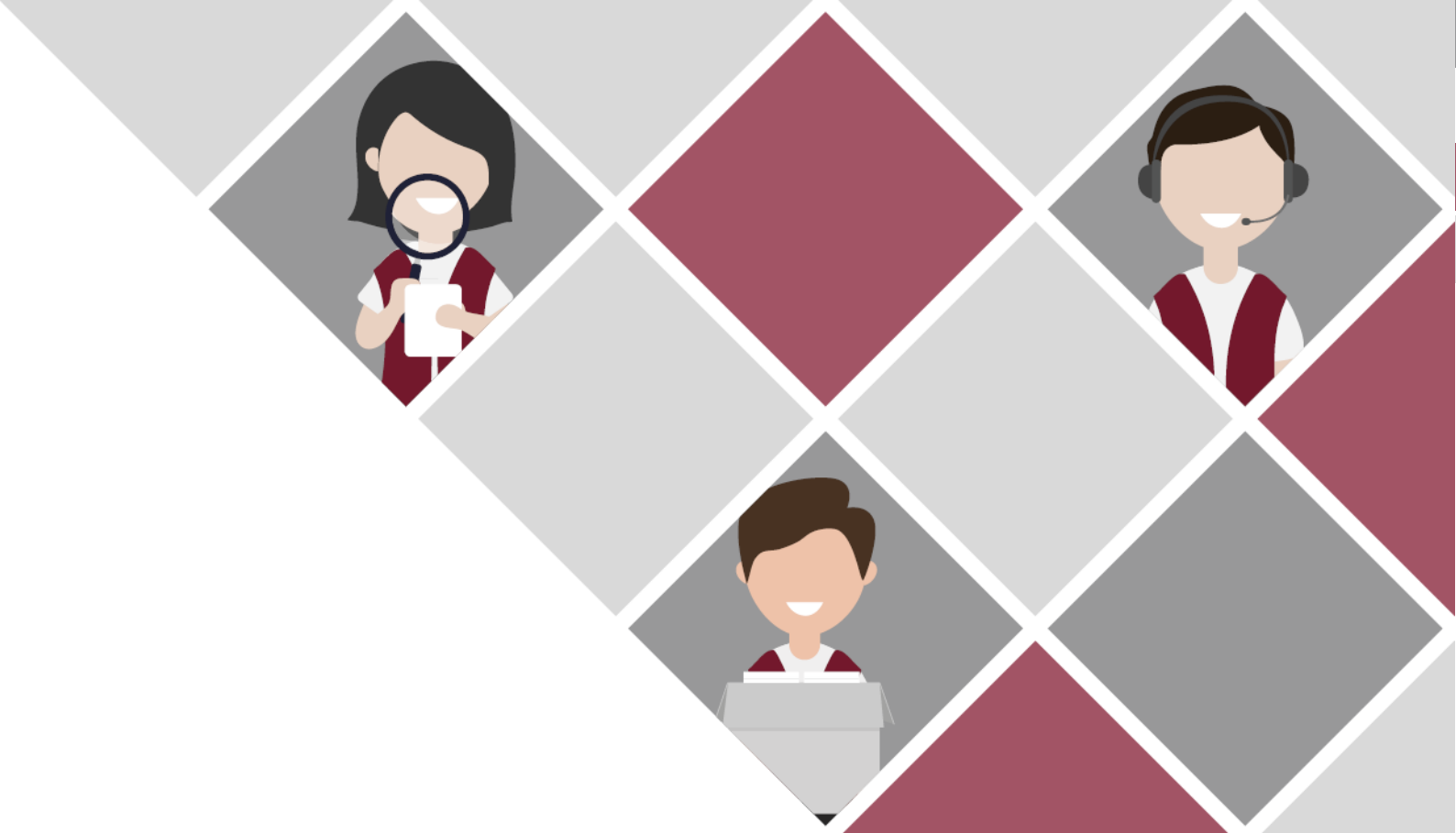

ELECTION AND DISCLOSURE GUIDE FOR REGISTERED POLITICAL PARTIES

FOR LOCAL GOVERNMENT ELECTIONS

VERSION 2.1: NOVEMBER 2023

Electoral Commission QUEENSLAND

REGISTERED POLITICAL PARTIES

Introduction

The Electoral Commission of Queensland (ECQ) is the independent statutory authority responsible for the impartial conduct of State, local, and industrial elections. It also works to ensure that election participants comply with funding and disclosure requirements, set out in the *Electoral Act 1992* (EA), *Local Government Electoral Act 2011* (the Act), and the Local Government Electoral Regulation 2023 (the Regulation).

These legal requirements promote transparency and fairness, and include (amongst others):

- disclosing gifts and loans made and received
- disclosing electoral expenditure incurred
- use of dedicated local campaign bank accounts
- enforcement of expenditure caps
- enforcement of prohibited donor laws.

This handbook is a compilation of fact sheets to help registered political parties comply with their election and disclosure obligations for local government elections and by-elections.

The ECQ can undertake a range of actions to ensure and enforce compliance, including conducting compliance reviews and audits, issuing penalty infringement notices (fines), recovering amounts as debts due to the State and commencing prosecutions.

Disclaimer

The ECQ's publications are not legal advice, nor are they intended as a substitute for the Act or Regulation. The ECQ recommends that stakeholders refer to the Act and Regulation, and if necessary, seek independent legal advice in relation to their election and disclosure obligations.

The EA, Act and Regulation are available on the Queensland legislation website: www.legislation.qld.gov.au.

Assistance and enquiries

The ECQ's Funding and Disclosure team is available to provide general guidance and information in relation to election and disclosure compliance matters. The ECQ will not provide specific legal, financial or other professional advice. All electoral participants should seek their own legal advice if they are concerned about how the law treats their particular circumstances.

REGISTERED POLITICAL PARTIES

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REGISTERED POLITICAL PARTIES

Funding and disclosure overview

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to registered political parties that endorse candidates for local government elections, and their agents and associated entities.

What is a registered political party?

A registered political party is a political party that is registered under the *Electoral Act 1992*. The registration of political parties makes their roles in relation to elections transparent to the public. If a political party wishes to nominate candidates for an election, the political party must be registered with the ECQ: www.ecq.qld.gov.au/donations-and-expenditure-disclosure/registers.

Registered political parties must adhere to regulations and reporting obligations in relation to gifts, loans and expenditure incurred on election campaigns.

What is an associated entity of a registered political party?

Associated entities of registered political parties:

- are controlled by the party or its endorsed candidates
- operate wholly or to a significant extent for the benefit of the party or its endorsed candidates
- operate for the dominant purpose of promoting the party or its endorsed candidates.

Associated entities of registered political parties need to be aware of electoral expenditure caps that apply to their party, because the funds they spend may affect their party's caps.

This fact sheet provides information **only** for registered political parties. For information about associated entities, see Fact sheet 37 – Funding and disclosure overview for associated entities.

Should registered political parties appoint an agent?

The agent who is appointed under the *Electoral Act 1992* will also be the agent for the purposes of the LGEA. This agent is responsible for ensuring an election participant's compliance obligations under the LGEA are met.

See Fact Sheet 38 – Funding and disclosure overview for agents for further information about who can be an agent and their responsibilities.

Do registered political parties need a dedicated campaign bank account?

Yes – all registered political parties **must** open and use a dedicated campaign bank account before paying for any electoral expenditure for a local government election.

This account must be separate from the party's state campaign account.

Parties that regularly endorse candidates in local government elections may keep the same dedicated campaign bank account for successive local elections.

For more information, see Fact sheet 28 – Dedicated campaign bank accounts for registered political parties.

What disclosure obligations do registered political parties have?

DISCLOSURE OF GIFTS AND LOANS RECEIVED

The LGEA does not regulate the disclosure of gifts received by registered political parties.

Agents of registered political parties must continue to comply with all requirements under the *Electoral Act 1992*. Even if gifts are received for use in a local election, all gifts and loans of $1,000 or more received during a reporting period must be disclosed. Agents of registered political parties need to lodge returns for gifts and loans with the ECQ within 7 business days.

24-hour disclosure for gifts and loans does not apply for local government elections.

For more information, please refer to state elections Fact sheet 5 – Disclosure of gifts, loans and political donations received by registered political parties.

DISCLOSURE OF ELECTORAL EXPENDITURE INCURRED

Agents of registered political parties must disclose all electoral expenditure incurred for a local government election once their total expenditure reaches $500. Returns for electoral expenditure must be lodged with the ECQ within 7 business days, or within 24 hours if the expenditure is incurred within 7 business days before election day.

For more information, see Fact sheet 18 – Real-time disclosure of electoral expenditure for candidates, groups and registered political parties.

ELECTION SUMMARY RETURN

Agents of registered political parties must give an election summary return within 15 weeks after election day for a local government election. The return must state the total amount of all electoral expenditure incurred for the election and include a copy of the bank statement for the party's dedicated campaign bank account.

For more information, see Fact sheet 14 – Election summary returns.

Are any gifts prohibited?

Yes – it is unlawful for a registered political party to accept a gift or loan from a property developer or an industry organisation representing property developers. See the ECQ website for more information.

It is also unlawful for a registered political party to receive anonymous gifts or loans totalling $1,000 or more under section 271 of the *Electoral Act 1992*. This includes gifts or loans where the name, address or other required details of the donor are not known to the group.

Are there expenditure caps for local government elections?

Yes – there are limitations (caps) on the amount of electoral expenditure that can be incurred by a registered political party and its endorsed candidates during the capped expenditure period for a local election.

See Fact sheet 29 – Expenditure caps for registered political parties and endorsed candidates for more information about expenditure caps and the capped expenditure period.

Record keeping

All registered political parties must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements.

See Fact sheet 8 – Record keeping requirements for more information about record keeping requirements.

Compliance

The ECQ is responsible for administering and enforcing the LGEA which includes penalties for candidates, councillors, and other parties who breach their disclosure obligations.

The compliance framework is available on the ECQ website.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheet 14 – Election summary returns

Fact sheet 18 – Disclosure of electoral expenditure for candidates, groups of candidates, and registered political parties

Fact sheet 28 – Dedicated campaign bank accounts for registered political parties

Fact sheet 29 – Expenditure caps for registered political parties and endorsed candidates

State Fact sheet 5 – Disclosure of gifts, loans and political donations received by registered political parties

Fact sheet 37 – Funding and disclosure overview for associated entities

Fact sheet 38 – Funding and disclosure overview for agents

Fact sheets are available on the ECQ website.

