or operates wholly or mainly for the benefit of one or more registered political parties. Associated entities disclose election donation details for local government elections to the Electoral Commissioner of Queensland under the *Electoral Act 1992*.

A campaign committee for the election of a candidate who has been nominated by the registered officer of a political party is not regarded as a third party if the campaign committee is recognised by the political party as being part of it. In this case, disclosure occurs by the political party under the *Electoral Act 1992*.

A campaign committee for a candidate not nominated by a political party is also not regarded as a third party for gifts received for or on behalf of the candidate. In this case, disclosure occurs by the candidate under the Act.

Third parties who may be required to furnish returns to the Chief Executive Officer of a local government could include individuals, unregistered political parties, corporate bodies, members of an unincorporated association, the trustees of a trust and registered industrial organisations.

2.1.4 Expenditure for political purpose

(Section 430)

For the purposes of a return to be submitted under Section 430 of the Act by a third party, expenditure for a political purpose is defined as expenditure incurred on:

- publication, by any means (including radio or television), of electoral matter;
- public expression of views on an issue in an election;
- a gift to a political party;
- a gift to a candidate in an election; or
- a gift to a person on the understanding the person or someone else will apply, either directly or indirectly, the whole or a part of the gift to one of the purposes listed above.

Note: *Electoral matter means anything able to or intended to influence an elector about voting at an election or to affect the result of an election.*

A prescribed gift in relation to a relevant local government means a gift:

- intended by the giver to be used by the receiver, either wholly or in part, to enable the receiver to incur expenditure for a political purpose or to reimburse the receiver for incurring expenditure for a political purpose; and
- used, either wholly or in part, for a political purpose about one or more elections relating to the relevant local government; and
- the value of which is the prescribed amount or more (ie. \$1,000).

2.2 Disclosure period for candidates

(Section 419-422)

The Act establishes four different categories of disclosure period for candidates for local government elections. Candidates must disclose particulars of election gifts received by them in a return relating to a disclosure period.

Note: Gifts received by candidates and passed on to the candidate's campaign committee do not have to be disclosed in the candidate's return – if the campaign committee is recognised by the political party whose registered officer nominated the candidate as being part of the political party. Gifts of this nature will be subject to the disclosure requirements in the Electoral Act 1992.

For local government elections the disclosure periods were determined having regard to the types of elections that may eventuate – such as quadrennial elections, by-elections, fresh elections and where vacancies are filled by appointment after 1 March in the year preceding a quadrennial election. A separate disclosure period for each circumstance has been provided for in the Act.

2.2.1 Disclosure period for candidates at previous elections

(Section 419)

The **first category** applies to a candidate for a current election who has been a candidate for another election for any local government in the five years prior to the current election. The disclosure period for such candidates commences at the end of 30 days after the conclusion of the most recent election the candidate contested and ends 30 days after the conclusion of the current election.

Example 1: A candidate who nominates for the March 2004 quadrennial elections, and who contested the March 2000 elections has a disclosure period commencing 30 days after the conclusion of the March 2000 elections and ending 30 days after the conclusion of the March 2004 elections.

Example 2: A candidate who nominates for the March 2004 quadrennial elections, and who contested a local government by-election in April 2001, has a disclosure period commencing 30 days after the conclusion of the by-election and ending 30 days after the conclusion of the March 2004 elections.

2.2.2 Disclosure period for candidates at previous fresh elections

(Section 420)

The **second category** applies to a candidate at the current election who:

- last contested an election at a fresh election relating to a local government (the first local government); and
- is a candidate for a subsequent election relating to any local government held up to and including the next quadrennial election relating to the first local government.

A **fresh election** of Councillors is where a local government is dissolved or if action is taken to implement a reviewable local government matter, for example, an amalgamation of councils.

Example: A candidate contests a fresh election in local government 'A' in April 2002. The person moves from local government 'A' to local government 'B', resigning as a Councillor of local government 'A'. In local government 'B', a local government election is held in March 2004 but the person does not stand. Another quadrennial election is held in March 2008 (this is also when the first quadrennial election for local government 'A' is held since the April 2002 fresh election) which the person contests. The disclosure period for the candidate for the quadrennial election in local government 'B' starts 30 days after the conclusion of the fresh election for local government 'A' in 2002 and concludes 30 days after the 2008 quadrennial election for local government 'B'.

The same disclosure period would apply if the candidate had remained as a Councillor of local government 'A'. It is a longer period than the five years provided under the previous category.

2.2.3 Disclosure period for certain candidates appointed as Councillors

(Section 422)

The **third category** applies to a candidate who is an **appointed** Councillor at the time of nominating as a candidate for the current election. The disclosure period for such a candidate starts when the candidate was appointed a Councillor and ends 30 days after the conclusion of the current election.

Example: A person is appointed to a vacancy on a council on 10 September 2003. In contesting the March 2004 elections the disclosure period for the candidate is from 10 September 2003 until 30 days after the conclusion of the March 2004 election.

2.2.4 Disclosure period for a new candidate

(Section 421)

The **fourth category** applies to a candidate who is not covered by one of the earlier categories. The disclosure period for a new candidate starts when the person announces he/she is to be a candidate in the election or nominates as a candidate in the election, whichever is the earlier.

The date of announcement of candidacy is the date on which the person let it be known, by one means or another, that he/she intends to be a candidate in the forthcoming election.

For a candidate not nominated by a political party this may be, for example:

- a public announcement; or
- commencement of any campaign activity such as launching an appeal for funds, seeking a loan to finance the campaign or advertising for support.

For a candidate nominated by a political party, the date of candidacy announcement may be:

- the date of party selection or endorsement;
- the date of a public announcement; or
- commencement of any campaign activity such as launching an appeal for funds, seeking a loan to finance the campaign or advertising for support.

Example: A candidate for the March 2004 quadrennial elections publicly announced on 25 June 2003 that he/she intends to stand at the March 2004 elections as a new candidate. The disclosure period commences on 25 June 2003 and concludes 30 days after the conclusion of the March 2004 elections.

Note: *The conclusion of an election is defined in the Act as being the day the notice of the last declaration of the poll is displayed in the local government's public office. There will be different conclusion dates for different local governments.*

Candidates should contact the Chief Executive Officer of the relevant local government to find out the conclusion date of any relevant election. The conclusion date is used to calculate a candidate's disclosure period which must be reported in a return.

Most disclosure periods will end during the period 27 April 2004 to 10 May 2004.

2.3 Disclosure period for groups of candidates

(Section 423A)

The disclosure period relevant to groups of candidates for an election is defined in Section 423A of the Act. This Section provides that the period starts at the end of 30 days after the date of the conclusion of the immediately preceding local government elections and ends 30 days after the conclusion of the election in question. For the 2004 local government elections the period starts 30 days after the conclusion of the 2000 local government elections.

2.4 Disclosure period for third parties

(Section 424)

The disclosure period relevant to a third party for an election is defined in Section 424 of the Act. This Section provides that the period starts at the end of 30 days after the date of the conclusion of the immediately preceding local government election and ends 30 days after the polling day for the election in question. For the 2004 local government elections the disclosure period is the same as Section 2.3.

2.5 Return of details of gifts received

2.5.1 Candidates' obligations and approved forms

(Section 242, 427, 427A and 430)

All candidates must provide a return in the approved form (refer to Forms LGEGF1, LGEGF2 and LGEGF3 at Section 7 of the Handbook) to the Chief Executive Officer of the local government for the election. Also, all candidates who were a member of a group of candidates where the group and/or campaign committee received gifts, must individually provide a return in the approved form (no gifts – no return).

A return must be given to the Chief Executive Officer by all candidates whether the person was elected or not.

All final returns must be supplied within three months after the conclusion of the election. Offence provisions exist if a return is not lodged. Any candidate who does not give the Chief Executive Officer the return within the required time will also not be refunded the \$150 nomination deposit which accompanied the nomination form, to which they otherwise may be entitled.

A return must be in the approved form. Forms are available from the Chief Executive Officer of the local government and must be lodged at the local government's public office.

2.5.2 Elected candidates

Candidates who are elected must give an interim/final return to the Chief Executive Officer in the approved form (*Local Government Electoral Gifts Form 1 – LGEGF1*), within one month after being elected (or a longer period allowed by the Minister) and prior to the declaration of office being taken.

If an elected candidate fails to supply the interim/final return the declaration of office cannot be made and the person ceases to hold office as a Councillor.

When completing a return prior to making a declaration of office an elected candidate must determine whether the return is interim or final. A final return is made where the elected candidate does not expect to receive any further gifts during the remainder of the disclosure period. If this is the case the person must make a declaration to that effect on the approved form. The elected candidate then need not lodge a further return unless unforeseen gifts are received during the remainder of the disclosure period.

Where the elected candidate expects further gifts to be made during the disclosure period an interim return must be given to the Chief Executive Officer. Where an interim return is lodged, the candidate must submit a final return which includes all disclosures in the interim return as well as any donations received after lodging the interim return or for which information was not readily available at the time of lodging the interim return.

If an elected candidate fails to provide a final return by the due date, the offence provisions may result in that person no longer being qualified to hold office as a Councillor.

Failure to lodge a return by a Councillor may also constitute official misconduct under the *Crime and Misconduct Act 2001*. The Chief Executive Officer has an obligation to report official misconduct to the Crime and Misconduct Commission (CMC).

2.5.3 Unsuccessful candidates

For unsuccessful candidates, a final return in the approved form (LGEGF2) must be supplied to the Chief Executive Officer within three months after the conclusion of the election. Offence provisions exist if a return is not lodged.

Any unsuccessful candidate who does not give the Chief Executive Officer the return within the required time will also not be refunded the \$150 nomination deposit which accompanied the nomination form, to which they otherwise may be entitled.

2.5.4 Third parties

An obligation to submit a return in the approved form (LGEGF3) arises if:

- the third party incurred expenditure for a **political purpose** (refer to Section 2.1.3) during the **disclosure period** (refer to Section 2.2) in relation to an election or elections for a particular local government; and
- the total amount of such expenditure was \$1,000 or more; and
- the third party used, in whole or in part, gifts received during that period to incur such expenditure or as reimbursement for incurring such expenditure; and
- the amount or value of any gift thus applied was \$1,000 or more.

Example: A lobby group receives a gift of \$2,000 which is used to pay for advertising in a newspaper on 15 March 2004 for a candidate contesting the 2004 local government elections. In these circumstances, the third party would be required to submit a return disclosing the details of the \$2,000 gift.

A return detailing gifts received must be submitted by third parties to the Chief Executive Officer of the local government to which the election relates within three months of the conclusion of the election. The maximum penalty that may be imposed for failure to submit a return is 20 penalty units (\$1,500).

2.5.5 'Nil' returns

Every candidate, whether elected or not, must furnish a return. A candidate who is elected at the election must supply an interim and/or final return (refer to Section 2.5.2). Other candidates must supply a final return (refer to Section 2.5.3). This applies even if the candidate did not receive any election gifts of a kind required to be disclosed. If this is the case, a 'nil' return must be supplied (refer to Section A of LGEGF1 and 2 at Section 7 of this Handbook).

However, for a 'group of candidates', if no gifts are received no return is required.

2.5.6 What is in a candidate's return?

(Section 427)

The return must state whether the candidate received any gifts for an election in the disclosure period and if so:

- the total value of all gifts received by the candidate (including gifts of less than the prescribed amount (\$200));
- how many persons made gifts; and
- the relevant details (refer to Section 2.6.8) for each gift which is of the prescribed amount (\$200) or more.

