

Funding and Disclosure

HANDBOOK

FOR LOCAL GOVERNMENT ELECTIONS AND BY-ELECTIONS



ECQ publications are not intended to substitute for the *Electoral Act 1992* or the *Local Government Electoral Act 2011*. Candidates, agents and others are advised to obtain a copy of the Acts and seek their own independent advice if necessary. The Act is available on the Queensland Legislation website: www.legislation.qld.gov.au

Introduction	1
Introduction	1
Assistance and Enquiries	1
Candidates and Groups	2
Candidates	2
Group of Candidates	2
Appointing an agent	2
Register of group agents.....	2
Revoking the appointment of an agent.....	2
Disclosure Period	3
Disclosure Period – Candidates.....	3
Disclosure Period – Group of Candidates	3
Disclosure Returns	3
Real-Time Disclosure – Candidates.....	4
Real-Time Disclosure – Group of Candidates	4
Periodic Disclosure – Candidates and Groups of Candidates	4
Nil Returns.....	4
Gifts received	5
Rules about gifts.....	5
Particular gifts not to be received	6
Loans received	6
Particular loans not to be received.....	6
Candidate must operate a dedicated account	7
What must be deposited into a dedicated account?	7
Third Parties	8
Third Parties	8
Disclosure Periods	8
Disclosure Returns	8
Expenditure incurred for political activity	8
What is a political activity?	9

Contents

Gifts received to enable expenditure for political activity 9

Glossary **10**

Glossary **10**

Introduction

This handbook is issued by the Electoral Commission of Queensland (ECQ) to guide candidates, agents for groups of candidates, and third parties/donors through the financial disclosure provisions of the *Local Government Electoral Act 2011* (Act).

Candidates, agents and third parties have an obligation to familiarise themselves with all relevant legislation. Failure to do so cannot be used as an excuse for non-compliance.

All disclosure returns submitted to ECQ must be completed in full through the electronic disclosure system on ECQ's website. If the returns are incomplete, the candidate, agent or third party must state the nature of what has been left out and the reasons why. The names and addresses of any people who are able to provide particulars are required with this submission.

Assistance and Enquiries

Contact Details

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

Contact	Details
Postal address	GPO Box 1393 BRISBANE QLD 4001
Phone	1300 881 665
Email	fad@ecq.qld.gov.au

Candidates and Groups

Candidates

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

Group of Candidates

A group of candidates in an election means a group of individuals, each of whom is a candidate, if the group was formed:

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

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

Appointing an agent

Groups of candidates contesting local government elections must appoint an adult as an agent by completing the approved form, available from ECQ.

The form requires the agent's name and address, and they must sign the form declaring their consent to the appointment and their eligibility for the appointment.

All the candidates in the group must also sign the form.

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

Register of group agents

ECQ keeps a register containing the names and addresses of every agent. An agent's appointment takes effect when his or her name is entered in the register and ends when their name is removed.

Agents must ensure that ECQ always has their current address and contact details.

Revoking the appointment of an agent

The name of an agent may only be removed from the register if:

- they give the returning officer a signed written notice stating that he or she has resigned the appointment as agent; or
- the group of candidates gives the returning officer a signed written notice stating that the person has ceased to be the group's agent.

If the name of an agent is removed from the register, the group of candidates may appoint another agent.

If no agent is appointed, all obligations under the Act applying to a group agent (including liability for any offence) apply to each member of the group of candidates.

Disclosure Period

Different disclosure periods apply depending on whether a candidate previously stood for a local government election in the past, is contesting a local government election for the first time, or is standing for election as part of a group of candidates.

The disclosure period for all candidates ends 30 days after polling day, unless otherwise extended.

Disclosure Period – Candidates

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

For a new candidate who hasn't stood as a candidate for a local government election within the last 5 years, the disclosure period starts the earlier of:

- the day the person announces their candidacy; or
- the day the person nominates as a candidate in the election.

The disclosure period for new candidates ends 30 days after the polling day for the current election.

Disclosure Period – Group of Candidates

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

Disclosure Returns

Candidates and agents of groups of candidates must provide two types of disclosure returns to ECQ through the electronic disclosure system on ECQ's website:

1. Real-time disclosure – within seven business days of a gift/loan being received; and
2. Periodic disclosure – within 15 weeks after polling day for the election.