REGISTERED POLITICAL PARTIES

Dedicated campaign bank accounts

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to registered political parties that endorse a candidate in a local government election or by-election, as well as the party's agent and associated entities.

Any registered political party that endorses a candidate in a local government election must:

- **establish a dedicated campaign bank account** with a financial institution
- **use the account to pay for all electoral expenditure**.

The account **must not** be used for any other purposes.

Credit cards **must not** be used to pay for electoral expenditure. Debit cards linked to the dedicated campaign bank account are acceptable.

Any funds remaining in the account at the end of the election can only be dealt with in certain ways (see below for further information).

If a registered political party has an associated entity, the entity must use the party's dedicated campaign bank account to pay for all electoral expenditure. See Fact sheet 37 – Funding and disclosure overview for associated entities for further information about associated entity obligations.

When to open a dedicated campaign bank account

Registered political parties must open a dedicated campaign bank account **before** paying for any electoral expenditure. The party's account is in addition to the dedicated campaign bank accounts that each of its candidates must also establish.

Registered political parties that regularly endorse candidates in local government elections may keep the same dedicated campaign bank account for successive local elections. A new account does not have to be opened each time. However, all disclosure, reporting and audit requirements must be met in full for each election.

Registered political parties **must not** use the same bank account for local and state elections. A party's dedicated campaign bank account for local elections must be separate from its state campaign account.

When to notify the ECQ of bank account details

The agent of a registered political party must notify the ECQ of the party's dedicated campaign bank account details within **5 business days** of endorsing a candidate.

If any account details change, the agent must notify the ECQ within 5 business days.

Bank account details can be provided and updated through the ECQ's Political Party Self Service Portal.

What can go into the dedicated campaign bank account?

Registered political parties may transfer their own funds into their dedicated campaign bank account, except any amount that is required to be kept in their state campaign account.

Gifts or loans from prohibited donors must never be accepted nor placed in a party's dedicated campaign bank account, directly or indirectly. For further information about prohibited donors, refer to the ECQ's website.

What can be paid from the account?

The dedicated campaign bank account **must only** be used to pay for electoral expenditure relating to a local government election.

All electoral expenditure **must be paid** from the dedicated bank account, and **only** in the following ways:

- via an electronic funds transfer
- using a debit card that withdraws the payment directly from the account
- using cash withdrawn from the account (provided the amount withdrawn does not exceed the amount to be paid, rounded up to the nearest amount an ATM can dispense, if applicable).

The use of a credit card to pay for electoral expenditure is **strictly prohibited**, as is using funds in a dedicated campaign bank account to pay a charge incurred using a credit card. See Fact Sheet 15 for further information about the ban on credit card use.

Electoral expenditure has a specific definition under legislation. Not all campaign expenses are electoral expenditure. See Fact sheet 12 – Definition of electoral expenditure for further information about what is and is not electoral expenditure.

What does the party do with the account after the election?

Any amounts remaining in the dedicated campaign bank account at the end of the election may **only** be dealt with in the following ways:

- be kept in the account for a future local election
- be paid to a charity
- be paid to the party.

Excess amounts cannot be transferred, paid or withdrawn for any other purpose.

Parties that intend to endorse a candidate in future local elections should keep the account open so that it can be used to pay for any electoral expenditure for subsequent elections.

Records relating to the dedicated campaign bank account must be kept and made available to the ECQ for at least 5 years after the election. For further information about record keeping requirements, refer to Fact sheet 8 – Record keeping requirements.

Compliance and penalties

There are significant financial penalties for not complying with the dedicated campaign bank account requirements and for using a credit card for electoral expenditure.

Failure to comply with either requirement carries a maximum penalty of 100 penalty units (valued at $15,480 as of 1 July 2023).

For further information

This fact sheet mainly refers to part 6, sections 126–127C of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheet 10 – Definition of gifts and loans

Fact sheet 12 – Definition of electoral expenditure

Fact sheet 14 – Election summary returns

Fact sheet 15 – Ban on credit card use

Fact sheet 37 – Funding and disclosure overview for associated entities

All fact sheets can be found on the ECQ's website.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

REGISTERED POLITICAL PARTIES

Candidate endorsements & preselection ballots

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA) or the *Electoral Act 1992* (Qld). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to registered political parties that preselect and endorse candidates for local elections and by-elections.

What is a preselection ballot?

Preselection is the process by which a political party chooses a candidate to endorse for a particular election. A preselection ballot is where members of the party vote in a poll for the purposes of preselecting a candidate for endorsement.

A party's registered officer must give the ECQ written notice at least **7 days before voting** starts in a preselection ballot for a local election. Only parties that use preselection ballots as part, or whole, of their preselection processes need to comply with this requirement.

For more information on preselection ballots, refer to the Preselection Ballot Handbook.

Notifying the ECQ of endorsement

No matter what preselection method is used, the registered officer of a registered political party must notify the ECQ of a candidate's endorsement for a local election.

The party's registered officer must notify the ECQ **within 7 days** if:

- the party endorses a person to be a candidate for an election
- the party proposes to endorse a candidate for an election (e.g., by publicly announcing an intention to endorse a person as a candidate, or by incurring electoral expenditure for the benefit of the candidate)
- the party changes its endorsement or proposed endorsement of a person before election day
- a councillor who was endorsed by the party stops being a member of the party.

To do this, the registered officer of the party must complete Form FAD2A.

The ECQ will contact the candidate or councillor as soon as practicable after receiving a notice of endorsement, or change to endorsement, by the party.

Notifying the ECQ of a withdrawn endorsement

Registered political parties must notify the ECQ of the withdrawal of a candidate's endorsement for a local election.

The party's registered officer must notify the ECQ **within 7 days** if:

- the party has endorsed a person to be a candidate, then changes its endorsement to another person
- the party nominates a person as a candidate, then withdraws its endorsement of that person.

To do this, the registered officer must complete Form FAD2B.

If the notice of withdrawal is given to the ECQ **before** noon on the day the nominations close, the candidate's nomination is of no effect (i.e., the nomination is automatically withdrawn).

If the notice of withdrawal is provided to the ECQ **after** noon on the day the nominations close, the candidate's name will still appear on the ballot paper, adjacent to the party's name.

The ECQ will contact the candidate as soon as practicable after receiving a notice of withdrawal of their endorsement by the party.

If a registered political party decides to end its endorsement of a candidate during the capped expenditure period for an election, there will be impacts to the electoral expenditure caps of the party and its candidates. For more information, refer to Fact Sheet 29 – Expenditure caps for registered political parties and endorsed candidates.

Offences and penalties

Penalties apply for failing to comply with these notification requirements. See the ECQ website for details.

CANDIDATES

Eligibility to become a candidate in local government elections

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your circumstances, you should seek independent legal advice.

What skills are required by councillors?

Local governments need councillors from diverse backgrounds with a wide range of knowledge, skills and experience. While formal qualifications are not needed for the role, to be an effective councillor a person needs to have:

- an active interest in community issues
- good communication skills and the ability to engage with a range of people
- good problem solving and negotiation skills
- motivation to work with others to achieve results
- leadership skills
- business and financial management skills
- a willingness to do the right thing if faced with a conflict of interest between the public interest and a personal interest.

What are the eligibility requirements to become a councillor?

All persons who wish to contest a local government election must be eligible to be a councillor in Queensland.

All councillors must meet the following mandatory eligibility requirements as set out in the *Local Government Act 2009*, the *City of Brisbane Act 2010,* and the *Local Government Electoral Act 2011*:

- be an adult Australian citizen (including an Australian citizen who holds dual citizenship with another country)
- be enrolled on the Queensland electoral roll and reside in the local government area for which they are nominating.
  (Note: if standing for election in an electoral division of a divided local government area, the candidate is not required to reside in that division but must reside within the local government area)
- not be disqualified from being a councillor because of a conviction for any one of the following types of offences:
  - a treason offence
  - an electoral offence
  - a bribery offence
  - an integrity or serious integrity offence
- not subject to other circumstances including:
  - having an undischarged bankruptcy
  - being on probation, in prison, on parole or serving a suspended sentence
  - being a member of a state or federal parliament or a councillor of a local government of another state.

CANDIDATES

Nominating as a candidate for local government elections

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011*. The information in this fact sheet does not replace legislation. If you are concerned about your circumstances, you should seek independent legal advice.

This fact sheet relates to the nomination process for local government elections in Queensland.

The Electoral Commission of Queensland (ECQ) manages the candidate nomination process for local government elections.

In Queensland, you can be nominated as:

- an individual
- a member of a group of candidates
- an endorsed candidate of a registered political party.

Note: You can choose to stand for election as a councillor or as mayor – but not for both.

When to lodge a nomination

The nomination period commences once the Notice of Election is issued by the ECQ. This will be published on the ECQ's website.

Nominations must be lodged before **midday** on the last day of the nomination period. The date and time of the close of nominations are published in the Notice of Election.

How to lodge a nomination

Nominations are lodged with the Returning Officer, who is the ECQ's representative in each local government area. Contact details for Returning Officers and their office locations are available on the ECQ's website following the publication of the Notice of Election.

Nominations for candidates (including candidates who are members of a group) must be lodged on the approved nomination form, which can be accessed via the ECQ's Self Service Portal.

Completed nomination forms can be submitted online via the Self Service Portal or can be lodged with the Returning Officer responsible for the local government area being contested, or the ECQ's head office, in person or by post.

The completed form and the $250 nomination fee must be received by the Returning Officer or the ECQ before **midday** on the day nominations close.

If a candidate is endorsed by a registered political party, the registered officer of the political party is responsible for lodging the candidate's nomination form directly with the ECQ's head office. In this case, the candidate must ensure that all required information is provided to the party's registered officer in advance of the nomination process.

Things to do before submitting a nomination form:

MANDATORY COUNCILLOR TRAINING

All candidates are required to complete a free online training course with the Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) within the six-month period prior to nominating for a quadrennial election or by-election.

This applies to ALL candidates - whether they have previously contested an election or have never contested an election.

So you want to be a councillor?, the mandatory councillor training for the 2024 local government elections is available at DSDILGP. The link can also be found on the ECQ's website under Election Participants. The training will take about 90 minutes to complete and has both audio and video components.

Upon completing the training, the candidate will receive a certificate of completion. This certificate must be downloaded and saved as the nomination form will ask for the certificate's reference number as proof of completion.

DEDICATED CAMPAIGN BANK ACCOUNT

Candidates must open a dedicated bank account and provide the details of the bank account on the nomination form.

Candidates who are members of a group of candidates are required to have one dedicated campaign bank account for the group. Account details for the group's dedicated account must be provided on each candidate's nomination form.