If one donor gave several gifts during the disclosure period which totalled \$200 or more, that donor's relevant details must also be provided in the return.

2.5.7 What is in a group of candidates' return?

(Section 427A)

The candidate must give a return in the approved form that states the following:

- the names of the candidates forming the group;
- the name, if any of the group;
- the total value of all the gifts;
- how many persons made the gifts; and
- the relevant details (refer to Section 2.5.8) for each gift made by a person to the group if the total value of all gifts made by the person to the group during the disclosure period is the prescribed amount (\$200) or more.

2.5.8 What are the relevant details for each gift?

(Section 414)

The definition of the term 'relevant details' in the Act sets out the information about a gift that a candidate must record in a return. The value of a gift (ie. the amount of money, the market value of the property, the value that would be reasonably charged if it was a service or the value determined by the principles established by Regulation), when the gift was made and the donor's name and address are relevant details for all gifts of the prescribed amount of \$200 or more (individual candidates and groups) or \$1,000 or more (third parties).

In all cases where a gift is made on behalf of members of an unincorporated association to a candidate (other than by a registered industrial organisation) the relevant details also include:

- the name of the association; and
- the names and addresses of the members of its Executive Committee (however described).

In the case of a gift made out of a trust fund or out of the funds of a foundation, the relevant details also include:

- the names and addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and
- the title or other description of the trust fund or the name of the foundation.

Note: A registered industrial organisation is an organisation registered under State or Commonwealth law concerning the registration of industrial organisations, eg. trade unions.

2.5.9 What is in a third party return?

(Section 430)

The details to be shown in relation to each gift (\$1,000 or more) are the date the gift was made and the amount or value of the gift.

If, during the period covered by the return, the same person gave two or more gifts totalling \$1,000 or more toward expenditure for a political purpose, the person's identity must be disclosed but the gifts are treated as one gift.

Where a third party incurs expenditure for a political purpose relating to two or more local governments, the expenditure is taken to have been incurred about an election relating to **each** local government.

Example 1: If a third party receives a donation above the prescribed amount and uses the donation to pay for advertising in a newspaper to support a cause endorsed by candidates in two local governments, the returns submitted to the Chief Executive Officers of the respective local governments would disclose the full amount of the gift in each return. The gift would not be 'arbitrarily' split between the two candidates for the purpose of the returns to each Chief Executive Officer.

A person who has given a return disclosing gifts for third party expenditure for political purposes is not required to lodge a further return for a later election in the same disclosure period, if such a return would disclose no gifts, other than those disclosed in the earlier return.

Example 2: If a third party received a gift of \$4,000 and incurred expenditure for a by-election of \$1,500 in the relevant local government, the total gift of \$4,000 would have to be disclosed within three months of the conclusion of the election. If the remaining \$2,500 was expended on the next quadrennial elections for that local government, no further disclosure would be required in respect of the original gift of \$4,000.

2.5.10 Election gifts to be disclosed

(Section 414)

A gift is defined as:

- the disposition of property or the provision of a service, without consideration or for a consideration less than the full consideration, but does not include:
 - transmission of property under a will; or
 - provision of a service by volunteer labour.

The disposition of property is defined as:

- a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:
 - the allotment of shares in a corporation; and
 - the creation of a trust in property; and
 - the grant or creation of a lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and

- the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in property; and
- the exercise by a person of a general power of appointment of property in favour of someone else; and
- a transaction by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of someone else's property.

The following are considered to be gifts:

- cash;
- provision, free or at a discounted rate, of services normally charged for by a person;
- rent-free use of commercial premises or where rent charged is less than the normal commercial rate;
- work undertaken for a candidate by an employee during normal working hours where the employer continues to pay salary or wages (but not if the employee takes paid leave to undertake work for the candidate);
- free use of a motor vehicle (unless associated with volunteer labour);
- provision of free time or time charged for at less than the normal commercial rate by a broadcaster, except the Australian Broadcasting Corporation (ABC) or Special Broadcasting Service (SBS);
- advertising space provided free or at a charge less than the normal commercial rate by a publisher of a journal; and
- printing undertaken for no charge or at a cost less than normally charged.

Note: This is not an exhaustive list and is provided for illustration purposes only.

2.5.11 Gifts-in-kind

For a candidate

The definition of 'gift' includes 'gifts-in-kind' (ie. gifts other than cash). A monetary value must be assigned to a 'gift-in-kind' since a return must show the total number of donors and total value of all gifts received (whether above or below the prescribed amount). The return must also show the name and address of a person who made a gift of the value of \$200 or more to a candidate.

The value of a 'gift-in-kind' that is property is the market value of the property unless a Regulation prescribes principles under which the value is to be determined.

The value to be given to a 'gift-in-kind' that is the provision of a service is the normal commercial rate unless a Regulation prescribes other principles for determining the value. For example, a gift of the free use of a car for campaigning purposes should be valued on the basis of commercial car hire rates.

Valuations placed on 'gifts-in-kind' will generally be accepted, provided there is a sufficient description shown on the return of the property or services donated.

For a third party

A return must show the relevant details of a donor who gives a 'gift-in-kind' of the value of \$1,000 or more in the disclosure period.

Unless otherwise prescribed by Regulation, a 'gift-in-kind' should be valued at its market value (if it is property) or at the normal commercial rate (if it is a service).

Note: At the time of publication of this Handbook, no Regulation had been made to prescribe principles for valuing 'gifts-in-kind'.

2.5.12 Items that do not need to be disclosed by a candidate

The definition of 'gift' for the purposes of disclosure excludes:

- volunteer labour;
- personal gifts;
- contributions by a candidate to his/her own campaign;
- intra-party transfers (where nominated by a political party); and
- other items.

Further details concerning these gifts are detailed below.

Volunteer labour

Volunteer labour is any service provided free of charge by a person so long as it is not a service that is normally sold or otherwise charged for by that person or for which the person normally receives payment. For example, the service provided by a practising lawyer helping with letterbox deliveries is volunteer labour, but if the lawyer gives free legal advice, the advice is a gift.

Personal gifts

A gift that is made to a candidate in a private capacity does not need to be disclosed in the return, provided the gift is not used solely or substantially for the purpose of an election. For example, if Christmas fell during the disclosure period and the candidate was given a case of wine that was consumed at home, this gift would not need to be disclosed. However, if the case of wine were used as a prize in a raffle to raise funds (and the value of the wine exceeded \$200), the gift would have to be disclosed.

A candidate should not use an account containing gifts received in a private capacity to contribute to his/her campaign or pay any election expenses. The use of such an account for a purpose related to an election could render all the gifts in the account subject to disclosure. Therefore, it would be wise for a candidate to establish a separate campaign account.

The transfer or loan of funds from an account containing gifts received in a private capacity to an account from which election-related expenses were paid is considered to be a use of those funds for election purposes. This could render all gifts in the first mentioned account subject to disclosure. Similarly, use of

an account containing personal gifts as collateral for a loan or overdraft for an election campaign (where the body making the loan or issuing the overdraft could call in the funds on default of repayment) is also considered to be a use of those funds for election-related purposes. Transfers or loans from any other account to an account containing personal gifts would not have any effect on disclosure of those gifts.

Negotiated offset arrangements – where the credit balance in one account is used to offset the debit balance in another account – are not considered to be a use of personal gifts for election-related purposes where the arrangements are merely a right of set-off and there is no form of collateral involved.

Contributions by a candidate to his/her own campaign

Individual candidates: The return does not need to disclose any contribution a candidate makes to his or her own campaign. However, if that contribution included any gift received in a private capacity for personal use, the return would need to disclose the details of the personal gift.

Candidates nominated by political parties: Any contribution made by a candidate to his/her own campaign is regarded as a gift to the party and must therefore be included in the party's annual return. Thus the State branch of the party must be advised of any contribution made by a candidate to his/her own campaign.

Intra-party transfers (where nominated by a political party)

If a candidate receives campaign donations from local branches or electorate organisations of a political party (or any other section of the party organisation within the State), these intra-party transfers are not required to be included as gifts in the candidate's return. A donation need only be disclosed on its original receipt by the party (at whatever level). For example, if a party received a gift of \$10,000 and distributed \$500 to each of 20 endorsed candidates for use in paying local campaign accounts, the only gift to be disclosed is the \$10,000 to the party by the party in its annual return to the Electoral Commissioner of Queensland. Funds can be transferred within the party within the State without having to be reported as a gift by each recipient.

Donations from the party in another State or Territory (including the National Organisation) are not considered intra-party transfers and must therefore be shown in the candidate's return as donations.

Other items that do not need to be disclosed

The following items are not required to be reported in the return:

- proceeds of raffles, dinners and other similar fundraising activities conducted by a candidate or a candidate's campaign committee;
- loans, so long as they are evidenced as loans;
- an offer by a broadcaster to interview a candidate on a current affairs or news program or any other topical program;
- time provided by the ABC or SBS for political broadcasts; and
- interviews and news items relating to a candidate published in a journal.

2.5.13 Gifts received by a candidate's or group of candidates' campaign committee

Gifts received by a candidate's or group of candidates' campaign committee for, or on behalf of, the candidate or group of candidates must be disclosed in the candidate's individual return. A campaign committee is a committee formed to help the campaign in an election for a candidate or group of candidates.

Note: As it is the candidate who must disclose the gifts received and who would be first held liable if there was a breach of the statutory requirements, it is very important for the candidate to ensure people of competence are involved in the campaign committee and the required records are kept.

2.5.14 Gifts received by a campaign committee where candidate nominated by a political party

Gifts received by:

- a campaign committee recognised by the political party whose registered officer nominated the candidate as being part of the political party; or
- a candidate nominated by a registered political party and passed on to the campaign committee or the political party

are considered to have been received by the party.

These gifts must be included in the party's annual return to the Electoral Commissioner of Queensland under the *Electoral Act 1992*, and not in the candidate's return under the *Local Government Act 1993*. Details of such gifts must be provided to the State branch of the party.

2.5.15 Gifts via solicitors' or accountants' trust accounts

Where a gift is made by a client through a solicitor's/accountant's trust account, the return must include the name and address of the client who made the donation. The relationship between solicitor/accountant and client is that of agent and principal. For the purposes of the Act's disclosure provisions, a gift paid by an agent at the direction of his/her principal is a gift made by the principal and not the agent.

2.5.16 Anonymous donations

(Section 428)

Candidates and campaign committees should be aware Section 428 of the Act states it is unlawful for a candidate to accept a donation of \$200 or more in respect of which the relevant details of the donation are not known (ie. an anonymous donation). It is also unlawful for someone acting on behalf of a candidate (including the campaign committee) to receive an anonymous donation of \$200 or more.

Note: In this instance, a campaign committee means a committee formed to help a candidate's campaign (including a campaign committee for a group of candidates) but which is not recognised by a political party as being part of the political party.

It is important that every effort is made to establish the true identity of the donor of any gift. As a general rule, all candidates are urged to maintain an appropriate record of all donations received in case cumulative donations totalling \$200 or more from the same source are received (or suspected) and require disclosure.

The Act provides that where the true name and address of the donor are not known, or provided to the candidate (or a person acting on behalf of the candidate) at the time the donation is received, the donation is considered to be anonymous.

If an anonymous donation of \$200 or more is received, an amount equal to the value of the gift is payable to the local government to which the election relates, and may be recovered by the local government as a debt due to it by action against the candidate or the person acting on behalf of the candidate.