Candidates and Groups

Real-Time Disclosure – Candidates

The obligation for real-time disclosure by candidates commences on the day of their nomination.

Once nominated, a candidate that receives a gift or loan totaling \$500 or more must provide a return to ECQ within seven business days of the gift or loan being received.

The \$500 may be one gift/loan or the sum of multiple gifts/loans. If the sum of all gifts/loans received from an entity amounts to \$500 or more, the candidate must provide a return to ECQ within seven days of the gift/loan reaching the \$500 threshold. Once the threshold has been reached, all subsequent gifts/loans, regardless of the amount, must be reported to ECQ within seven business days.

If any gifts or loans were received prior to nomination, the candidate must submit a retrospective return about these gifts or loans by the seventh business day after they nominate.

Real-Time Disclosure – Group of Candidates

The obligation for real-time disclosure by agents of groups of candidates commences on the day the group provides a record of its membership to the returning officer.

Once the record of membership is given, the agent of a group of candidates that receives a gift or loan totaling \$500 or more must provide a return to ECQ within seven business days of the gift or loan being received.

The \$500 may be one gift/loan or the sum of multiple gifts/loans. If the sum of all gifts/loans received from an entity amounts to \$500 or more, the candidate must provide a return to ECQ within seven days of the gift/loan reaching the \$500 threshold. Once the threshold has been reached, all subsequent gifts/loans, regardless of the amount, must be reported to ECQ within seven business days.

If any gifts or loans were received by the group prior to giving the record of membership, the group's agent must submit a retrospective return about these gifts or loans by the seventh business day after they provide the record of membership.

Periodic Disclosure – Candidates and Groups of Candidates

Candidates and agents of groups of candidates must, within 15 weeks after polling day, provide a periodic return to ECQ that summarises:

- the total value of gifts received and the number of donors who made the gifts; and
- the total value of loans received and the number of persons who made the loans.

Nil Returns

If a candidate or group does not receive any gifts or loans during the disclosure period for the election, the candidate or group agent must nonetheless submit a nil return to ECQ within 15 weeks after polling day.

Gifts received

Gifts received by a candidate or group of candidates totaling \$500 or more from a single entity must be reported to ECQ by the disclosure date.

The disclosure date is:

- For gifts received prior to nomination: the seventh business day after nomination; and
- For gifts received on or after nomination: the seventh business day after the gift is received.

The disclosure return must include the following relevant details about the gifts received:

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

If the gift was made by an unincorporated association, the return must also state:

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

If the gift was made by a trust fund or foundation, the return must also state:

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

Rules about gifts

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

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

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

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

Candidates and Groups

Particular gifts not to be received

It is unlawful for a candidate or group of candidates to receive a gift unless the relevant details of the gift are known. The relevant details required are the same as those for gifts of \$500 or more. Otherwise, an amount equal to the value of the gift may be recovered by the State.

Loans received

Loans received by a candidate or group of candidates totaling \$500 or more from any entity other than a financial institution must be reported to ECQ by the disclosure date.

The disclosure date is:

- For loans received prior to nomination: the seventh business day after nomination; and
- For loans received on or after nomination: the seventh business day after the gift is received.

The disclosure return must include the following relevant details about the loan received:

- the date on which the loan was made;
- the value and terms of the loan; and
- the name and residential or business address of the person who made the loan.

If the loan was made by an unincorporated association, the return must also state:

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

If the loan was made by a trust fund or foundation, the return must also state:

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

Particular loans not to be received

It is unlawful for a candidate or group of candidates to receive a loan from any entity (other than a financial institution) unless the relevant details of the loan are kept. The relevant details required are the same as those for loans of \$500 or more. Otherwise, an amount equal to the value of the loan may be recovered by the State.

Candidate must operate a dedicated account

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

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

What must be deposited into a dedicated account?

A candidate or group of candidates must ensure that all amounts received by them, or on their behalf as a candidate, during the disclosure period for the election are paid into their dedicated account. This includes:

- all gifts received by the candidate or group of candidates for the election; and
- all amounts received as loans by the candidate or group of candidates for the election.