For further information detailing how to properly use the dedicated campaign bank account during the election, please refer to Fact sheets 17, 22, 27 and 33. Strict penalties apply for failing to comply.

DECLARATION OF PERSONAL INTERESTS

Details of a candidate's personal and material interests and affiliations must be declared on the nomination form. Candidates should prepare the following information in advance of nominating:

- any membership of a registered political party or trade or professional organisation held by the candidate within the 12 months prior to nominating
- whether the candidate, or a close associate of the candidate, has a contractual arrangement[1] with the council being contested
- whether the candidate, or a close associate of the candidate, is engaged in a contractual process[2] with the council being contested
- whether the candidate, or a close associate of the candidate, has made any applications or representations about particular applications (which are yet to be decided) to the council being contested.

For the purposes of candidate nominations, a person is a close associate of a candidate if the person is one of the following:

- a spouse of the candidate
- a partner in a partnership with the candidate

[1] See definition of contractual arrangement, schedule 1, LGEA.
[2] See definition of contractual process, schedule 1, LGEA .

- an entity for which the candidate is an executive officer or board member.

Generally, all information provided in a nomination form will be published on the ECQ's website until the conclusion of the election. Some information will be held by the ECQ as part of the nomination process but **will not be disclosed** to the public:

- residential address of a candidate who is a silent elector
- residential address of close associates named on a candidate's nomination form
- residential address of a person who is an elector nominating a candidate
- details of the dedicated campaign bank account, including BSB and account number, name of account and financial institution, of the candidate or group of candidates.

ENDORSEMENT

Candidates who are not endorsed by a registered political party must be nominated by:

- at least 6 electors (i.e., persons enrolled on the electoral roll) who live within the local government area (for undivided councils), or
- at least 6 electors who live within the division or ward of the local government area being contested (for divided councils).

This includes candidates who are contesting the election as a member of a group of candidates. The credentials of electors nominating a candidate are checked against the electoral roll. The ECQ recommends that candidates submit nominations from more than 6 electors in case one or more of their nominators are not eligible electors.

A candidate endorsed by a registered political party must be nominated by the party's registered officer. Party-endorsed candidates are required to sign a Consent and Declaration Form to consent to their nomination. The Consent and Declaration Form can be obtained from the registered officer of the political party or from the ECQ and should be provided to the party's registered officer by each candidate in advance of nomination.

FORMING A GROUP OF CANDIDATES

Two or more candidates who wish to form a group to collectively campaign must register as a group with the ECQ before engaging in any group campaign activities. A group may apply to register at any time up to the day before election day, but if a group applies for registration before the close of nominations, the group's name will appear next to the candidates' names on the ballot paper.

Applications for registration must include the details of the group's dedicated campaign bank account, appoint an agent for the group and contain signatures from all proposed group members. For more details, please see Fact sheet 22 – Group registration process.

NOMINATION DEPOSIT

A deposit of $250 must be lodged with the Returning Officer by each candidate at the time of nomination. Deposits can be paid by cash, electronic funds transfer (EFT), bank cheque or BPoint through the ECQ's Self Service Portal.

Nomination deposits are refunded to candidates who are successfully elected or who receive more than 4% of the total number of formal votes.

LATE OR INCOMPLETE NOMINATIONS

Candidate nominations cannot be accepted until all requirements have been met. It is strongly recommended that candidates plan to complete these steps well in advance of nominating to ensure that the deadline for close of nominations can be met. Nominations

must be submitted before the close of the nomination period. Late or incomplete nominations cannot be accepted.

After nominating

Once the nomination process has been completed, the Returning Officer for the local government area will provide candidates with certification of their nomination and will publish details of the ballot draw to be held.

For political party-endorsed candidates, registered officers will be provided with the candidate nomination certifications.

A notice of nominations will be published on the ECQ's website.

RELATED FACT SHEETS

Fact sheet 1 – Eligibility to become a candidate
Fact sheet 8 – Record keeping requirements
Fact sheet 17 – Dedicated campaign bank accounts for candidates
Fact sheet 23 – Dedicated campaign bank accounts for groups of candidates
Fact sheet 28 – Dedicated campaign bank accounts for registered political parties
Fact sheet 33 – Dedicated campaign bank accounts for third parties

Fact sheets can be found on the ECQ website.

CANDIDATES, GROUPS OF CANDIDATES AND REGISTERED POLITICAL PARTIES

Provision of electoral roll data to candidates

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

The Electoral Commission of Queensland (ECQ) can release information about electors to specific electoral participants before and after an election.

Who can access electoral roll information?

Candidates are entitled to receive a copy of the voters roll for the local government area or the division/ward where they are running for election. This is released to them after the close of candidate nominations.

After an election, a councillor can request elector information for that election about the local government area or division/ward for which they were elected. A councillor in a divided council can only request information for their division/ward.

Registered political parties can request electoral data about each local government area after the election.

What information is released?

Before the election, candidates receive electoral roll information containing the names and addresses of electors in their local government area or division/ward. The addresses of silent electors are not released.

After the election, elected councillors and registered political parties may request, in relation to the election:

- an elector's name and address as at the close of roll for the election
- information about whether the elector voted in person, by post, or in another way
- if the elector voted in person at a polling booth within the local government area, where they are enrolled or the location of the polling booth where they voted.

Information about silent electors is not released.

How can the electoral roll information be used?

For information released before an election, the recipient must not use, disclose, or allow another person to access the information unless it is for:

- any purpose related to an election
- the purposes of checking the accuracy of the information
- the performance of a councillor's functions in relation to electors enrolled on the electoral roll
- the performance of their duties by an official or employee of a political party in relation to the electors enrolled on the voters roll.

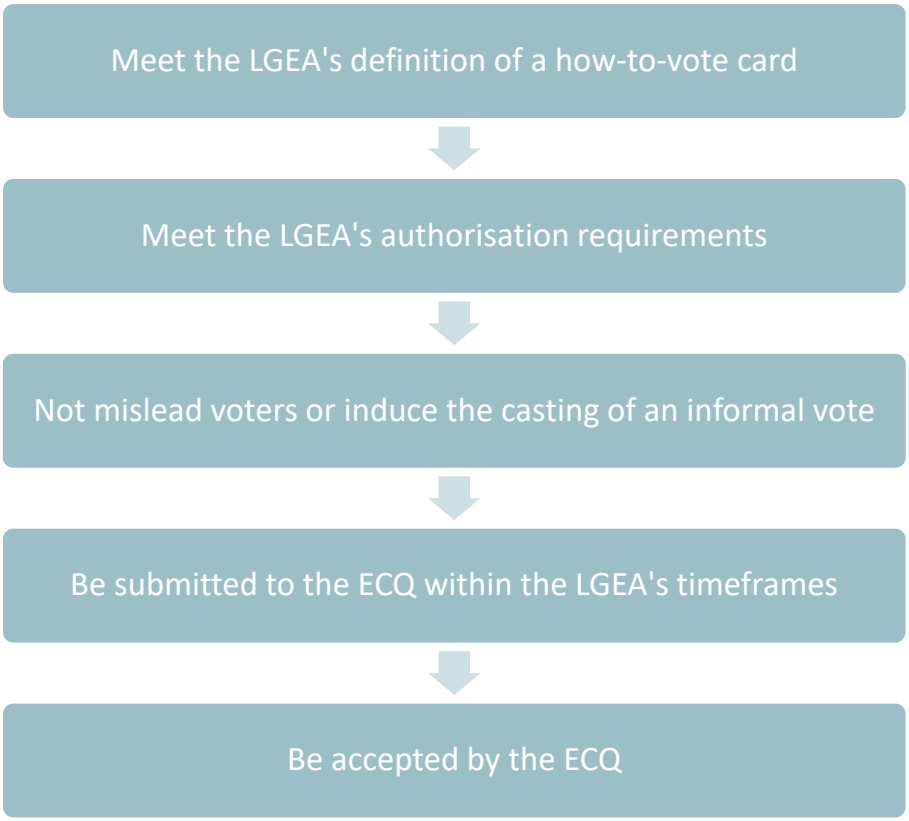
Under section 21(3) of the LGEA, misuse of voters roll information carries a maximum penalty of 20 penalty units (valued at $3,096 as at 1 July 2023) or 6 months imprisonment.

ALL ELECTION PARTICIPANTS

How-to-vote cards

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

How-to-vote cards allow election participants to communicate how they would like their supporters to vote and distribute their preferences in a local government election or by-election. This fact sheet will explain the steps that candidates, groups of candidates or registered political parties intending to distribute how-to-vote cards must follow before distributing the cards to voters during an election period. How-to-vote cards must:



This process helps to ensure transparency in the direction of preferential votes for local government elections, while also helping election participants to meet their compliance obligations for how-to-vote cards under the LGEA.

The election period begins on the day the notice of election is published and ends when the polls close on election day. The ECQ does not regulate authorisation or distribution of how-to-vote cards outside of the election period.

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More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

What is a how-to-vote card?

How-to-vote cards have a specific definition under Schedule 2 of the LGEA for local government elections and by-elections.

A how-to-vote card is a card, handbill or pamphlet that contains a representation or intended representation of a ballot paper, or part of a ballot paper, or:

- For an election where optional-preferential voting applies (i.e. for a single member divided council, or when voting for mayor in all councils):
  - lists the names of any or all candidates with numbers indicating an order of voting preference against the names of any or all of the candidates, or
  - directs or encourages the casting of preference votes, other than a first preference vote.
- For an election where first-past-the-post voting applies (i.e. for an undivided council or multi-member divided council):
  - directs or encourages the casting of a vote for the number of candidates equal to the number of candidates to be elected.

Only cards that meet this definition are required to be submitted to the ECQ for acceptance prior to their distribution. Example images of how-to-vote cards are provided at the end of this fact sheet.

Cards or other materials that do not meet the above definition of a how-to-vote card are considered election materials, and not how-to-vote cards for election purposes. They do not need to be accepted by the ECQ prior to distribution but must still carry proper authorisation. Please refer to Fact sheet 3 – Authorisation of election materials for more information.

What is the distribution of a how-to-vote card for election purposes?

The distribution of how-to-vote cards is also defined by the LGEA. A person distributes a how-to-vote card if they make the card available to other persons to take away; they do not distribute a how-to-vote card simply by displaying it publicly.

First-past-the-post elections

Voting in Queensland local government elections uses either an optional preferential voting or a first-past-the-post voting system. For more information about either system and where they apply, refer to the ECQ's voting systems webpage.