Upon receipt of a gift, a candidate, or someone acting on behalf of a candidate, should ascertain the name and address of the person making the gift.

For the purposes of Section 428 of the Act relating to unlawful gifts, a person who is a candidate in an election is taken to remain a candidate for 30 days after the conclusion of the election.

2.6 Record keeping

A receipt should be issued for all gifts received, whether in cash or kind, even if the gift is for an amount less than the prescribed amount (\$200) as the one donor may give a series of gifts which total \$200 or more to the candidate during the period covered by the return. In this case, the name and address of the donor would need to be disclosed.

A suggested Receipt/Acknowledgment Form and a suggested form for keeping a running and cumulative record of donations as they are received is included at Section 7. These forms may be used or adapted to suit particular requirements. These forms are not approved forms for the purposes of the Act but will help you keep adequate records to complete the return. Relevant records relating to matters required to be set out in a return must be kept for five years after the conclusion of the election. A relevant record is a document or other thing that is, or includes, a record about a matter required to be stated in a return. A penalty of 20 penalty units (\$1,500) may apply if the records are not kept for this period of time.



Section 3
Additional Information

Section 3

3.1 Offences about returns

(Section 436)

A person (either a candidate or third party) who fails to lodge a return within three months after the conclusion of the election commits an offence. The maximum penalty is 20 penalty units (\$1,500). In addition, a candidate who was elected to office, and is convicted of failing to submit a return within the required time, is not qualified to hold office as a Councillor unless the Court otherwise directs.

A person must not give a return disclosing gifts where the person knows the details are false or misleading in a material way. In this case, the maximum penalty for a candidate is 100 penalty units (\$7,500) and for a third party is 50 penalty units (\$3,750).

For an elected candidate, failure to lodge a return or the inclusion of false information in a return is an offence under the *Local Government Act 1993* and may constitute official misconduct under the *Crime and Misconduct Act 2001*. This could lead to investigation by the Crime and Misconduct Commission and disqualification from office.

A person must not give a candidate information for a return that the person knows is false or misleading in a material way. The maximum penalty for this offence is 20 penalty units (\$1,500).

Prosecutions for any of the offences described above may be commenced within four years after the offence was committed. If a person is found guilty by a Court of any of the above offences, the Court may, in addition to imposing the maximum penalty, impose other orders on the offender (eg. requiring a person who has not given a return within the required time to give the return in a timeframe stated in the order).

Any person (including the local government) may take legal action in respect of an offence under these provisions.

3.2 Obtaining information and completing returns

(Section 438)

A person who must give a return to the Chief Executive Officer of a local government must take all reasonable steps to obtain the information to complete the return, or complete it to the extent that is possible. Failure to do so could constitute an offence subject to a maximum penalty of 20 penalty units (\$1,500).

A person submitting a return, which is not complete, must state:

- the nature and type of particulars which have not been able to be obtained;
- the reasons why the information has not been able to be obtained; and
- if the person believes, on reasonable grounds, that another person has details to help the candidate complete the return, the name and address of that person.

In respect to the latter point, the Chief Executive Officer is required to make enquiries of a person who is stated to have the necessary details.

If at any time within five years after the conclusion of an election, a person who made a statement under the previous paragraph obtains information that is relevant to an incomplete return, that person must advise the Chief Executive Officer.

Where a person fails to advise the Chief Executive Officer, they may be subject to a maximum penalty of 20 penalty units (\$1,500).

3.3 Signing returns (third parties)

The approved form of return by third parties requires a person to sign the return.

The following persons should sign returns submitted by persons other than individuals:

- the party secretary in the case of a return submitted by an unregistered political party (the secretary is the person who holds the office – however described – the duties of which involve responsibility for administration and conduct of correspondence);
- the company secretary, the managing director or other appropriate officer in the case of a return submitted by a company;
- the public officer or a member of the managing body in the case of a return submitted by an incorporated association;
- a member of the managing body in the case of a return submitted on behalf of the members of an unincorporated association;
- a trustee of the trust in the case of a return submitted by the trustees of a trust; and
- the secretary in the case of a return submitted by a registered industrial organisation.

3.4 Attempts to commit offences

(Section 439)

A person who attempts to commit an offence in respect of any of the offences identified in the Act for the disclosure of gifts is liable to half the maximum penalty identified for committing the offence.

3.5 Election not invalidated

(Section 440)

The failure of a person to comply with a provision in the Act's disclosure provisions for an election does not invalidate an election. Subject to the penalty provisions (that could involve loss of office for an elected candidate) failure to comply with the disclosure provisions also does not invalidate their election.

3.6 Evidence

(Section 441)

In a proceeding before a Court, a certificate purporting to be signed by the Chief Executive Officer of a local government stating that a document is a particular type of document or that a notice was given to a stated person on a stated day is sufficient evidence in relation to those matters for the Court.



Section 4

**Obligations on Local Government
Chief Executive Officers**

Section 4

4.1 Introduction

This Section of the Handbook sets out the statutory obligations on the Chief Executive Officer of a local government in respect of the provisions on disclosure of electoral donations in the Act. In effect, the Chief Executive Officer is an administrator of the system rather than being directly charged with investigative or enforcement responsibilities.

4.2 Obligations

Under the Act, the Chief Executive Officer must:

- not swear in elected candidates unless an interim/final return is lodged (Section 242);
- not refund the nomination deposit for any candidate until 30 days after conclusion of the election and only where a final return is lodged (Section 314);
- keep, for the local government, a register of electoral gifts (Section 433);
- deal with applications to amend returns (Section 432);
- oversee access to the register of electoral gifts (Section 434);
- deal with queries on the contents of returns in the register of electoral gifts (Section 435);
- obtain information from persons who are identified in returns as having information which could assist with the completion of a return (Section 438); and
- give candidates a reminder notice of their obligations to submit a return (Section 429).

There are also other statutory obligations on the Chief Executive Officer.

For instance, if an elected candidate failed to lodge a final return within three months of the conclusion of the election or there were doubts over the contents of the return, as well as a breach of the *Local Government Act 1993*, this could constitute official misconduct under the *Crime and Misconduct Act 2001*. In this case, the Chief Executive Officer has a statutory obligation to report the matter to the Crime and Misconduct Commission.

Otherwise, it is open to any person (including the local government) to take legal action in respect of an offence under these provisions.

The Chief Executive Officer also has a non-statutory role to play – to be the general provider of information and advice to candidates and third parties on their obligations.

4.3 All candidates: refund of deposits

(Section 314)

4.3.1 *Chief Executive Officer not to refund nomination deposits unless final return is lodged*

A candidate entitled to a refund of their nomination deposit under Section 314 of the Act must not receive a refund until 30 days after the conclusion of the election and after they have given the Chief Executive Officer the return of election gifts required to be given under the Act.

4.3.2 Election gifts disclosure scenarios for candidates

The following scenarios will help explain the obligations on candidates in various circumstances. This will vary depending on whether the candidate is a member of a group of candidates, whether the candidate was successful in gaining election and whether gifts were expected after giving the return required prior to taking office (ie. the return required by Section 242 of the Act).

Scenario 1

Candidate 1 was successful, was a member of a group of candidates and:

- received electoral gifts, both individually and as a member of the group; and
- expects to receive further gifts, both individually and as a member of the group.

The Councillor must complete an interim return stating the details of gifts made to the Councillor as an individual and to the group. The Councillor must also lodge a final return detailing any further gifts received by the Councillor individually, or if no gifts are received, a 'nil' return. If the group receives gifts before the end of the disclosure period, then the details of those gifts will also need to be provided. If no further gifts are made to the group, the Councillor is not required to lodge a 'nil' return with respect to the group.

The deposit can be refunded 30 days after the conclusion of the election and on receipt of the individual final return.

Scenario 2

Candidate 2 was successful, was a member of a group of candidates and:

- received electoral gifts, both individually and as a member of the group; and
- expects to receive further gifts as a member of the group; but
- does not expect to receive further gifts as an individual.

The Councillor must complete a return stating the details of the gifts made to the Councillor as an individual and to the group and may declare that he/she does not expect to receive further gifts as an individual. If this declaration is not made, the Councillor must lodge a final return detailing any further gifts received by the Councillor individually, or if no gifts are received, a 'nil' return. No further group return is required unless the group receives further gifts before the end of the disclosure period. If so, the Councillor must lodge a final return stating the relevant details of further gifts made to the group.

The deposit can be refunded at the end of the disclosure period or on receipt of a final individual return after the end of the disclosure period.

Scenario 3

Candidate 3 was successful, was a member of a group of candidates and:

- received electoral gifts, both individually and as a member of the group; and
- does not expect to receive further gifts as a member of the group; but
- does expect to receive further gifts as an individual.

The Councillor must complete a return stating the details of gifts made to the Councillor as an individual and to the group and may declare that he/she does not expect the group will receive further gifts. The Councillor must lodge a final return detailing any further gifts received by the Councillor individually or if no gifts are received, a 'nil' return.

The deposit be refunded on receipt of the final individual return after the disclosure period.

Scenario 4

Candidate 4 was successful, was a member of a group of candidates and:

- received electoral gifts, both individually and as a member of the group; and
- does not expect to receive further gifts as an individual or as a member of the group.

The Councillor must complete a return stating the details of gifts made to the Councillor as an individual and to the group and may declare that he/she does not expect to receive further gifts as an individual or to the group. No further return is required unless gifts are received by the Councillor individually or by the group before the end of the disclosure period. If this occurs, the Councillor must lodge an amended return stating the relevant details of the gifts made to the Councillor and/or the group.

The deposit can be refunded at the end of the disclosure period.

Scenario 5

Candidate 5 was successful, was a member of a group of candidates and:

- the group did not receive any gifts; but
- the candidate received electoral gifts as an individual; and
- does not expect to receive further gifts as an individual.

The Councillor must complete a return stating the details of gifts received by the Councillor as an individual and may declare that he/she does not expect to receive any further gifts. No further return is required unless the Councillor receives gifts individually before the end of the disclosure period. If this occurs, the Councillor must lodge an amended return providing the relevant details of the gifts. If the group receives gifts before the end of the disclosure period, the Councillor must lodge a return disclosing the relevant details.

The deposit can be refunded at the end of the disclosure period.

Scenario 6

Candidate 6 was successful, was a member of a group of candidates and:

- the group did not receive any gifts; but
- the candidate received electoral gifts as an individual; and
- does expect to receive further gifts as an individual.

The Councillor must complete a return stating the details of gifts received prior to taking office. The Councillor must lodge a final return stating the details of gifts received as an individual or if no gifts are received, a 'nil' return. Should the group receive gifts before the end of the disclosure period, then the Councillor must also lodge a return detailing the relevant details of these gifts.

The deposit can be refunded on receipt of the final return after the disclosure period.

Scenario 7

Candidate 7 was successful, was not a member of a group of candidates and:

- did not receive any gifts; and
- does not expect to receive further gifts.

The Councillor must complete a 'nil' return and must declare that he/she does not expect to receive any gifts.

The deposit can be refunded on receipt of the 'nil' return at the end of the disclosure period.

Scenario 8

Candidate 8 was successful, was not a member of a group of candidates and:

- received electoral gifts; and
- expects to receive further electoral gifts.

The Councillor must complete an interim return stating the details of the electoral gifts received. The Councillor must also lodge a final return detailing any further gifts he/she received.

The deposit can be refunded 30 days after the conclusion of the election and on receipt of the individual final return.