A candidate or group of candidates must ensure that all campaign expenditure is paid out of their dedicated account during the disclosure period.

Important: If there is any amount that remains in the dedicated account at the end of the disclosure period, the amount can only be:

- kept in the account for future election campaigns by the candidate or group of candidates; or
- paid to a political party, if the candidate, or each member of a group of candidates, was a member of that party during the disclosure period; or
- paid to a charity nominated by the candidate or group of candidates.

The leftover amount cannot be dealt with in any other way than described above.

Third Parties

Third Parties

A third party/donor in an election is an entity other than:

- a political party;
- an associated entity of a political party;
- a candidate; or
- a member of a committee whose purpose is to assist in the election campaign of a candidate or group of candidates in an election.

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

Disclosure Periods

Third parties have different disclosure periods for money they spend on electoral activity and gifts they receive for that purpose.

The disclosure period for payments or gifts made by a third party/donor starts the day after the notice of the election is published in the local newspaper and ends at 6pm on polling day.

The disclosure period for gifts received by third parties extends from 30 days after polling day for the last quadrennial election until 30 days after polling day for the current election.

Disclosure Returns

All disclosure returns must be submitted through the electronic disclosure system on ECQ's website.

Expenditure incurred for political activity

If a third party/donor incurs expenditure for political activity totaling \$500 or more during the disclosure period, the third party must give a return to ECQ by the disclosure date.

The disclosure date is the seventh business day after the expenditure amount is incurred.

If the threshold of \$500 is reached through a number of smaller payments, the return must include details of each payment that led to the \$500 being reached.

Once the threshold has been reached, any further expenditure incurred, regardless of the amount, must be reported to ECQ within seven business days.

The third party/donor must include the following relevant details about the expenditure in its return:

- the value of the expenditure;

- the date on which expenditure was incurred; and
- the particular purpose for the expenditure.

What is a political activity?

A third party/donor incurs expenditure for a political activity if the third party/donor incurs expenditure by:

- publication by any means (including radio or television, on the internet or through social media) of material which may influence voting at an election;
- public expression of views on an issue in an election;
- a gift to a political party or a candidate; or
- a gift to a person on the understanding that it will be applied for a purpose outlined above.

Gifts received to enable expenditure for political activity

If a third party/donor receives a gift totaling \$500 and uses the gift, either wholly or in part, to incur expenditure for political activity during the disclosure period, the third party must give a return to ECQ by the disclosure date.

The disclosure date is the seventh business day after the gift is applied to a political activity.

The disclosure return must include the following relevant details about the gifts received:

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

If the gift was made by an unincorporated association, the return must also state:

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

If the gift was made by a trust fund or foundation, the return must also state:

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

Glossary

Glossary

Act means the *Local Government Electoral Act 2011*.

Agent means an agent of a candidate or group of candidates, the person responsible for complying with the disclosure obligations of the candidate or group of candidates.

Candidate means a person whose nomination for election as a councillor has been certified by the returning officer under section 27(3)(a).

ECQ means the Electoral Commission of Queensland.

Election Period for an election, means the period:

- (a) starting on the day when public notice of the holding of the election is given under section 25(1); and
- (b) ending on the close of the poll for the election.

Fundraising Activity includes conducting a social function at which persons are charged for admission, or conducting an auction or a raffle.

Gift means (see section 107 of the Act):

(a) the disposition of property or the provision of a service, without consideration or for a consideration that is less than the market value, but does not include:

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

(b) payment for attendance at or participation in a fundraising activity

Gift in Kind means a gift of any good or service other than money.

Political Activity means any of the following:

- (a) publication by any means (including radio or television) of election material;
- (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).

Regulation means the *Local Government Electoral Regulation 2012*.

Third Party, for an election, means any entity other than:

- (a) a political party, an associated entity or a candidate; or
- (b) persons appointed to form a committee to help the election campaign of a candidate who has been nominated for election by the registered officer of a registered political party, if the committee is recognised by the political party as forming part of the political party; or
- (c) a person who is a member of a committee for the election of a candidate or members of a group of candidates for the election.



Post: GPO Box 1393 BRISBANE QLD 4001
Telephone: 1300 881 665
Email: fad@ecq.qld.gov.au