Anyone distributing a how-to-vote card for a first-past-the-post election must ensure their card directs voters to vote for the number of candidates to be elected, so as not to encourage the casting of an informal vote. This may be through the numbering of the correct number of boxes, or by other clear instruction on the card regarding the number of preference votes required for casting a formal vote.

The ECQ monitors submitted how-to-vote cards for content which may mislead electors as part of our compliance approach.

EXAMPLE

Example A

Candidate A is contesting in an undivided council as a candidate – this council type has first-past-the-post voting and will be electing 4 councillors from a field of 7 nominated candidates. Candidate A intends to print and distribute how-to-vote cards so voters understand and cast votes that Candidate A prefers.

Candidate A's how-to-vote card should therefore direct voters to vote for 4 candidates, because this is the only way that voters in this undivided council can cast a formal vote.

Example B

Candidate B is contesting in a multi-member divided council. Candidate B's division has first-past-the-post voting and will be electing 7 councillors from a field of 12 nominated candidates. Candidate B has not made arrangements with any other candidates and wants voters to choose their own preferences. Candidate B decides to print and distribute a how-to-vote card to this effect.

Candidate B's how-to-vote card should indicate a number 1 next to their name but must also include clear instructions to voters to make an additional 6 votes so they are not being directed to cast an informal vote by only marking a 1 in a single box.

How must a how-to-vote card be authorised?

If an election participant wants to distribute a how-to-vote card during an election period, section 178 of the LGEA requires an authorisation to appear at the end of each side of the card that contains print. It must state the name and address (not a post office box) of the person who authorised the card, and –

If the card is authorised for:	The authorisation must state:	For example:
A registered political party or their endorsed candidate	The party's full name or their registered abbreviation, as they appear on the ECQ's register of political parties	Authorised P. Smith, 123 Main Street Brisbane for [*name of political party*]
A group of candidates or a candidate who is a member of a group	The group's name	Authorised M. Taylor, 99 King Street Port Douglas for [*name of group*]
Any candidates not included in the above	The candidate's name, and the word *candidate*	Authorised R. Jones, 88 Queen Street Brisbane for R. Jones (candidate)

More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

If the card is authorised for a member of a group of candidates, or for the group itself, the authorising person must be a member of the group.

Section 178 also sets out the authorisation's required font sizes for different how-to-vote cards sizes. The authorisation must appear in prominent and legible characters in print at least:

- 10 point if the card is A6 or smaller
- 14 point if the card is larger than A6 up to A3 size
- 20 point if the card is larger than A3

.

A double-sided how-to-vote card must have an authorisation on each side containing text.

How and when to submit a how-to-vote card to the ECQ

The person who authorised the how-to-vote card must first submit copies of their cards to the ECQ for acceptance prior to their distribution to voters. This submission must include:

- A completed Form LG 53 – Lodgement of how-to-vote cards which includes a statutory declaration relating to any financial contribution received in relation to the production of the how-to-vote card, and
- If submission is via a hard copy: the required number of hard copies is 12 more than the number of polling booths within the local government area in which the cards are to be distributed, with
- A high-quality electronic copy of each how-to-vote card (as this will be published to the ECQ's website once accepted). PDF is preferred, which can be provided by email. The electronic proof supplied by a commercial printer will usually meet this requirement.

Note: how-to-vote cards in languages other than English must be submitted with a written translation.

Submissions can be made either to the Returning Officer in a candidate's or group of candidates' local government area, or directly to the ECQ's head office in Brisbane if preferred. Form LG 53 provides the required ECQ contact information if required. Once a submission has been made to the ECQ, each how-to-vote card will undergo a multi-step scrutiny process to assess it for compliance under the LGEA.

Submissions to the ECQ must be made **at least 7 business days** before the day the how-to-vote card is to be distributed. The ECQ then has up to 5 business days to accept or reject the card and inform the card's authoriser of the decision in writing (including reasons for rejection).

If a rejection is issued, the card can be revised and resubmitted at least 2 business days before the day the how-to-vote card is to be distributed. The ECQ then has 2 business days to accept or reject the revised card and inform the card's authoriser of the decision in writing (including reasons for rejection).

Election participants should be mindful of these timeframes if large print runs are being planned. The ECQ recommends that print runs be completed after the ECQ accepts a how-to-vote card, confirming that no amendments are required. Any printing costs incurred before the ECQ accepts a how-to-vote card will be at the candidate's risk.

Accepted cards will be made available by the ECQ for public inspection prior to election day on the ECQ website.

Only how-to-vote cards that are authorised for candidates, groups of candidates and political parties are required to be lodged. How-to-vote cards produced by third parties do not require acceptance by the ECQ but they must still carry a compliant authorisation, and not be misleading about the ways of voting.

Compliance

Under the LGEA, electoral staff at a polling place may require a person to produce a how-to-vote card for inspection and may confiscate cards which have not been accepted by the ECQ.

Publishing or distributing any material during an election period that is likely to mislead an elector about the ways of voting is an offence. Breaking this rule carries penalties for non-compliance. Please see Fact sheet 7 – Offences relating to electoral advertising for further information.

RELATED FORMS AND FACT SHEETS

Fact sheet 5 – Authorisation of election material

Fact sheet 7 – Offences relating to electoral advertising

Fact sheet 10 – Definition of gifts and loans

Fact sheet 12 – Definition of electoral expenditure

Form LG 53 – Lodgement of how-to-vote cards

Forms and facts sheets can be found on the ECQ's website.

Examples of how-to-vote cards

The final pages of this fact sheet contain examples of cards that might be accepted or rejected by the ECQ, focusing on key compliance issues.

It is important to remember that **optional preferential voting** and **first-past-the-post voting** have different requirements for voters to cast a formal vote – the type of election therefore affects what will be acceptable and not misleading to voters.

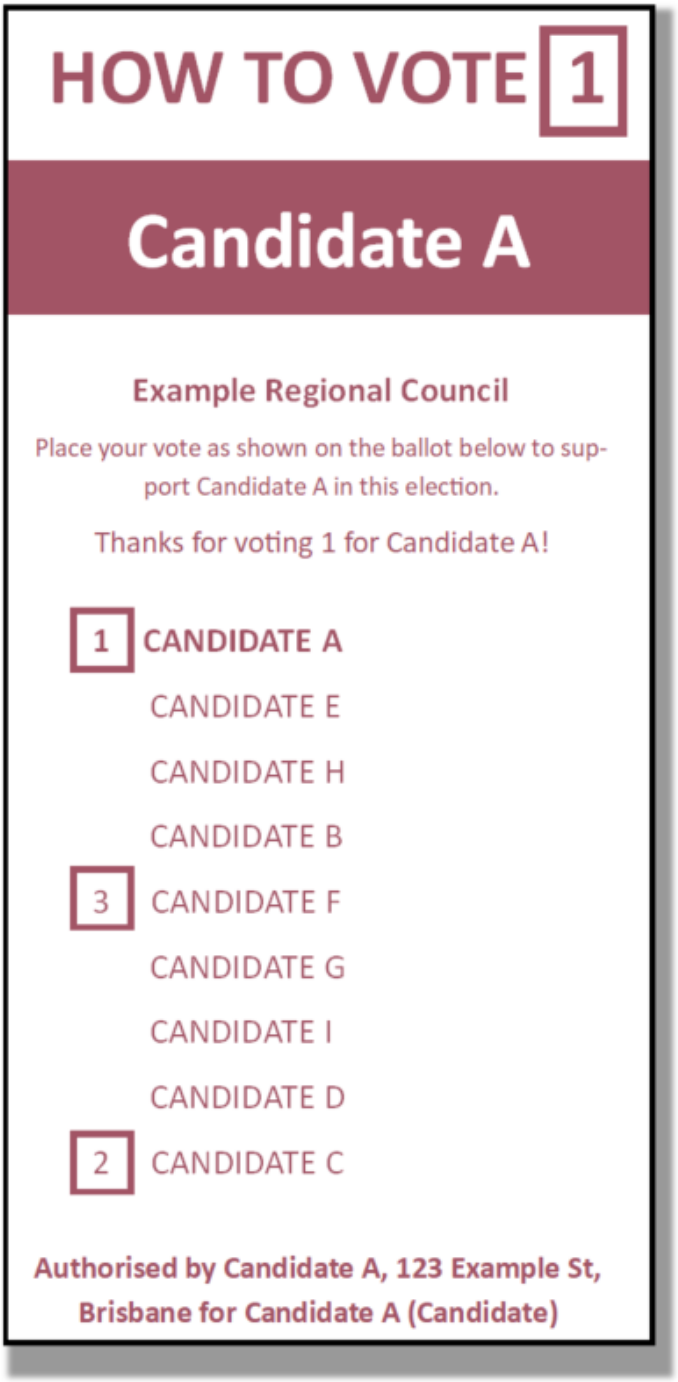
A list of which voting system is used in each local government area is available on the ECQ's website. All mayoral elections use optional preferential voting.

For more information about these systems, what constitutes a formal or informal vote for either system, or where they apply, please refer to the ECQ's voting systems webpage.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

Examples for optional preferential voting

This is an example of a how-to-vote card for a candidate in a council where **optional preferential voting** applies:

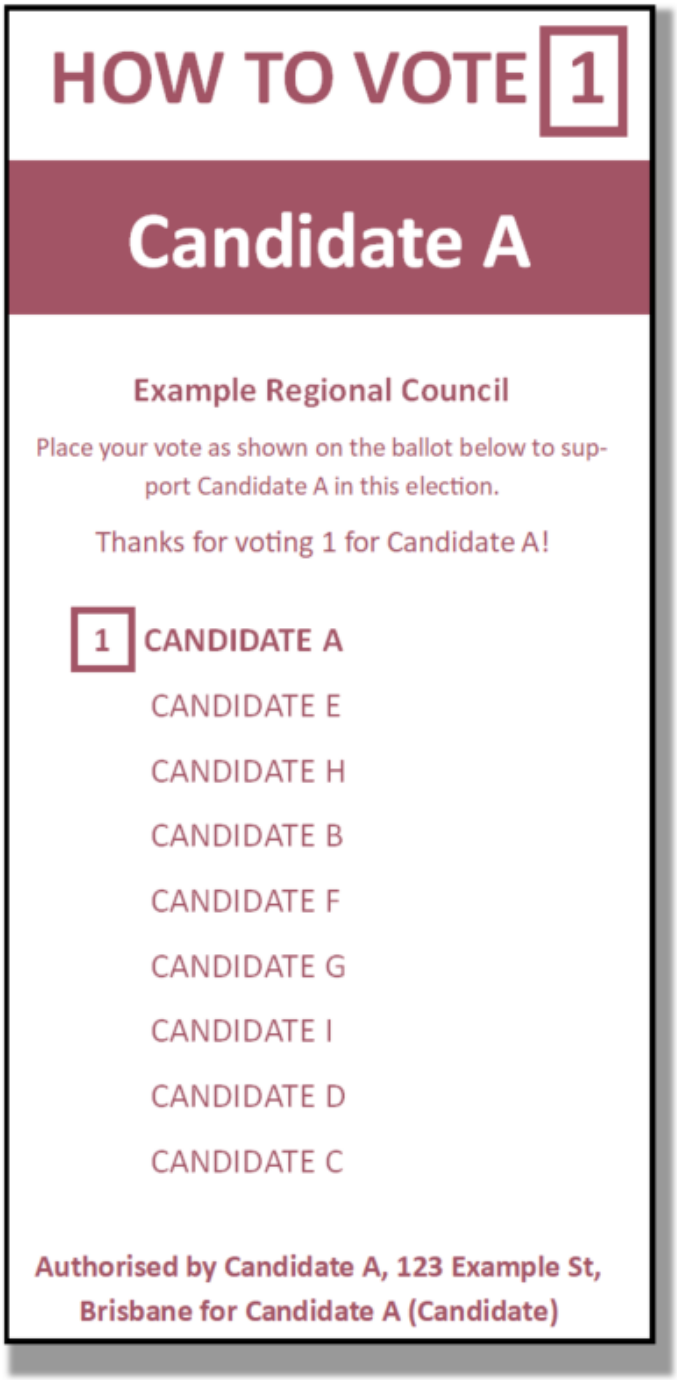


This card:

1. Meets the definition of a how-to-vote card, so must be submitted to the ECQ for acceptance
2. Meets the LGEA's authorisation requirements
3. Does not provide direction that could lead to an informal vote being cast.

The how-to-vote card **would be accepted** by the ECQ.

This is another example of a how-to-vote card for a candidate in a council where **optional preferential voting** applies:



This card:

1. Meets the definition of a how-to-vote card, so must be submitted to the ECQ for acceptance
2. Meets the LGEA's authorisation requirements
3. Does not provide direction that could lead to an informal vote being cast.

The how-to-vote card **would be accepted** by the ECQ.

Examples for first-past-the-post voting

This is an example of a how-to-vote card in a council where **first-past-the-post voting** applies, in a council requiring the election of 5 candidates:

Directs the casting of a vote for the number of candidates equal to the number of candidates to be elected ✓

Represents part of a ballot paper ✓

Correctly authorised ✓

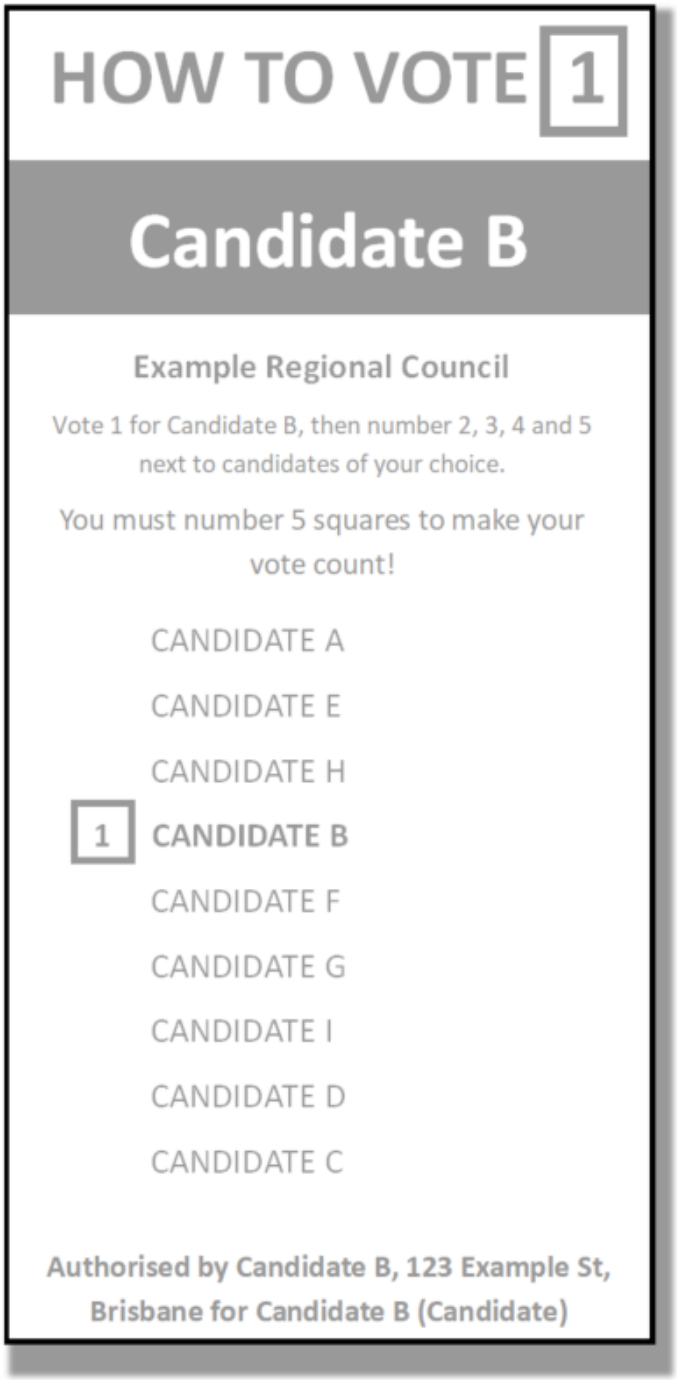
This card:

1. Meets the definition of a how-to-vote card, so must be submitted to the ECQ for acceptance
2. Meets the LGEA's authorisation requirements
3. Does not provide direction that could lead to an informal vote being cast.

The how-to-vote card **would be accepted** by the ECQ.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

This is another example of a how-to-vote card in a council where **first-past-the-post voting** applies, in a council requiring the election of 5 candidates:

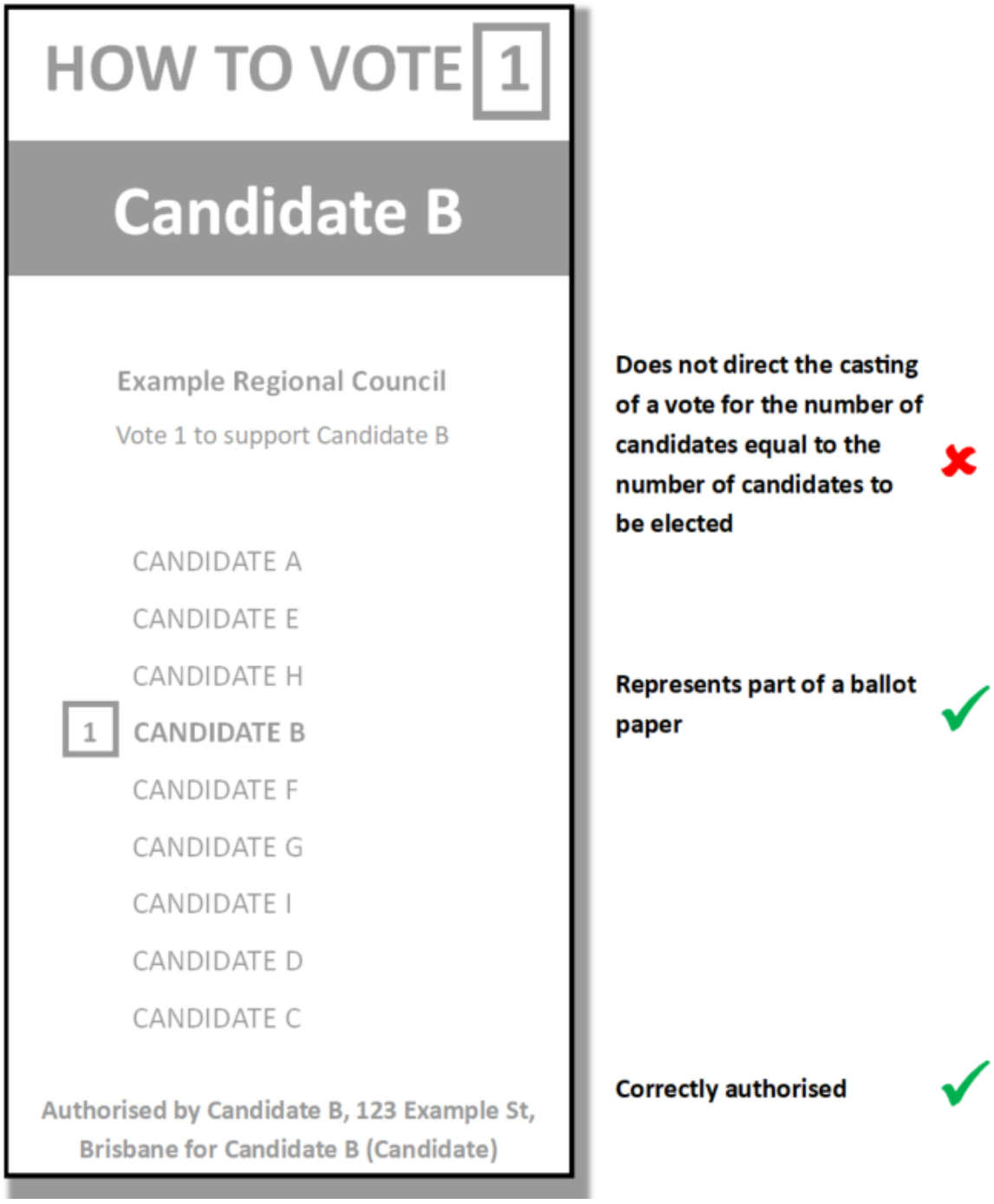


This card:

1. Meets the definition of a how-to-vote card, so must be submitted to the ECQ for acceptance
2. Meets the LGEA's authorisation requirements
3. Does not provide direction that could lead to an informal vote being cast.

The how-to-vote card **would be accepted** by the ECQ.

This example is also for a council where **first-past-the-post voting** applies, in a council requiring the election of 5 candidates:



This card:

1. Meets the definition of a how-to-vote card, so must be submitted to the ECQ for acceptance
2. Meets the LGEA's authorisation requirements.
3. **Provides direction that could lead to an informal vote**.

The how-to-vote card **would be rejected** by the ECQ and its distribution would be an offence under section 182(3) of the LGEA.