Scenario 9

Candidate 9 was unsuccessful, was a member of a group of candidates and:

- the group did not receive any gifts; but
- the candidate received electoral gifts as an individual during the disclosure period.

The candidate must complete a return stating the details of gifts the candidate received up to the end of the disclosure period. The candidate has no obligation to disclose any details in relation to the group.

The deposit can be refunded on receipt of the individual return after the disclosure period.

Scenario 10

Candidate 10 was unsuccessful, was a member of a group of candidates and:

- the group did not receive any gifts; and
- the candidate did not receive any electoral gifts as an individual during the disclosure period.

The candidate must complete a return stating that the candidate did not as an individual receive any gifts for the disclosure period (ie. a 'nil' return). The candidate has no obligation to disclose any details in relation to the group.

The deposit can be refunded on receipt of the individual return after the disclosure period.

Scenario 11

Candidate 11 was unsuccessful, was a member of a group of candidates and:

- the group received gifts; but
- the candidate did not receive any electoral gifts as an individual during the disclosure period.

The candidate must complete a return stating the details of gifts received by the group up to the end of the disclosure period. The candidate must also complete a return disclosing that the candidate did not as an individual receive any gifts for the disclosure period (ie. a 'nil' return).

The deposit can be refunded on receipt of the individual return after the disclosure period.

Scenario 12

Candidate 12 was unsuccessful, was not a member of a group of candidates and did not receive any gifts as an individual.

The candidate must complete a 'nil' return.

The deposit can be refunded on receipt of the nil return at the end of the disclosure period.

Scenario 13

Candidate 13 was a member of a group of candidates and did not receive any electoral gifts individually or to the group.

The candidate must complete a return stating that the candidate did not receive gifts during the disclosure period, (ie. a 'nil' return). The candidate has no obligation to disclose any details in relation to the group.

The deposit can be refunded on receipt of the individual return after the disclosure period.

4.4 Register of electoral donations

(Section 433)

4.4.1 Registers to be kept by Chief Executive Officer

Under Section 433, the Chief Executive Officer of each local government must keep, for the local government, a register of electoral gifts.

4.4.2 Contents of registers

The register must include the following:

- all interim returns given by elected candidates;
- all final returns given by elected candidates;
- all final returns given by other candidates;
- all returns given by individual candidates as a member of a group of candidates;
- all returns given by third parties;
- all applications made by persons to amend a return;
- copies of information given by the Chief Executive Officer to persons who have had the contents of their return queried;
- statutory declarations given to the Chief Executive Officer by persons confirming information in a register relating to their electoral donations is correct, following a query on the contents of a register by another person;
- copies of notices given by the Chief Executive Officer to persons seeking the particulars about a return in which the person lodging it has indicated another person has the particulars required to complete the return;
- particulars given by other persons in response to a notice given by the Chief Executive Officer requesting details to complete a return; and
- notices given to the Chief Executive Officer by a person, who stated their return was incomplete at the time of its submission, which provides additional information in relation to the return.

4.4.3 Access to registers

(Section 434)

A local government's register is open to inspection (refer to Section 434 of the Act). The register is held in the local government's public office. Any person may inspect the register and make copies of, or take extracts from, the register at any time when the public office of the local government is open for business.

The Chief Executive Officer is not required to supply a facility or service to copy or take extracts from the register but, if such a facility is available, a reasonable fee may be charged for the facility or service.

A person who gains access to the register must be careful, if they intend to disclose information obtained from it, to ensure that they take a true copy, or a fair summary of the particulars contained in the register. It is an offence to disclose information from a register that is not a true copy or a fair summary of it. A penalty which could be imposed by a Court for such an offence is 20 penalty units (\$1,500).

4.4.4 Queries on contents of registers

(Section 435)

Section 435 of the Act provides that a person who suspects on reasonable grounds that a return in the register of electoral gifts has an error or omission is entitled to query the contents. A person who does so should inform the Chief Executive Officer of the local government of their suspicion or belief.

The Chief Executive Officer must inform the person whose return has been queried and they must either confirm the accuracy of the information in the return or submit an amendment to correct the return.

This procedure is similar to that contained in the *Local Government Act 1993* where a person is entitled under Section 249 to query the content of a Councillor's register of interests (the disclosure of prescribed financial and non-financial particulars).

A person cannot query the content of an interim return given by an elected candidate as the law provides that changes can be made to that return when more information is available to the elected candidate.

4.5 Amendment of returns

(Section 432)

4.5.1 Return may be amended at any time

A person who made a return may apply under Section 432 to amend their return at any time to correct an error or omission.

4.5.2 Process

An application to amend a return must:

- be signed by the applicant;
- state the particulars of the amendment; and
- be given to the Chief Executive Officer of the local government.

The Chief Executive Officer must permit the applicant to amend the return and record in the register kept for the purpose the date and time of the amendment.

4.5.3 Liability

The amendment of a return does not remove the person's liability with respect to any offences related to the return that were committed before the amendment.

4.6 Reminder notice

(Section 429)

4.6.1 *Chief Executive Officer to give reminder notice to candidates*

Within two months after the conclusion of the election, the Chief Executive Officer must give a reminder notice under Section 429 of the Act to all candidates who have not given a final return.

The information required in the notice is:

- a reminder that a return must be submitted within three months after the conclusion of the election; and
- a copy of the relevant provisions of the Act, or a general outline of them.

The relevant provisions are:

- Section 222 (Disqualification and vacation of office for certain offences);
- Section 314(2) (Disposal of deposits generally);
- Section 427 (Gifts to candidates);
- Section 427A (Gifts to groups of candidates);
- Section 436 (Offences about returns); and
- Section 438 (Obtaining of information and completion of returns).

Section 5

Illustrative Example

Recording relevant details of gifts received
by an elected candidate at a local government election

Section 5

5.1 Purpose

The purpose of this example is to illustrate how a candidate for the 2004 local government elections might approach recording donations for given events during the disclosure period. How each of the events relates to the return to be submitted will be described.

The following sample final return relates to Form LGEGF1 for an elected candidate.

5.2 Situation

Your name is Harold Biggs and you are proposing to stand as a candidate at the 2004 local government elections in a major city.

You are currently an elected Councillor and a business person who has considerable influence in the community through an established network of contacts in council, business, community organisations and sporting groups.

You are aware of the requirements for disclosing political donations and have set up a separate bank account through which your campaign funds can be directed. You have a campaign committee, which is organising your day-to-day activities. You have also agreed to run with a group of other candidates with a supporting campaign committee.

Being prudent, you have instructed your campaign secretary to take diary notes of all gifts or donations that should be included in your individual return as well as keep a separate record of all donations to the Group. You utilise the suggested receipt/acknowledgement form and the running and cumulative record at Section 7 as your source documentation. The Group also adopts a similar record keeping process.

5.3 Disclosure period events

The following events occurred during the disclosure period which commenced 30 days after the conclusion of the 2000 local government elections and concludes 30 days after the conclusion of the 2004 local government elections.

Sample Record of Gifts Received By Harold Biggs:

1. Individual Candidate; and
2. Individual's Campaign Committee

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts
1/1/04	Attend New Year's Day party. The following people approach you to run again:								
	Bob M \$150 cash	Relevant details recorded on receipt no. 1.	✓	✓	✓	-		1	150
	John C \$500 cash	Relevant details recorded on receipt no. 2.	✓	✓	✓	500		1	500
	Carol F \$500 cheque	Relevant details recorded on receipt no. 3.	✓	✓	✓	500		1	500
	Al N Free office space for campaign headquarters	Diary note of date of commencement for use of office space. Obtained details from Al of market value for rent of office space.	✓	✓	✓	5,000	Rent free use of premises	1	Commercial rate of X \$ per sq metre - total value \$5,000
3/1/04	Set up bank account for campaign. You bank proceeds from 1/1/04 and make a \$5,000 personal contribution.	No recording action taken for personal contribution.			No effect on return				
5/1/04	Own Campaign Committee receives the following gift: Anne L \$500 cash	Relevant details recorded on receipt no. 4.	✓	✓	✓	500		1	500

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts
5/1/04	Ken J from the Environment Foundation: \$1,000 cheque.	Relevant details recorded on receipt no. 5.	✓	✓	✓	1,000		1	1,000
27/1/04	Campaign Fundraising Night No. 1. 10 people donate \$10 each during the night. 5 raffles conducted during the night. (Tickets \$2 each.) Jim Y gives you the use of a new Commodore for the remainder of the campaign period.	Record the relevant details of all 10 donors. Issue receipt nos. 7-16. Proceeds not required to be recorded. Diary note of commencement of use of vehicle. Obtained details from Jim Y of the market value of hiring the vehicle for the period.	✓	✓	✓	5,500	Free use of vehicle during campaign period	10	5,500 (Hire rate \$100 per day)
	During Campaign Night a current affairs broadcaster interviews you for a news program. 12 bottles of wine given to you by James T.	Not required to be recorded. Diary note made. No recording action. Gift given in a private capacity and consumed at home.		No effect on return	No effect on return				
7/2/04	Kim H, the Editor of the local newspaper includes free advertisements in the paper promoting you as a candidate.	Diary note made. Obtained details from the Editor of the value of the advertising which is \$500.	✓	✓	✓	500	Free advertising in newspaper	1	500

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts
13/2/04	You take legal advice from Helen M on activities of another candidate. Helen's legal firm will not bill you.	Diary note. Asked Helen for an estimated value of the service provided. Include the estimate in return.	✓	✓	✓	800	Legal advice	1	800
20/2/04	Bob M donates a further \$50 cash.	Relevant details recorded and receipt no. 68 issued. Bob has donated \$150 on 1/1/04 so has passed the \$200 threshold to be recorded as a donor in the return.	✓	✓	✓	(\$150 on 1/1/04 + \$50 on 20/2/04 = \$200)			50
5/3/04	A large corporate firm 'ABC Pty Ltd' represented by Neil Y meets with you and gives you 1,000 ordinary shares in the firm.	Relevant details recorded. Market value of shares at time of their receipt was recorded. Obtained market value from newspaper stock listings.	✓	✓	✓	2,500	Share issue	1	2,500
Summary details to be included in return						All relevant details for each of these amounts to be disclosed		20	17,100

Sample Record of Gifts Received By Harold Biggs:

1. A Group of Candidates; and
2. A Group of Candidates; Campaign Committee

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts
27/1/04	Fundraising dinner to launch Group of Candidates Campaign. Initial donation from Community Arts Association - \$1,000 cheque.	Relevant details recorded on receipt no. 6.	✓	✓	✓	1,000		1	1,000
30/1/04	Group Campaign Fundraising Night. 50 people donate different amounts < \$200. Total of \$2,000 raised.	Record the relevant details of all 50 donors. Receipt nos. 17-66 issued.	✓	✓	✓			50	2,000
7/2/04	Kim H, the Editor of the local newspaper provides free advertisements in the paper promoting the group.	Diary note made. Obtained details from the Editor of the value of the advertising which is \$2,000.	✓	✓	✓	2,000	Free advertising in newspaper	1	2,000
10/2/04	Tom S, representing a development industry body, presents the Group's Campaign Committee with a \$10,000 cheque.	Relevant details recorded on receipt no. 67.	✓	✓	✓	10,000		1	10,000

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts
11/2/04	You go to pay a firm owned by Keith P for purchase of the Group's campaign signage. Keith does not accept payment of the contract worth \$2,000. Keith says to regard it as a contribution to the Group's campaign.	Diary note of discussion. Record relevant details of the waiving of the account.	✓	✓	✓	2,000	Waiving of signage contract	1	2,000
14/2/04 - 15/3/04	Tom S, from the development industry body, organises with a commercial television station for a series of electoral advertisements featuring the Group of Candidates. Total air time is worth \$20,000.	Diary note made. Value of advertisements provided to the Group by Tom.	✓	✓	✓	20,000	Television advertisements	1	20,000
6/3/04	Kate B, the Secretary of the local cricket club (an incorporated body) issues all Group members with a free membership to the club's facilities for a year.	Relevant details recorded by the Group. Value of membership subscription obtained from Kate for return purposes.	✓	✓	✓	500 x 4	Club membership	1	2,000
23/3/04	The Group's final campaign dinner/drinks held at local restaurant. Restaurant owner Tim R offers a 50% discount on the bill of \$4,000.	Relevant details recorded.	✓	✓	✓	2,000	Discount on entertainment	1	2,000
Summary details to be included in return						All relevant details for each of these amounts to be disclosed		57	41,000

5.4 Completing a return

Having recorded all the details above, Harold Biggs is now in a position to complete a return (as an elected candidate) to be given to the Chief Executive Officer.