AGENTS

Funding and disclosure overview

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to agents of participants in local elections and by-elections, who may be acting on behalf of candidates, groups of candidates, registered political parties or third parties.

What is an agent?

An agent is the person responsible for ensuring an election participant's obligations under the LGEA are met.

Election participants and their agents have a responsibility to familiarise themselves with all relevant and current legislative provisions. Failure to do so cannot be used as an excuse for failing to comply with any legislative requirement.

What are an agent's responsibilities?

An agent is responsible for:

- ensuring all disclosure returns for gifts, loans, and expenditure are lodged by the due date before, during, and after the election
- ensuring all information contained in the returns is complete and accurate
- informing their participant (and any of their associated entities) about the obligations that apply to them under the LGEA
- establishing and maintaining appropriate systems to support their participant (and any of their associated entities) to comply with their obligations
- informing donors about their disclosure obligations under the LGEA, and taking reasonable steps to notify the public
- maintaining records for 5 years after the election, demonstrating that they have taken reasonable action as an agent to fulfil their above responsibilities, and
- responding to the ECQ about any matters which arise in respect of their participant's compliance (before, during, and after the election).

While agents are responsible for these obligations, election participants also have an obligation to ensure agents do not give information to the ECQ that the participant knows to be false or misleading. Allowing an agent to do so carries a maximum penalty of 100 penalty units ($15,480 as at 1 July 2023) under section 195 of the LGEA. The ECQ recommends that an agent ensures their participant/s review any completed returns before they are submitted.

The ECQ has provided a range of fact sheets and handbooks so election participants can be familiar with their disclosure, expenditure cap and dedicated campaign bank account obligations during local government elections. Agents should refer to the information for their relevant election participant to understand their obligations.

Who can be an agent?

An agent must be an adult who has consented to their appointment in writing, and signed a declaration that they are eligible for appointment.

Any person who has been convicted of an electoral funding or financial disclosure offence against the LGEA is not eligible for appointment as an agent.

Appointment of agents

This table summarises division 2 of the LGEA, which sets out the election participants that either **must** or **may** appoint an agent and when they should do so.

Election participant	Requirement to appoint an agent:		Information about appointment
	MUST	MAY	
Individual candidate		✅	Notification to the ECQ is only required if the candidate chooses to appoint an agent. An agent can be appointed via Form FAD3B found at ecq.qld.gov.au/factsheets.
Group of candidates	✅		The appointment of an agent must be included with the group's notice to the ECQ of their formation under section 42 of the LGEA. Each candidate in the group must sign this notice.
Registered political party	✅		This will be the agent appointed under the *Electoral Act 1992.*
Registered third party (an individual)		✅	Notification to the ECQ is only required if the registered third party (individual) chooses to appoint an agent. An agent can be appointed via Form FAD3C found at ecq.qld.gov.au/factsheets.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

Election participant	Requirement to appoint an agent:		Information about appointment
	MUST	MAY	
Registered third party (not an individual)	✓		If a registered third party is not an individual, they must include a notice of the appointment of an agent with their application to ECQ for registration for an election under section 127F of the LGEA.
Unregistered third party		✓	Notification to the ECQ is only required if the unregistered third party chooses to appoint an agent. An agent can be appointed by contacting the ECQ.

Change or removal of agents

If circumstances change and the agent is no longer able to perform their duties, they can give the ECQ a signed notice stating that they have resigned as the agent. An agent can also be removed if the entity that appointed the agent provides the ECQ with a signed notice stating that the agent's appointment has ceased. Once an agent resigns or is removed, a new agent can be appointed, including after the close of candidate nominations.

If, at any time, an agent is not appointed for an entity that must have an agent, then each member of the executive committee (for registered political parties and third party organisations) or each member of the group (for a group of candidates) assume responsibility for the obligations under the LGEA, including any penalties which may be imposed for non-compliance. Notice of appointment of another agent must be given to the ECQ within 28 days.

Record keeping

All agents must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure cap, disclosure, and dedicated campaign bank account requirements. See Fact sheet 8 – Record keeping information for further details.

Compliance

The ECQ is responsible for administering and enforcing the LGEA which includes penalties for election participants who breach their disclosure obligations.

The compliance framework is available on the ECQ website.

For further information

This fact sheet mainly refers to Part 6 of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheet 16 – Funding and disclosure overview for candidates

Fact sheet 21 – Funding and disclosure overview for groups of candidates

Fact sheet 26 – Funding and disclosure overview for registered political parties

Fact sheet 31 – Funding and disclosure overview for third parties

Fact sheets are available on the ECQ website.

ASSOCIATED ENTITIES

Funding and disclosure overview

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011*. The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet is for associated entities of registered political parties, candidates or groups of candidates in local government elections.

What is an associated entity?

An associated entity:

- is controlled by a registered party (or candidates endorsed by the party), candidate, or group of candidates
- operates wholly or to a significant extent for the benefit of a registered political party, candidate, or group of candidates
- operates for the dominant purpose of promoting a registered political party, candidate, or group of candidates.

For **registered political parties**, an associated entity is not:

- a candidate endorsed by the party for the election
- a related political party
- a federal or interstate branch of division of the party.

For **individual candidates**, an associated entity is not:

- another candidate who is endorsed by the same registered political party
- the associated entity of a registered political party who endorsed the candidate
- the associated entity of a group of candidates of which the candidate is a member
- an electoral committee formed to help the candidate's election campaign.

For **groups of candidates**, an associated entity is not:

- a candidate who is a member of the group
- a committee formed to help the election campaign of members of the group in the election.

Do associated entities need their own dedicated campaign bank account?

An associated entity must use the dedicated campaign bank account of its registered political party, candidate, or group of candidates. All electoral expenditure must be paid from this account and gifts or loans received into this account.

For more information on dedicated campaign bank accounts, please refer to the appropriate fact sheet:

Fact sheet 17 – Dedicated campaign bank accounts for candidates

Fact sheet 23 – Dedicated campaign bank accounts for groups of candidates

Fact sheet 28 – Dedicated campaign bank accounts for registered political parties

Do electoral expenditure caps apply to associated entities?

When an associated entity spends money during a capped expenditure period, the electoral expenditure incurred counts towards the expenditure cap of the registered political party, group of candidates, or candidate with which it is associated.

Both the associated entity and the party, group or candidate must ensure they do not collectively exceed the expenditure cap. Significant penalties apply for failure to comply with these laws.

For more information on expenditure caps, please refer to the relevant fact sheet:

Fact sheet 19 – Expenditure caps for individual candidates

Fact sheet 24 – Expenditure caps for groups of candidates

Fact sheet 29 – Expenditure caps for registered political parties and endorsed candidates

What disclosure obligations does an associated entity have?

DISCLOSURE OF GIFTS AND LOANS RECEIVED

For **candidates** and **groups**, associated entities must disclose all gifts and loans of $500 or more received during their disclosure period. Returns for gifts and loans must be lodged with the ECQ within 7 business days, or within 24 hours if the expenditure is incurred within 7 business days before election day.

The LGEA does not regulate the disclosure of gifts received by associated entities of registered political parties. Financial controllers of these associated entities must continue to comply with all requirements under the *Electoral Act 1992*.

24-hour disclosure for gifts and loans does not apply for local government elections.

For more information, please refer to the relevant fact sheet:

Fact sheet 20 – Real-time disclosure of gifts and loans by candidates

Fact sheet 24 – Real-time disclosure of gifts and loans by agents of groups of candidates

State Fact sheet 19 – Information for associated entities

DISCLOSURE OF ELECTORAL EXPENDITURE INCURRED

Associated entities must disclose all electoral expenditure incurred for a local government election once their total expenditure reaches $500. Returns for electoral expenditure must be lodged with the ECQ within 7 business days, or within 24 hours if the expenditure is incurred within 7 business days before election day.

For more information, see Fact sheet 18 – Real-time disclosure of electoral expenditure for candidates, groups and registered political parties.

ELECTION SUMMARY RETURN

Associated entities must give an election summary return within 15 weeks after election day for a local government election. The return must state the total amount of all electoral expenditure incurred for the election. It must also include a copy of the bank statement for the dedicated campaign bank account of the candidate, group or registered political party with which they are associated.

For more information, see Fact sheet 14 – Election summary returns.

PERIODIC RETURN

Associated entities of candidates and groups of candidates must give a periodic return within 8 weeks of the end of each reporting period. This periodic return is substantially similar to the periodic returns required by associated entities of registered political parties.

For more information about the periodic return requirement, see State Fact sheet 24 – Periodic returns.

Record keeping

All associated entities must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact sheet 8 for further information about record keeping requirements.

Compliance

The ECQ is responsible for administering and enforcing the LGEA, which includes penalties for election participants who breach their obligations.

The compliance framework is available on the ECQ website.

For further information

This fact sheet mainly refers part 6 of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheet 14 – Election summary returns

Fact sheet 17 – Dedicated campaign bank accounts for candidates

Fact sheet 18 – Real-time disclosure of electoral expenditure for candidates, groups and registered political parties

Fact sheet 19 – Expenditure caps for individual candidates

Fact sheet 20 – Real-time disclosure of gifts and loans by candidates

Fact sheet 23 – Dedicated campaign bank accounts for groups

Fact sheet 24 – Expenditure caps for groups of candidates

Fact sheet 25 – Real-time disclosure of gifts and loans by agents of groups of candidates

Fact sheet 28 – Dedicated campaign bank accounts for registered political parties

Fact sheet 29 – Expenditure caps for registered political parties and endorsed candidates

Fact sheet 38 – Funding and disclosure overview for agents

State fact sheet 19 – Information for associated entities

State fact sheet 24 – Periodic returns

Fact sheets are available on the ECQ website.

ALL ELECTION PARTICIPANTS

Relevant details and sources of gifts and loans

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

Why are relevant details important?

When lodging returns with the ECQ, election participants are required to disclose the relevant details of gifts and loans received. To ensure obligations are met, the election participant must collect all relevant details of the donor when the election participant receives the gift or loan.

Details of gifts and loans must be disclosed to ensure the transfer of funds or property from donors to election participants, before and after elections, is transparent.

What are relevant details?

For all types of entities, the following details are required:

- the value of the gift or loan
- the date the gift or loan was made
- for a loan – the terms of the loan
- if the person making the gift or loan has an interest in a local government matter that is greater than that of other persons in the local government area:
    - that fact; and
    - the nature of the person's interest
- if the gift or loan is made by an entity that is not the source of the gift or loan:
    - that fact; and
    - the relevant details of the entity that is the source of the gift or loan.

Depending on the type of entity that made the gift or loan, the following details are also required:

Type of entity that made the gift or loan	Relevant details
Individual	• The individual's name • The individual's address • The individual's occupation • If the individual is employed, has a business, or is otherwise engaged in an industry, the type of business or industry the individual works in.

Type of entity that made the gift or loan	Relevant details
Corporation	• The corporation's name • The names and addresses of the directors or members of The executive committee of the corporation • If the corporation has a holding company, the names and addresses of the directors or members of the executive committee of the holding company • A description of the type of business the corporation engages in.
Trust fund/foundation	• The names and addresses of the trustees of the fund or other persons responsible for the funds of the foundation. • The name or other description of the trust fund or foundation. • If the gift is given, or loan is made, out of a trust account under the instructions of a person who is in substance the giver of the gift or lender, the name and address of the person who gave the instruction.
Unincorporated association (excluding registered industrial organisations)	• The association's name • The names and addresses of the members of the association's executive committee (however described).
Registered industrial organisations	• The organisation's name • The organisation's address.
If none of the above	• The name and address of the entity.

How are relevant details obtained?

When accepting gifts of money, electoral expenditure or loans, the election participant must obtain the relevant details for the gift. The ECQ recommends that these details are taken in writing for record keeping purposes. This is a **dual obligation**: the election participant receiving the gift or loan must collect the information and the donor must give the information.

The ECQ has developed a sample notice which election participants can use to collect relevant details from potential donors before accepting their donation: Sample notice from donors to recipients.

Who is responsible for informing donors and the public?

Election participants are responsible for informing donors that they may also have an obligation to lodge a return with the ECQ. The notice should be given in writing within 7 business days of receiving the gift. A sample notice is available from the ECQ: Sample notice from recipients to donors.

Election participants are also responsible for informing the public that the participant has disclosure obligations. A sample notice is available from the ECQ: Sample notice to public.

Who is the original source of a gift or loan?

If someone makes a gift or loan to another person for the main purpose of enabling the recipient to make a gift or loan to a candidate or other election participant, the first person is referred to as the 'original source' of the gift or loan.

The relevant details of the original source as well as those of the person who made the gift or loan directly to the election participant, must be disclosed in returns lodged with the ECQ.

What happens if the relevant details are not known?

It is unlawful for a candidate, group of candidates, or third party to receive a gift or loan of $500 or more unless they know or obtain the relevant details of the gift or loan at the time it is received.

If a person receives a gift or loan without the relevant details, an amount equal to the value may be recovered by the State (i.e., the ECQ). To avoid any doubt about the details of a donor, the ECQ strongly encourages election participants to obtain the relevant details for all gifts and loans, even those less than $500.

Registered political parties do not have gift and loan disclosure obligations under the LGEA. Agents of registered political parties are obliged to continue to follow the disclosure requirements under the *Electoral Act 1992*.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

ALL ELECTION PARTICIPANTS

Disclosure of gifts made

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to individuals or organisations that make gifts to candidates, groups of candidates, registered political parties or other third parties participating in a local government election or by-election.

What is a gift?

A gift is a present of money, property or service given without receiving something of equal (or adequate) value in return.

For more details and examples of gifts, please refer to Fact sheet 10 – Definition of gifts and loans.

What gifts need to be disclosed?

If a person or organisation makes a gift to a candidate, a group of candidates, a registered political party or another third party totalling $500 or more within the disclosure period for the election, the person or organisation must provide a disclosure return to the ECQ within 7 business days. An election summary return must also be lodged after the election.

Gifts are cumulative. It does not matter whether the gift was made in small amounts or all at once. Once the threshold of $500 is met, all previous and future gifts made to the same election participant must be disclosed, no matter their value.

EXAMPLES

1) Third Party I gives $300 to Candidate A then later gives another gift of $200 to Candidate A. Because Third Party I has made gifts totalling $500 or more, they are required to lodge a return for each of the 2 gifts.

2) Third Party II gives $400 to Candidate B then pays $250 for flyers for Candidate B. Because Third Party II has made gifts and gifted electoral expenditure over $500, they are required to lodge a return for each of the gifts.

3) Third Party III gave $1000 to a non-profit organisation to use for campaign purposes. Because Third Party III has made a gift of $500 or more, they must lodge a return for the gift.

When do gifts need to be disclosed?

Queensland has real-time disclosure laws. Gifts must be disclosed within 7 business days of reaching the $500 threshold. Once the donor reaches this threshold, every subsequent gift made to the same election participant must be disclosed within 7 business days, regardless of value.

Donors must also lodge an election summary return within 15 weeks after the election, stating the total amount of gifts made during the disclosure period.

How is a gift disclosed?

Gifts must be disclosed to the ECQ in a return.

Returns are lodged online via the ECQ's Electronic Disclosure System (EDS) at disclosures.ecq.qld.gov.au.

The public can view returns within 24 hours after they have been lodged.

What is included in a return?

A return for a gift must include the following details:

- the name of the recipient
- the value of the gift
- the date the gift was given
- the name and relevant details of the original source of the gift (if applicable).

The donor also has an obligation to provide the **relevant details** of the gift directly to the recipient. This is referred to as a **Notice of Details**.

The relevant details required in a Notice of Details include but are not limited to:

- the donor's name and address
- the value of the gift
- the date the gift was given
- whether the donor has an interest in a local government matter (and if so, the nature of the donor's interest)
- the name and relevant details of the original source of the gift (if applicable).

For the full list of relevant details, see Fact Sheet 11 – Relevant details of gifts and loans.

A sample Notice of Details is available on the ECQ's website.

A Notice of Details is also required if a donor makes a loan of $500 or more to an election participant.

The recipient of a gift or loan must also collect this information and disclose it in their own returns. The information will be published on the EDS in accordance with legislative requirements.

Record keeping

Records relating to disclosure returns must be kept and made available to the ECQ for at least 5 years after the election. Refer to Fact sheet 8 for further information about record keeping requirements.

Compliance

The ECQ can issue fines for failing to lodge disclosure returns by the due date. The ECQ is responsible for administering and enforcing the LGEA and has an active donor compliance program.

Further information, including the ECQ's compliance framework is available on the ECQ's website.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 10 – Definition of gifts and loans
Fact sheet 11 – Relevant details of gifts and loans
Fact sheet 14 – Election summary returns

Fact sheets can be found on the ECQ website.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

CANDIDATES, GROUPS OF CANDIDATES AND REGISTERED POLITICAL PARTIES

Real-time disclosure of electoral expenditure

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet applies to candidates, groups of candidates, and registered political parties as well as their agents and associated entities.

COMPLIANCE WARNING

Failure to disclose electoral expenditure within the time required is an offence under the LGEA. The ECQ issued over 380 fines to candidates in the 2020 local government elections for not complying with their disclosure requirements.

When an election participant incurs electoral expenditure of $500 or more, a return disclosing the expenditure must be given to the ECQ.

Electoral expenditure is cumulative: it does not matter whether the expenditure was incurred in small amounts or all at once. Once the $500 threshold has been reached, all previous and future expenditure must be disclosed regardless of value.

If the election participant has an agent, the agent is responsible for completing the returns.

What is real-time disclosure?

All election participants who incur $500 or more in electoral expenditure must give the ECQ a return within **7 business days** of the expense being incurred.

If there are 7 or fewer business days before the election when the expense is incurred, the return must be given within **24 hours**.

When is the electoral expenditure incurred? Electoral expenditure is usually incurred when the election material is supplied or when the material is first used for a campaign purpose. For more details, please refer to Fact sheet 12 – Definition of electoral expenditure.

EXAMPLES

Example 1

Candidate A incurs electoral expenditure of $750 on Monday when they begin distributing flyers in their council area. Because the amount of electoral expenditure is $500 or more, Candidate A must lodge a return by the following Wednesday (assuming there are no public holidays).

EXAMPLES CONTINUED

Example 2
Group of candidates Q incurs $300 of electoral expenditure. A month later on a Wednesday, Group Q incurs another $200 of electoral expenditure. Because the total amount of electoral expenditure is $500 or more, the agent for Group Q must lodge returns covering both amounts of expenditure by the following Friday (assuming there are no public holidays).

Example 3
On the Thursday afternoon before election day, Candidate B incurs $150 of electoral expenditure by launching a social media ad campaign. Candidate B has already incurred $10,000 in electoral expenditure. As such, they must lodge a return for the $150 by Friday afternoon – within 24 hours of the expenditure being incurred.

What is electoral expenditure?

'Electoral expenditure' refers to money spent for a campaign purpose including but not limited to:

- designing, producing, printing, broadcasting, or publishing election material
- distributing election material
- carrying out an opinion poll or research
- contracted services relating to one of the above activities.

Please refer to Fact sheet 12 – Definition of electoral expenditure for more information.

How do I lodge a return?

Disclosures should be lodged in the ECQ's **Electronic Disclosure System** (EDS) at disclosures.ecq.qld.gov.au/.

Each expenditure return requires:

- the name and address of the person who supplied the goods or services
- a description of the goods or services
- the amount of the electoral expenditure
- when the expenditure was incurred
- the purpose of the expenditure.

The ECQ publishes electoral expenditure disclosures on its website.

What is the election summary return?

In addition to real-time disclosure, election participants must lodge an election summary return before the deadline of 15 weeks following election day.

For more information about election summary returns, see Fact sheet 14 – Election Summary Returns.

Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact Sheet 8 for more information about record keeping requirements.

Compliance

The ECQ is responsible for administering and enforcing the LGEA, which includes penalties for election participants who breach their disclosure obligations.

The compliance framework is available on the ECQ's website.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements
Fact sheet 10 – Definition of gifts and loans
Fact sheet 12 – Definition of electoral expenditure
Fact sheet 14 – Election summary returns
Fact sheet 19 – Expenditure caps for candidates
Fact sheet 24 – Expenditure caps for groups of candidates
Fact sheet 29 – Expenditure caps for registered political parties
Fact sheet 38 – Funding and disclosure overview for agents

All fact sheets can be found on the ECQ's website.

ALL ELECTION PARTICIPANTS

Ban on use of credit cards – including for social media

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

Electoral expenditure and credit cards

The LGEA expressly bans the use of credit cards to pay for any campaign expense including electoral expenditure. The dedicated campaign bank account also must not be used to pay a credit card bill.

The ban extends to any person who is paying for a campaign expense with the authority of an election participant.

Expenditure can be paid with:

- a debit card that withdraws funds directly from the dedicated account
- an electronic funds transfer from the dedicated campaign bank account
- cash withdrawn from the account (provided the amount withdrawn does not exceed the amount to be paid, rounded up to the nearest amount an ATM can dispense, if applicable).