As Harold Biggs does not expect to receive any further gifts during the remainder of the disclosure period, he is able to complete a final return prior to taking the declaration of office.

The completed return is as follows:

OFFICE USE ONLY

Date received:	Registered No:
----------------	----------------

LOCAL GOVERNMENT ACT 1993	RETURN OF GIFTS
Sections 242(1)(a), 427(2)&(3), 427A(2)&(3)	ELECTED CANDIDATE – LOCAL GOVERNMENT ELECTION

(Further information to assist candidates complete this form is attached.)

Details of candidate furnishing this return

Name: Harold Biggs

Postal Address: 16 Mount Pleasant Road, Sunshine

Candidate for Election of ~~*Mayor~~/*Councillor (* Delete whichever is not applicable)
 Nominated by a Registered Political Party? ***YES / *NO** (* Delete whichever is not applicable)

Name of Political Party: N/A (if applicable)

Local Government: Sunshine Division No.: 3 (if applicable)

**Requirements under the *Local Government Act 1993*
regarding the completion of this return**

There are three (3) sections to this form. Depending on your circumstances, you will need to complete at least one section of the form.

Section A – must be completed by a candidate if no gifts were received during the disclosure period. (ie. a 'nil' return).

Section B – must be completed by a candidate if they, or their campaign committee, received gifts during the disclosure period.

Section C – must be completed by each candidate who is a member of a group of candidates, and the group or the group's campaign committee, received gifts during the disclosure period.

Sections B and C – must **both** be completed if a candidate and the group of candidates of which they are a member (or their campaign committees), received gifts during the disclosure period.

A candidate who is a member of a group of candidates which received no gifts during the disclosure period is not required to submit a return in respect of the group.

At the time of declaration of office, an elected candidate must decide whether or not the return is an **interim return** or a **final return** in respect of individual gifts (refer to **general information attached to this form**).

Section A – 'nil' return

Disclosure period covered by this 'nil' return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

INTERIM*/FINAL*RETURN

Section A – Certification for 'nil' return

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify for the purpose of this **final return** that, to the best of my knowledge and belief and on the basis of information readily available at the time the return is given, no gifts of a kind required to be disclosed were received. I declare I do not expect to receive any gifts during the remaining disclosure period for the election. However, should I receive any further gifts after the giving of this return, I will disclose them by a further return.

SIGNATURE _____

DATE: _____

(* Note: Delete whichever is not applicable.)

N/A
As Gifts Received

Section B – Candidate who received gifts during the disclosure period

Disclosure period covered by this return

Commencement Date: 14 April 2000
(Refer to the Act to calculate commencement date.)

Conclusion Date: 28 April 2004 (30 days after election)
(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council’s office.)

Total value of all gifts received requiring disclosure received as an individual candidate and/or by the candidate’s campaign committee: S 17,100

Number of person who made those gifts: 20

If a gift or a series of gifts of a total value of \$200 or more was received by you as an individual candidate or by your campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/FINAL*RETURN

Section B – Certification (as an individual candidate)

I certify that to the best of my knowledge and belief, this ~~interim return~~ contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. I do not expect to receive any further gifts during the remainder of the disclosure period. However, should I receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

~~I certify that to the best of my knowledge and belief, the information provided in this final return is correct and complete except to the extent identified below.*~~

~~Deficiency in return (please identify nature and particulars not able to be obtained):~~

~~Reason for deficiency (please identify why the particulars were not able to be obtained):~~

~~Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars):~~

SIGNATURE: Karola Biggs

DATE: 5 April 2004

(* Note: Delete whichever is not applicable.)

Relevant details of gifts

Name of donor	Address of donor	Date gift made	Amount or value of gift \$	Describe if gift-in-kind
Bob M	Residential address provided	1/1/04 20/2/04	150 50	
John C	Residential address provided	1/1/04	500	
Carol F	Residential address provided	1/1/04	500	
Al N	Residential address provided	1/1/04	5,000	Rent free office space
Anne L	Residential address provided	5/1/04	500	
Ken J (Environment Foundation)	Residential address provided	5/1/04	1,000	
Jim Y	Residential address provided	27/1/04	5,500	Free use of motor vehicle
Kim H	Residential address provided	7/2/04	500	Free electoral advertising in newspaper
Helen M	Residential address provided	13/2/04	800	Free legal advice
ABC Pty Ltd	Business address of Neil Y provided	5/3/04	2,500	1,000 ordinary shares

(If more than one page is needed photocopy this page.)

Section C

Candidate who is a member of a group of candidates which received gifts during the disclosure period

A separate return is required from each candidate who is a member of a group of candidates, and the group or the group's campaign committee received gifts of a kind requiring to be disclosed.

Names of candidates forming the group: Harold Biggs, Louise Train, Ronald Robbins
and Wendy Wallace

Name of the group (if any): Sunshine Community Alliance

Total value of all gifts received by a group of candidates and/or the group's campaign committee during the disclosure period requiring disclosure: \$ 39,000

Number of person who made those gifts: 57

Disclosure period covered by this return

Commencement Date: 14 April 2000
(Refer to the Act to calculate commencement date.)

Conclusion Date: 28 April 2004 (30 days after election)
(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

If a gift or a series of gifts of a total value of S200 or more were received by a group of candidates or the group's campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/FINAL*RETURN

Section C – Certification (as a member of a group of candidates)

I certify that to the best of my knowledge and belief, this ~~interim return~~ contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. The Group does not expect to receive any further gifts during the remainder of the disclosure period. However, should the Group receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

I certify that to the best of my knowledge and belief, the information provided in this ~~final return~~ is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained):

Reason for deficiency (please identify why the particulars were not able to be obtained):

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars):

SIGNATURE: _____ *Karole Biggs*

DATE: 5 April 2004

(* Note: Delete whichever is not applicable.)

Relevant details of gifts

Name of donor	Address of donor	Date gift made	Amount or value of gift \$	Describe if gift-in-kind
Community Arts Association	Residential or business addresses of members of Executive Committee of the Association (plus name of person associated with each address)	27/1/04	1,000	
Kim H	Residential address provided	7/2/04	2,000	Free electoral advertising in newspaper
Development Industry body	Residential or business address of Tom S provided	10/2/04	10,000	
Keith P	Residential address provided	11/2/04	2,000	Free campaign signage
Development Industry body	Residential or business address of Tom S provided	14/2/04 – 15/03/04	20,000	Free electoral advertising on television
Kate B from Local Cricket Club	Residential address provided	6/3/04	2,000	Free club membership
Tim R, local restaurant owner	Residential address provided	23/3/04	2,000	Discounted entertainment

(If more than one page is needed photocopy this page.)

5.5 Records to be kept

All records supporting the completed return (the diary records, receipt copies, the cumulative record of transaction during the disclosure period and any other supporting material) are to be kept for a minimum of five years in a secure place.

Section 6

Consolidated Version of Part 8—Disclosure of Election Gifts

(Sections 413A-441 of the *Local Government Act 1993*)

Section 6

PART 8—DISCLOSURE OF ELECTION GIFTS

Division 1—Preliminary

413A Application of pt 8 to Brisbane City Council

This part applies to Brisbane City Council.

414 Definitions for pt 8

In this part—

"associated entity" means an incorporated or unincorporated body, or the trustee of a trust, that—

- (a) is controlled by 1 or more political parties; or
- (b) operates wholly or mainly for the benefit of 1 or more political parties.

"disclosure period"—

- (a) for a candidate for an election—see division 2, subdivision 1; and
- (b) for section 427A⁷⁵—see section 423A; and
- (c) for section 430⁷⁶—see section 424.

"disposition of property" means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a corporation; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of a lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of someone else; and
- (f) a transaction by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of someone else's property.

"gift" means the disposition of property or the provision of a service, without consideration or for a consideration less than the full consideration, but does not include—

- (a) transmission of property under a will; or
- (b) provision of a service by volunteer labour.

"prescribed amount" means an amount prescribed under a regulation but, until a regulation is made, means—

- (a) in sections 427(2)(b)(iii), 427A(2)(e) and 428(1)⁷⁷—\$200; or
- (b) in section 430(1)(b) and (6),⁷⁸ definition "prescribed gift", paragraph (c)—\$1 000.

"prescribed period" means a period prescribed under a regulation but, until a regulation is made, means 30 days.

"register", for a local government, see section 433(1).⁷⁹

⁷⁵ Section 427A (Gifts to groups of candidates)

⁷⁶ Section 430 (Gifts for third party expenditure for political purposes)

⁷⁷ Sections 427 (Gifts to candidates), 427A (Gifts to groups of candidates) and 428 (Certain gifts not to be received)

⁷⁸ Section 430 (Gifts for third party expenditure for political purposes)

⁷⁹ Section 433 (Registers of electoral gifts)

"registered industrial organisation" means an organisation registered under a law of the State, another State or the Commonwealth about the registration of industrial organisations.

"relevant details", for a gift, means the value of the gift and when the gift was made and—

- (a) for a gift purportedly made on behalf of the members of an unincorporated association—
 - (i) the association's name; and
 - (ii) unless the association is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association; or
- (b) for a gift purportedly made out of a trust fund or out of the funds of a foundation—
 - (i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation; or
- (c) for a gift not mentioned in paragraph (a) or (b)—the name and residential or business address of the person who made the gift.

"value", for a gift, means—

- (a) if the gift is money—the amount of the money; or
- (b) if the gift is property other than money—
 - (i) the market value of the property; or
 - (ii) if a regulation prescribes principles under which the value of the property is to be determined—the value determined under the principles; or
- (c) if the gift is the provision of a service—
 - (i) the amount that would reasonably be charged for providing the service if the service were provided on a commercial basis; or
 - (ii) if a regulation prescribes principles under which the amount that would reasonably be charged for providing the service is to be determined—the amount determined under the principles.

415 Candidates

(1) For this part, a reference to a candidate for an election is a reference to a person who, at noon on the nomination day for the election, is properly nominated for the election.

(2) In this section—

"nomination day", for an election for Brisbane City Council, means the day of nomination specified in the notice for the election published under the *City of Brisbane Act 1924*, section 17(4).

416 Things taken to be done by political party

For this part, for a political party that is not a body corporate, things done by or with the authority of members or officers of the party on behalf of the party are done by or for a political party.

417 Related corporations

For this part—

- (a) a body corporate and any other body corporate related to it are taken to be the 1 person; and
- (b) whether a body corporate is related to another body corporate must be decided in the same way a body corporate is decided to be related to another body corporate under the Corporations Act.

Division 2—Disclosure periods

Subdivision 1—Disclosure periods for candidates for elections

418 Purpose of subdivision

This subdivision defines the disclosure periods for candidates for elections.

419 Disclosure period for candidates at previous elections

- (1) This section applies if a candidate for an election (the "**current election**") was a candidate for another election relating to any local government the conclusion of which was within the relevant period before the polling day for the current election.
- (2) The disclosure period for the candidate for the current election starts at the end of the prescribed period after the conclusion of the most recent election happening before the current election in which the candidate was a candidate.
- (3) The disclosure period ends at the end of the prescribed period after the conclusion of the current election.
- (4) In this section—
"**relevant period**" means the period prescribed under a regulation but, until a regulation is made, means 5 years.

420 Disclosure period for candidates at previous fresh elections

- (1) This section applies if a person—
 - (a) was a candidate at a fresh election (the "**previous election**") relating to a local government (the "**first local government**"); and
 - (b) is a candidate for a subsequent election relating to any local government (the "**relevant election**") up to and including the next quadrennial election relating to the first local government.
- (2) Despite section 419,⁸⁰ the disclosure period for the candidate for the relevant election starts at the end of the prescribed period after the conclusion of whichever is the later of—
 - (a) the previous election; or
 - (b) a later election in which the candidate was a candidate before the relevant election.
- (3) The disclosure period ends at the end of the prescribed period after the conclusion of the relevant election.

421 Disclosure period for new candidates

- (1) This section applies if sections 419, 420 and 422⁸¹ do not apply to a person who is a candidate for an election.
- (2) The disclosure period for the candidate for the election starts when the first of the following happens or, if they happen at the same time, when they happen—
 - (a) the person announces the person is to be a candidate in the election;
 - (b) the person nominates as a candidate in the election.
- (3) The disclosure period ends at the end of the prescribed period after the conclusion of the election.

422 Disclosure period for certain candidates who are appointed councillors

- (1) This section applies if a candidate for an election, when nominating as a candidate, is an appointed councillor of a local government to whom neither section 419 nor section 420⁸² applies.

⁸⁰ Section 419 (Disclosure period for candidates at previous elections)

⁸¹ Sections 419 (Disclosure period for candidates at previous elections), 420 (Disclosure period for candidates at previous fresh elections) and 422 (Disclosure period for certain candidates who are appointed councillors)

⁸² Sections 419 (Disclosure period for candidates at previous elections) and 420 (Disclosure period for candidates at previous fresh elections)

- (2) Despite section 421,⁸³ the disclosure period for the candidate for the election starts when the candidate was appointed a councillor.
- (3) The disclosure period ends at the end of the prescribed period after the conclusion of the election.

Subdivision 2—Disclosure period for groups of candidates and third parties for elections

423 Purpose of subdivision

This subdivision defines the disclosure period for sections 427A and 430⁸⁴ for an election.

423A Disclosure period for s 427A

For section 427A, the disclosure period for an election—

- (a) starts at the end of the prescribed period after the conclusion of the immediately preceding quadrennial elections for the relevant local government under the section; and
- (b) ends at the end of the prescribed period after the conclusion of the election.

424 Disclosure period for s 430

For section 430, the disclosure period for an election—

- (a) starts at the end of the prescribed period after the date of the immediately preceding quadrennial elections for the relevant local government under the section; and
- (b) ends at the end of the prescribed period after the polling day for the election.

Subdivision 3—Transitional provisions for start of disclosure periods

425A Transitional provisions for other disclosure periods

Despite subdivisions 1 and 2, if a disclosure period for a Brisbane City Council election, or a disclosure period for section 427A for another local government election, would otherwise start before the commencement of this section, it starts on the commencement.

425B Expiry of sdiv 3

This subdivision expires on 1 July 2004.

Division 3—Disclosure of gifts

Subdivision 1—Preliminary

426 Definitions for div 3

In this division—

"candidate's campaign committee", for a candidate for an election, means a committee formed to help the candidate's campaign in the election but does not include a committee that is recognised by a political party as being part of the political party.

"gifts received by a candidate for an election" includes gifts received by the candidate's campaign committee for or on behalf of the candidate.

"group of candidates" means a group of candidates formed to promote the election of the candidates for a particular local government, but does not include a political party or an associated entity.

⁸³ Section 421 (Disclosure period for new candidates)

⁸⁴ Sections 427A (Gifts to groups of candidates) and 430 (Gifts for third party expenditure for political purposes)

"group's campaign committee", for a campaign committee of a group of candidates for an election, means a committee formed to help the election campaign of members of the group.

Subdivision 1A—Disclosure by candidates for elections

427 Gifts to candidates

- (1) This section applies to gifts received by a candidate for an election during the candidate's disclosure period for the election but not to a gift made in a private capacity to the candidate, for the candidate's personal use, that the candidate has not used, and does not intend to use, solely or substantially for a purpose related to any election.
- (2) Each candidate for the election must, within 3 months after the conclusion of the election, give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating—
 - (a) whether the candidate received any gifts to which this section applies; and
 - (b) if so—
 - (i) the total value of all of the gifts; and
 - (ii) how many persons made the gifts; and
 - (iii) the relevant details for each gift made by a person to the candidate, if the total value of all gifts made by the person to the candidate during the disclosure period is the prescribed amount or more.
- (3) A candidate need not comply with subsection (2) if—
 - (a) the candidate gives a return under section 242(1)(a)⁸⁵ and the return states the candidate—
 - (i) does not expect to receive gifts in the disclosure period for the election after giving the return; and
 - (ii) will give a return under the section if gifts are received in the disclosure period for the election after giving the return; and
 - (b) the candidate does not receive gifts in the disclosure period for the election after giving the return.

427A Gifts to groups of candidates

- (1) This section applies if—
 - (a) a candidate for an election is a member of a group of candidates; and
 - (b) the group, or the group's campaign committee for the election, receives gifts for the election during the disclosure period for this section for the election.
- (2) Within 3 months after the conclusion of the election, the candidate must give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating the following—
 - (a) the names of the candidates forming the group;
 - (b) the name, if any, of the group;
 - (c) the total value of all of the gifts;
 - (d) how many persons made the gifts;
 - (e) the relevant details for each gift made by a person to the group if the total value of all gifts made by the person to the group during the disclosure period is the prescribed amount or more.
- (3) A candidate need not comply with subsection (2) if—
 - (a) the candidate gives a return under section 242(1)(a) and the return states the candidate—

- (i) does not expect the group or the group's campaign committee for the election to receive further gifts in the disclosure period for the election after giving the return; and
- (ii) will give a return under the section if further gifts are received in the disclosure period for the election after giving the return; and
- (b) the group or the group's campaign committee for the election does not receive further gifts in the disclosure period for the election after giving the return.

428 Certain gifts not to be received

- (1) It is unlawful for a candidate for an election, or a person acting on behalf of a candidate for an election, to receive, during the disclosure period for the candidate for the election, a gift made to or for the benefit of the candidate the value of which is the prescribed amount or more unless—
 - (a) the relevant details for the gift are known to the person receiving the gift; or
 - (b) when the gift is made—
 - (i) the person making the gift gives to the person receiving the gift details of the gift; and
 - (ii) the person receiving the gift has no reasonable grounds to believe that the details given are not the relevant details for the gift.
- (2) If a person receives a gift that, under subsection (1), it is unlawful for the person to receive, an amount equal to the value of the gift—
 - (a) is payable by the person to the local government to which the election relates; and
 - (b) may be recovered by the local government as a debt owing to the local government by action in a court of competent jurisdiction against the person.
- (3) For subsection (1), a person who is a candidate in an election remains a candidate for the prescribed period after the conclusion of the election.
- (4) For this section, 2 or more gifts made by the 1 person to or for the benefit of the one candidate, are to be treated as 1 gift.
- (5) In this section—
 - "person acting on behalf of a candidate for an election"** includes the candidate's campaign committee for the election.
 - "person making a gift"** includes an unincorporated association on whose behalf a gift is made.

429 Chief executive officer to give reminder notice to candidates

- (1) This section applies if a candidate for election has not given the return the candidate is required, under section 427(2), to give for the election.
- (1A) To remove any doubt, it is declared that this section does not apply if, under section 427(3), the candidate is not required to give the return.
- (2) Within 2 months after the conclusion of the election, the chief executive officer to whom the return must be given must give in writing the information mentioned in subsection (3) to the candidate.
- (3) The information is—
 - (a) a reminder that the candidate is required to give the return within 3 months after the conclusion of the election; and
 - (b) the following provisions, or a general outline of them, to the extent they may be relevant to the candidate—
 - section 222
 - section 227A
 - section 314(2)
 - section 436
 - section 427
 - section 438.

Subdivision 2—Disclosure by third parties for elections

430 Gifts for third party expenditure for political purposes

- (1) This section applies if, during the disclosure period for this section⁸⁶ for an election (the "relevant election") relating to a local government (the "relevant local government")—
 - (a) a person (other than a political party, an associated entity or a candidate for the election) incurs or has incurred expenditure for a political purpose about an election or elections relating to the relevant local government; and
 - (b) the total amount of all the expenditure mentioned in paragraph (a) is the prescribed amount or more; and
 - (c) the person receives a gift that is a prescribed gift in relation to the relevant local government.
- (2) The person must, before the end of 3 months after the conclusion of the relevant election, give to the chief executive officer of the relevant local government a return, in the approved form, stating the relevant details for all gifts that—
 - (a) are prescribed gifts in relation to the relevant local government; and
 - (b) are received by the person during the disclosure period.
- (3) For subsection (1), a person does not include persons appointed to form a committee to help the campaign in an election of a candidate who has been nominated for election by the registered officer of a political party if the campaign committee is recognised by the political party as being part of the political party.
- (3A) Also, for subsection (1), a person does not include a person who is a member of a candidate's campaign committee or a group's campaign committee for an election of the candidate or members of a group of candidates.
- (4) Expenditure for a political purpose relating to 2 or more local governments is taken to have been incurred for a political purpose about an election relating to each local government.
- (5) In this section, 2 or more gifts made, during the disclosure period for this section for an election, by the 1 person to another person are to be treated as 1 gift.
- (6) In this section—

"expenditure", for a political purpose, means expenditure for 1 or more of the following—

 - (a) publication by any means (including radio or television) of election matter;
 - (b) public expression of views on an issue in an election;
 - (c) a gift to a political party;
 - (d) a gift to a candidate in an election;
 - (e) a gift to a person on the understanding that the person or someone else will apply, either directly or indirectly, the whole or a part of the gift for a purpose mentioned in paragraph (a), (b), (c) or (d).

"prescribed gift", in relation to a relevant local government, means a gift—

 - (a) intended by the giver to be used by the receiver, either wholly or in part, to enable the receiver to incur expenditure for a political purpose or to reimburse the receiver for incurring expenditure for a political purpose; and
 - (b) used, either wholly or partly, for a political purpose about 1 or more elections relating to the relevant local government; and
 - (c) the value of which is the prescribed amount or more.

431 No requirement to give return if no further gifts to disclose

- (1) This section applies to a person if—
 - (a) the person gives a return relating to an election disclosing gifts under section 430⁸⁷ to a chief executive officer of a local government; and
 - (b) apart from this section, because of a later election, the person would be required to give another return under section 430 to the chief executive officer of the same local government; and
 - (c) the other return, if given, would disclose no other gifts.
- (2) The person is not required to give the other return.

Subdivision 3—Amendment of returns

432 Amendment of returns

- (1) A person who has given a return under this part to the chief executive officer of a local government may at any time apply to amend the return to correct an error or omission.
- (2) An application under subsection (1) must—
 - (a) be signed by the applicant; and
 - (b) state particulars of the amendment; and
 - (c) be given to the chief executive officer of the local government.
- (3) The chief executive officer must—
 - (a) permit the applicant to amend the return in accordance with the application; and
 - (b) record in the register particulars of the date and time of the amendment.
- (4) The amendment of a return under this section does not affect the liability of a person to be convicted of an offence under section 436(2)⁸⁸ committed before the amendment.

Division 4—Registers

433 Registers of electoral gifts

- (1) The chief executive officer of a local government must keep, for the local government, a register of electoral gifts (the "register").
- (2) The register must include the following—
 - (a) all returns given to the chief executive officer under this part or section 242,⁸⁹
 - (b) applications made to the chief executive officer under section 432,⁹⁰
 - (c) copies of information given by the chief executive officer under section 435(2),⁹¹
 - (d) statutory declarations given to the chief executive officer under section 435(5);
 - (e) copies of notices given by the chief executive officer under section 438(3),⁹²
 - (f) particulars given to the chief executive officer after a request made under section 438(3);
 - (g) notices given to the chief executive officer under section 438(5).

87 Section 430 (Gifts for third party expenditure for political purposes)

88 Section 436 (Offences about returns)

89 Section 242 (Requirements of councillors before acting in office)

90 Section 432 (Amendment of returns)

91 Section 435 (Queries on contents of register)

92 Section 438 (Obtaining of information and completion of returns)

434 Access to registers

- (1) A local government's register is open to inspection.
- (2) A person must not knowingly disclose information obtained from the register if it is not a true copy, or a fair summary, of particulars in the register.

Maximum penalty for subsection (2)—20 penalty units.

435 Queries on contents of register

- (1) A person who suspects, or believes, on reasonable grounds that a return given to the chief executive officer of a local government under this part has an error or omission, may inform the chief executive officer.
- (2) The chief executive officer must immediately take reasonable steps to inform the person who gave the return about the suspicion or belief.
- (3) The person who gave the return must, within 30 days of being informed, establish whether the return should be amended to make it a true record of fact.
- (4) If the person establishes that the return should be amended, the person must apply to the chief executive officer to amend the return to correct the error or omission.⁹³
- (5) If the person establishes the return does not need to be amended, the person must—
 - (a) complete a statutory declaration to the effect that the particulars in the return are a true record of fact; and
 - (b) give the statutory declaration to the chief executive officer.

Division 5—Miscellaneous

436 Offences about returns

- (1) A person must give a return the person is required to give under division 3⁹⁴ within the time required by the division.
Maximum penalty—20 penalty units.
- (2) A person must not give a return the person is required to give under division 3 containing particulars that are, to the knowledge of the person, false or misleading in a material particular.
Maximum penalty—
 - (a) if the person is required to give the return as a candidate—100 penalty units;
 - (b) if paragraph (a) does not apply—50 penalty units.
- (3) A person (the "first person") must not give to another person who is required to give a return under division 3 or section 242⁹⁵ information to which the return relates that is, to the knowledge of the first person, false or misleading in a material particular.
Maximum penalty—20 penalty units.
- (4) A prosecution for an offence against a provision of this section may be started at any time within 4 years after the offence was committed.
- (5) If a person is found guilty of an offence under subsection (1), a court may, as well as imposing a penalty under the subsection, order the person to give the relevant return within a time stated in the order.

⁹³ Section 432 (Amendment of returns) provides for applications to amend returns

⁹⁴ Division 3 (Disclosure of gifts)

⁹⁵ Section 242 (Requirements of councillors before acting in office)

- (6) If a person is found guilty of an offence under subsection (2), a court may, as well as imposing a penalty under the subsection, order the person to pay, within a time stated in the order, to a local government an amount equal to the amount of the value of any gifts made to, or for the benefit of, the person and not disclosed in a return.

437 Records to be kept

- (1) A person who makes or receives a relevant record for an election must keep the record for at least 5 years after the conclusion of the election unless the record, in the normal course of business or administration, is transferred to someone else.

Maximum penalty—20 penalty units.

- (2) In this section—

"relevant record", for an election, is a document or other thing that is or includes a record about a matter particulars of which—

- (a) are, or could be, required to be stated in a return under division 3⁹⁶ about the election; or
(b) evidence that the giver of a gift had an intention mentioned in section 430(6),⁹⁷ definition "prescribed gift", paragraph (a).

438 Obtaining of information and completion of returns

- (1) A person who is required to give a return under division 3 must—

- (a) take all reasonable steps to obtain the particulars required to complete the return; and
(b) complete the return to the extent that it is possible with the particulars obtained.

Maximum penalty—20 penalty units.

- (2) The return must state whether the return is complete as required by division 3 and, if not complete, state—

- (a) the nature and type of particulars the person has not been able to obtain; and
(b) the reasons why the person has not been able to obtain the particulars; and
(c) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give the particulars—that belief and the reasons for it and the name and address of the other person.

- (3) If a return contains a statement mentioned in subsection (2)(c), the chief executive officer of the local government who receives the return must give a written notice to the person named in the statement asking the person to give the chief executive officer the particulars the person knows.

- (4) Subsection (5) applies if, at any time, within 5 years after the conclusion of an election, a person, who has made a statement under subsection (2) in a return about the election that the return is not complete, obtains information or particulars relevant to the return that the person was not able to obtain before completing the return.

- (5) The person must give to the chief executive officer of the local government to whom the return was given a written notice of the information or particulars obtained.

Maximum penalty for subsection (5)—20 penalty units.

439 Attempts to commit offences

- (1) A person who attempts to commit an offence against this part commits an offence.

Maximum penalty—half the maximum penalty for committing the offence.

- (2) The Criminal Code, section 4⁹⁸ applies to subsection (1).

96 Division 3 (Disclosure of gifts)

97 Section 430 (Gifts for third party expenditure for political purposes)

98 The Criminal Code, section 4 (Attempts to commit offences)

440 Noncompliance with part does not affect election

- (1) A failure of a person to comply with a provision of this part for an election does not invalidate the election.
- (2) Without limiting subsection (1) but subject to section 222,⁹⁹ if a candidate who is elected at an election fails to comply with a provision of this part for the election, the failure does not invalidate the election of the candidate.

Division 6—Evidence

441 Evidentiary provisions

- (1) This section applies to a proceeding under this part.
- (2) A certificate purporting to be signed by the chief executive officer of a local government and stating any of the following matters is evidence of the matter—
 - (a) a stated document is an application, declaration, notice or return given or kept under this part, or a copy of it;
 - (b) on a stated day, a stated person was given a stated notice, under this part.

Section 7

Approved and Other Useful Forms

Local Government Election Gifts Form 1

Local Government Election Gifts Form 2

Local Government Election Gifts Form 3

Sample Form – Receipt/Acknowledgement Form

Sample Form for Recording
Gifts Received During a
Disclosure Period

		Date received:	Registered No:
LOCAL GOVERNMENT ACT 1993		RETURN OF GIFTS	
Sections 242(1)(a), 427(2)&(3), 427A(2)&(3)		ELECTED CANDIDATE – LOCAL GOVERNMENT ELECTION	

(Further information to assist candidates to complete this form is attached.)

Details of candidate furnishing this return

Name: _____
 Postal Address: _____

Candidate for Election of *Mayor/*Councillor (* Delete whichever is not applicable)
 Nominated by a Registered Political Party? *YES / *NO (* Delete whichever is not applicable)
 Name of Political Party: _____ (if applicable)
 Local Government: _____ Division No.: _____ (if applicable)

**Requirements under the *Local Government Act 1993*
regarding the completion of this return**

There are three (3) sections to this form. Depending on your circumstances, you will need to complete at least one section of the form.

Section A – must be completed by a candidate if no gifts were received during the disclosure period. (ie. a ‘nil’ return).

Section B – must be completed by a candidate if they, or their campaign committee, received gifts during the disclosure period.

Section C – must be completed by each candidate who is a member of a group of candidates, and the group or the group’s campaign committee, received gifts during the disclosure period.

Sections B and C – must **both** be completed if a candidate and the group of candidates of which they are a member (or their campaign committees), received gifts during the disclosure period.

A candidate who is a member of a group of candidates which received no gifts during the disclosure period is not required to submit a return in respect of the group.

At the time of declaration of office, an elected candidate must decide whether or not the return is an **interim return** or a **final return** in respect of individual gifts (refer to general information attached to this form).

Section A – ‘nil’ return

Disclosure period covered by this ‘nil’ return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council’s office.)

INTERIM*/FINAL*RETURN

Section A – Certification for ‘nil’ return

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify for the purpose of this **final return** that, to the best of my knowledge and belief and on the basis of information readily available at the time the return is given, no gifts of a kind required to be disclosed were received. I declare I do not expect to receive any gifts during the remaining disclosure period for the election. However, should I receive any further gifts after the giving of this return, I will disclose them by a further return.

SIGNATURE: _____

DATE: _____

(* Note: Delete whichever is not applicable.)

Section B – Candidate who received gifts during the disclosure period

Disclosure period covered by this return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

Total value of all gifts received requiring disclosure received as an individual candidate and/or by the candidate's campaign committee: \$ _____

Number of person(s) who made those gifts: _____

If a gift or a series of gifts of a total value of \$200 or more was received by you as an individual candidate or by your campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/FINAL*RETURN

Section B – Certification (as an individual candidate)

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. I do not expect to receive any further gifts during the remainder of the disclosure period. However, should I receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

I certify that to the best of my knowledge and belief, the information provided in this **final return** is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: _____

DATE: _____

(* Note: Delete whichever is not applicable.)

Section C

Candidate who is a member of a group of candidates which received gifts during the disclosure period

A separate return is required from each candidate who is a member of a group of candidates, and the group or the group's campaign committee received gifts of a kind requiring to be disclosed.

Names of candidates forming the group: _____

Name of the group (if any): _____

Total value of all gifts received by a group of candidates and/or the group's campaign committee during the disclosure period requiring disclosure: \$ _____

Number of person(s) who made those gifts: _____

Disclosure period covered by this return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

If a gift or a series of gifts of a total value of \$200 or more were received by a group of candidates or the group's campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/FINAL*RETURN

Section C – Certification (as a member of a group of candidates)

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. The Group does not expect to receive any further gifts during the remainder of the disclosure period. However, should the Group receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

I certify that to the best of my knowledge and belief, the information provided in this **final return** is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: _____

DATE: _____

(* Note: Delete whichever is not applicable.)

Relevant details of gifts

Name of donor	Address of donor	Date gift made	Amount or value of gift \$	Describe if gift-in-kind

(If more space required photocopy page 4 of this form.)

General information to assist elected candidates in local government elections
complete a return of election gifts form (LGEGF 1) required under
the *Local Government Act 1993*

Final Return

All candidates must submit to the Chief Executive Officer (CEO) of the relevant local government, within three months of the conclusion of the election, a final return of gifts received in the approved return. The return can be given or posted to the CEO at the address of the local government's public office.

Nomination deposits (\$150) will be refunded at the conclusion of the expiration of the 30 day disclosure period following the declaration of the election and upon receipt of the final return of election gifts required under the Act.

Final or Interim Return

Prior to making the declaration of office as a Mayor/Councillor, all elected candidates must submit a return of elections gifts to the CEO. The return can be a FINAL RETURN or an INTERIM RETURN.

Interim return: may be submitted to the CEO if the elected candidate does not have all the information regarding gifts readily available prior to taking the declaration of office. The elected candidate would however, need to ensure that a final return was submitted within the three month period after the conclusion of the election.

Final return: alternatively, if the elected candidate is confident that all the information regarding election gifts received is to hand and accurate prior to the taking of the declaration of office, the elected candidate may submit a final return to the CEO. The final return must state that the candidate does not expect to receive any further gifts in the disclosure period and will give a further return if gifts are received.

NB: If gifts are received as an individual candidate (including the individual's campaign committee), or as a member of a group of candidates (including the group's campaign committee), the elected candidate must complete both Sections B and C of Local Government Election Gifts Form 1.

Other relevant information

Amending a Return

Section 432 of the Act allows a person who has submitted a final return to apply to the CEO at any time to correct an error or omission in the return.

Required Information

A person who suspects or believes that a final return has an error or omission may inform the CEO of their suspicion or belief. The candidate making the return will then be advised and must, within 30 days, establish if the return needs to be amended and apply to do so in accordance with Section 432 of the Act.

If a candidate is unable to supply all information to complete a final return, the candidate must state in the certification of their return, where and why the return is deficient and who may be able to supply the missing particulars.

Information relevant to such a return that comes to the attention of the candidate within five years after the conclusion of the election must also be given to the CEO in accordance with Section 438 of the Act.

Inspection

Section 434 of the Act provides that all final returns will be kept in a register of electoral gifts which is open to inspection by any person.

Important Note

Substantial penalties apply for failure to lodge a return or if the contents are false or misleading. Persons completing disclosure of election gifts forms are strongly advised to familiarise themselves with the definitions and provisions of Chapter 5, Part 8 of the *Local Government Act 1993* and/or the contents of the Department of Local Government and Planning's Handbook on the *Disclosure of Election Gifts*.

		Date received:	Registered No:
LOCAL GOVERNMENT ACT 1993	RETURN OF GIFTS		
Section 427(2)	UNSUCCESSFUL CANDIDATE – LOCAL GOVERNMENT ELECTION		

(Further information to assist candidates to complete this form is attached.)

Details of candidate furnishing this return

Name: _____
 Postal Address: _____

Candidate for Election of *Mayor/*Councillor (* Delete whichever is not applicable)
 Nominated by a Registered Political Party? *YES / *NO (* Delete whichever is not applicable)
 Name of Political Party: _____ (if applicable)
 Local Government: _____ Division No.: _____ (if applicable)

**Requirements under the *Local Government Act 1993*
regarding the completion of this return**

There are three (3) sections to this form. Depending on your circumstances, you will need to complete at least one section of the form.

- Section A** – must be completed by a candidate if no gifts were received during the disclosure period. (ie. a ‘nil’ return).
 - Section B** – must be completed by a candidate if they, or their campaign committee, received gifts during the disclosure period.
 - Section C** – must be completed by each candidate who is a member of a group of candidates, and the group or the group’s campaign committee, received gifts during the disclosure period.
 - Sections B and C** – must **both** be completed if a candidate and the group of candidates of which they are a member (or their campaign committees), received gifts during the disclosure period.
- A candidate who is a member of a group of candidates which received no gifts during the disclosure period is not required to submit a return in respect of the group.

Section A – 'nil' return

Disclosure period covered by this 'nil' return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

Section A – Certification for 'nil' return

I certify for the purpose of this **final return** that, to the best of my knowledge and belief, this return is complete and no gifts of a kind required to be disclosed were received during the disclosure period.

SIGNATURE: _____

DATE: _____

Section B – Candidate who received gifts during the disclosure period

Disclosure period covered by this return

Commencement Date: _____
(Refer to the Act to calculate commencement date.)

Conclusion Date: _____
(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

Total value of all gifts received requiring disclosure received as an individual candidate and/or by the candidate's campaign committee: \$ _____

Number of person(s) who made those gifts: _____

If a gift or a series of gifts of a total value of \$200 or more was received by you as an individual candidate or by your campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

Section B – Certification (as an individual candidate)

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. I do not expect to receive any further gifts during the remainder of the disclosure period. However, should I receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

I certify that to the best of my knowledge and belief, the information provided in this **final return** is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: _____

DATE: _____

(Note: Delete whichever is not applicable.)

Section C

Candidate who is a member of a group of candidates which received gifts during the disclosure period

If a candidate is a member of a group of candidates, and the group or the group's campaign committee received gifts of a kind requiring to be disclosed, then each candidate who is a member of a group of candidates must complete this section of the form.

Names of candidates forming the group: _____

Name of the group (if any): _____

Total value of all gifts received by a group of candidates and/or the group's campaign committee during the disclosure period requiring disclosure: \$ _____

Number of person(s) who made those gifts: _____

(* Note: Delete whichever is not applicable.)

Disclosure period covered by this return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(30 days after conclusion of the election – the election concludes when the last notice of the result is displayed in the Council's office.)

If a gift or a series of gifts of a total value of \$200 or more were received by a group of candidates or the group's campaign committee from any person or organisation during the disclosure period, insert the relevant details on the page following Section C – Certification.

Section C – Certification (as a member of a group of candidates)

I certify that to the best of my knowledge and belief, this **interim return** contains the information readily available at the time the return is given and it is correct. * **OR**

I certify that to the best of my knowledge and belief, this **final return** contains the information readily available at the time the return is given and it is correct. The Group does not expect to receive any further gifts during the remainder of the disclosure period. However, should the Group receive any further gifts after the giving of this return I will disclose them by submitting a further return. * **OR**

I certify that to the best of my knowledge and belief, the information provided in this **final return** is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: _____

DATE: _____

(* Note: Delete whichever is not applicable.)

**General information to assist unsuccessful candidates in local government elections
complete a return of election gifts form (LGEGF 2) required under
the *Local Government Act 1993***

Final Return

All candidates must submit to the Chief Executive Officer (CEO) of the relevant local government, within three months after the conclusion of the election, a final return of gifts received in the approved return. The return can be given or posted to the CEO at the address of the local government's public office.

Nomination deposits (\$150) will be refunded at the conclusion of the expiration of the 30 day disclosure period following the declaration of the election and upon receipt of the final return of election gifts required under the Act.

Other relevant information

Amending a Return

Section 432 of the Act allows a person who has submitted a final return to apply to the CEO at any time to correct an error or omission in the return.

Required Information

A person who suspects or believes that a final return has an error or omission may inform the CEO of their suspicion or belief. The candidate making the return will then be advised and must, within 30 days, establish if the return needs to be amended and apply to do so in accordance with Section 432 of the Act.

If a candidate is unable to supply all information to complete a final return, the candidate must state in the certification of their return, where and why the return is deficient and who may be able to supply the missing particulars.

Information relevant to such a return that comes to the attention of the candidate within five years after the conclusion of the election must also be given to the CEO in accordance with Section 438 of the Act.

Inspection

Section 434 of the Act provides that all final returns will be kept in a register of electoral gifts which is open to inspection by any person.

Important Note

Substantial penalties apply for failure to lodge a return or if the contents are false or misleading. Persons completing disclosure of election gifts forms are strongly advised to familiarise themselves with the definitions and provisions of Chapter 5, Part 8 of the *Local Government Act 1993* and/or the contents of the Department of Local Government and Planning's Handbook on the *Disclosure of Election Gifts*.

Date received:	Registered No:
----------------	----------------

LOCAL GOVERNMENT ACT 1993	RETURN OF GIFTS BY A PERSON (OR ORGANISATION) OTHER THAN A REGISTERED POLITICAL PARTY OR A CANDIDATE FOR A LOCAL GOVERNMENT ELECTION
Section 430	

(Further information to assist third parties to complete this form is attached.)

Details of person furnishing return

Name of person furnishing return: _____

Name of organisation on whose behalf the return is completed (if applicable):

Postal Address: _____

Local Government: _____ Division No.: _____ (if applicable)

Disclosure period for third party

Disclosure period covered by this return

Commencement Date: _____

(Refer to the Act to calculate commencement date.)

Conclusion Date: _____

(The prescribed period (currently 30 days) after the polling day for the election.)

Requirements under the *Local Government Act 1993* regarding the completion of this return

This return must be furnished by any person or organisation (a 'third party') who, during the disclosure period, incurred expenditure or reimbursed expenditure for a political purpose of \$1,000 or more about one or more elections for a particular local government AND who received gifts of a value of \$1,000 or more for expenditure or to reimburse expenditure in relation to that local government.

Certification

I certify that to the best of my knowledge and belief, the information provided in this return is correct and complete.

*** OR**

I certify that to the best of my knowledge and belief, the information provided in this return is correct and complete except to the extent identified below:

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: _____

DATE: _____

(* Note: Delete whichever is not applicable.)

General information to assist persons (or organisations) other than a political party or a candidate for a local government election complete a return of election gifts form (LGEGF 3) required under the *Local Government Act 1993*

The completed final return must be given to the CEO of the relevant local government or posted to the CEO at the address of the local government's public office within three months after the conclusion of the election.

A third party does not include a person who is a member of a candidate's campaign committee or a group's campaign committee for an election of the candidate or members of a group of candidates.

(NB: Where a gift with a value of \$1,000 or more is received and expenditure for a political purpose of an amount greater than \$1,000 occurs and relates to two or more local governments, a separate return must be furnished to EACH local government disclosing the full value of the gift in each return.)

Section 432 of the Act allows a person who has given a final return to apply to amend it at any time to correct an error or omission in the return.

All returns will be kept in a register of electoral gifts which is open to inspection by any person (Section 434).

A person who suspects or believes that a final return has an error or omission may inform the CEO of their suspicion or belief. The third party making the return will then be advised and must, within 30 days, establish if the return needs to be amended and apply to do so (Section 432).

If unable to supply all information to complete a final return, the third party making the return must state where and why the return is deficient and who may be able to supply the missing particulars.

Information relevant to such a return that comes to the attention of the third party within five years after the conclusion of the election must also be given to the CEO (Section 438).

Important Note

Substantial penalties apply for failure to lodge a return or if the contents are false or misleading. Persons completing this form are strongly advised to familiarise themselves with the definitions and provisions of Chapter 5, Part 8 of the *Local Government Act 1993* and/or the contents of the Department of Local Government and Planning's Handbook on the *Disclosure of Election Gifts*.

SAMPLE FORM – RECEIPT/ACKNOWLEDGEMENT FORM

RECEIPT/ACKNOWLEDGEMENT FORM

Receipt No.: _____

Date: _____

Name of Candidate: _____

Local Government: _____ Division No: _____

Received from: _____

(Name of Donor)

of: _____

(Address of Donor)

goods/services/cash to the value of \$ _____

Description of goods donated or services performed:

Cash: Deposited on / / to _____ A/c No.: _____
(Name of Bank Account)

at _____ branch of the _____ Bank

Complete in triplicate:

Original to Donor

Copy Attached to Return

Copy Kept for Records

**Sample Form for Recording Gifts Received
During a Disclosure Period**

Date	Event	Recording action taken	Name of donor	Address of donor	Date of gift	Amount or value of gift \$200 or greater	Gift-in-kind: describe	Number of persons	Total value of all gifts