Social media and internet ad campaigns

Advertising on the internet and social media has become a popular method of reaching voters. The LGEA's rules on election matter and billing apply when placing ads online as well as when placing ads in newspapers or on television.

The most common social media companies and Google allow several methods of payment including payment with a debit card with a Visa or Mastercard logo. These companies include:

- Meta (Facebook and Instagram)
- Twitter
- LinkedIn
- Tiktok
- Google ads (includes YouTube)

Disclosure of electoral expenditure

Like other electoral expenditure, expenditure on social media ad campaigns must be disclosed both in real-time and in the election summary return. Please be aware that social media companies may bill your debit card some time after the campaigns have run. Keep an eye on the dedicated campaign bank account after the election to make sure all payments for social media electoral expenditure have been disclosed accurately.

Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact Sheet 8 for information about record keeping requirements.

Compliance and penalties

Failing to comply with the ban on the use of credit cards carries a maximum penalty of 100 penalty units (valued at $15,480 as of 1 July 2023). The ECQ has, for example, successfully prosecuted a candidate for using a credit card (as well as other offences). The candidate was fined $8,000.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 3 – Authorisation of election matter

Fact sheet 8 – Record keeping requirements

Fact sheet 18 – Disclosure of electoral expenditure by candidates, groups of candidates and registered political parties

Fact sheet 33 – Disclosure of electoral expenditure by third parties

All fact sheets can be found on the ECQ's website.

Electoral expenditure caps

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet provides information about expenditure caps for registered political parties and their endorsed candidates participating in local elections and by-elections, as well as the agents and associated entities of the party or candidate.

COMPLIANCE WARNING

Failure to comply with electoral expenditure caps is an offence that carries substantial penalties. It is a serious integrity offence under the *Local Government Act 2009* and a criminal offence under the *Local Government Electoral Act 2011*.

What are expenditure caps?

Expenditure caps are limitations on the amount of electoral expenditure that can be incurred during the capped expenditure period for a local election.

It is unlawful for a registered political party and their endorsed candidates to exceed their expenditure cap during the capped expenditure period.

The caps only apply to electoral expenditure, which has a specific meaning for local elections and by-elections. See Fact sheet 12 – Definition of electoral expenditure to understand more about what is and what is not electoral expenditure.

Who do expenditure caps apply to?

Expenditure caps apply to registered political parties and endorsed candidates, amongst others.

If a party or candidate has an associated entity, that entity is also subject to the same expenditure cap. For further information about associated entities, refer to Fact sheet 37 – Funding and disclosure overview for associated entities.

When do expenditure caps apply?

Expenditure caps apply to electoral expenditure that is incurred during the capped expenditure period for an election.

The capped expenditure period starts on:

- for the 2024 local government elections – **14 August 2023**
- for a by-election – the day the notice for the election is issued.

The capped expenditure period ends at 6pm on election day.

The date electoral expenditure is paid for or invoiced is not necessarily when it is *incurred*. For further information about when expenditure is incurred, see Fact sheet 12 – Definition of electoral expenditure.

What is the expenditure cap amount?

The expenditure cap varies across each local government area on a sliding scale with reference to the number of electors. The cap also varies depending on whether the candidate/party is contesting a mayoral or councillor position.

Registered political parties do not have their own cap amounts for local elections. Instead, **parties and their endorsed candidates will share the same cap amount** in each local government area.

The shared expenditure cap is the sum of the individual cap amounts for each of the party's endorsed candidates, up to the maximum amount.

The ECQ will publish a notice of the expenditure cap amounts for candidates on its website. This will be available:

- for the 2024 local government elections – before 14 August 2023
- for a by-election – at the same time the notice for the election is issued.

Parties and endorsed candidates will need to refer to this notice to calculate their shared expenditure cap.

An expenditure cap applies, and is calculated, separately for each local government area. The expenditure cap for one local government area cannot be aggregated with the cap of another.

For further details about how expenditure cap amounts are calculated, see Fact sheet 13 – Expenditure cap calculations.

EXAMPLES OF CALCULATING EXPENDITURE CAPS

Example A

Registered Political Party A endorses 3 councillor candidates in Local Government Area W, plus a mayoral candidate. In Local Government Area W, there are 5 councillor positions and one mayor to be elected.

The expenditure cap for a councillor candidate in Local Government Area W is $15,000, while the cap for a mayoral candidate is $30,000. The maximum amount able to be spent on the election is $105,000.

The sum of the capped amounts for each of the party's endorsed candidates is $75,000, which is less than the maximum amount of $105,000.

Therefore, the 4 endorsed candidates plus the registered political party can collectively spend up to $75,000 for the election.

EXAMPLES – CONTINUED

Example B

Registered Political Party B endorses 6 councillor candidates in Local Government Area X. Registered Political Party B also endorses another 3 councillor candidates in Local Government Area Y.

The expenditure cap for a councillor candidate in Local Government Area X is $20,000. The cap for a councillor candidate in Local Government Area Y is also $20,000.

Registered Political Party B and its 6 candidates in Local Government Area X may collectively spend up to $120,000 communicating with electors in Local Government Area X.

Registered Political Party B and its 3 candidates in Local Government Area Y may spend up to $60,000 communicating with electors in Local Government Area Y.

These 2 amounts cannot be combined. All electoral expenditure must be disclosed according to the LGEA.

Changes to endorsement

If a registered political party changes the number of candidates it has endorsed in a local government area, the expenditure cap for the new and/or former endorsed candidates will need to be recalculated, in accordance with sections 123G and 123H of the LGEA.

Compliance and penalties

Incurring electoral expenditure which exceeds a registered political party's or candidate's electoral expenditure cap is a criminal offence under section 123N(2) of the LGEA. Participating in a scheme to circumvent the electoral expenditure caps is also a criminal offence under section 194B of the LGEA. Both are serious integrity offences under schedule 1 of the *Local Government Act 2009.*

Penalties include imprisonment, fines, and disqualification from being a councillor. Twice the amount of the excess expenditure may also be recovered by the ECQ as a debt to the State.

For further information

This fact sheet mainly refers to Part 6, Division 4 (Caps on electoral expenditure) of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 6 – Offences and penalties for candidates

Fact sheet 12 – Definition of electoral expenditure

Fact sheet 13 – Expenditure cap calculations

Fact sheet 18 – Real-time disclosure of electoral expenditure by registered political parties

Fact sheet 37 – Funding and disclosure overview for associated entities

Fact sheets are available on the ECQ website.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

ALL ELECTION PARTICIPANTS

Authorisation of election material

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to any person intending to print, publish, distribute or broadcast election material during a local government election or by-election period.

Election material is subject to a range of regulations which carry penalties for non-compliance.

How-to-vote cards

How-to-vote cards have specific regulations covering their design, authorisation and distribution. Please refer to Fact sheet 5 – How-to-vote cards for that information.

What is election material?

Election material means anything that can or intends to:

- influence an elector in relation to voting at the election

or

- affect the result of an election.

It includes, but is not limited to, advertising via:

- radio
- television
- cinema
- social media
- internet
- email
- text message
- signs
- newspapers
- magazines
- billboards
- corflutes
- pamphlets
- flyers
- letters
- opinion polls or research.

Does the author of election material have to be named?

Any person who prints, publishes, distributes, or broadcasts election material **during an election period** must ensure an authorisation is stated on the material.

Material can be authorised by any person.

The authorisation must show the name and address of the person authorising the material. It must be a physical address (typically the person's own residential address). This address must not be a post office box.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

Electoral Commission QUEENSLAND

When is the election period?

The election period begins on the day the notice of election is published and ends when the polls close on election day.

> The ECQ does not regulate authorisation of election material outside of the election period.

Examples of correct authorisations:

- On **written** material, an authorisation stating: '*Authorised by Bob Smith, 1 Queen Street, Brisbane'.*
    - The text must be of sufficient size to be clearly legible by a voter who wishes to read the authorisation in a way the material is intended to ordinarily be read, and must not be obstructed by other objects such as screws or stickers.
    - On a double-sided, printed item like a flyer, the authorisation only needs to be printed on one side.
- On a **television** advertisement, a visual and spoken authorisation at the end of the advertisement.
- On a **radio** advertisement, a spoken authorisation at the end of the advertisement.
- On a **social media** profile or page, an authorisation should be placed in a prominent position on the page. For example, for a Facebook page set up for an election campaign, the authorisation should be stated clearly in the top banner, page details or by adding an impressum to the page.
- On a **website** or **app,** an authorisation should be placed on each webpage on a campaign-specific website. For a general website, the authorisation would only need to be placed on webpages containing election matter.
- In a **robocall** (unsolicited, automated telephone messaging), a spoken authorisation at the end of the call.
- In an **email**, the authorisation should be in the signature block.
- In a **text message**, if an authorisation cannot be included in the text message itself, it should clearly refer to another document or notice (so they can properly be considered one message) and contain a link to that second part of the message so it is easily accessible to the recipient. The second part of the message must contain the authorisation information.

Misleading electors

Publishing or distributing any material during an election period that is likely to mislead an elector about the ways of voting is an offence. Breaking this rule carries penalties for non-compliance. Please see Fact sheet 7 – Offences relating to electoral advertising for further information.

Election signage during the election period

Regulations apply to the display of election signage next to local and state-controlled roads. Candidates should check these requirements prior to displaying any signage near roads.

Information on election signage and state-controlled roads can be obtained from the Department of Transport and Main Roads: qld.gov.au/transport/safety/signs/election-signs.

Local councils determine the rules that apply to election signage and advertising devices (such as corflutes) next to local roads, private property and on some state-controlled roads in their area. Before displaying any election signage, candidates should confirm their council's regulations on quantity, placement and display timeframe.

Disclosure of election material

The cost of producing election material may also need to be disclosed as electoral expenditure incurred or gifted depending on the funding source of the material.

Please refer to Fact sheet 10 – Definition of gifts and loans or Fact sheet 12 – Definition of electoral expenditure for more information.

Reporting non-compliance

Any person concerned about unauthorised material being distributed unauthorised material should make sure the material is being distributed during the election period before reporting the matter to the ECQ. Any reports of non-compliance should include evidence, if possible.

The ECQ does not manage all election related complaints. Please review Fact sheet 7 – Offences relating to electoral advertising for more details about how complaints are handled.

RELATED FACT SHEETS

Fact sheet 5 – How-to-vote cards

Fact sheet 6 – Offences and penalties for candidates

Fact sheet 7 – Offences related to electoral advertising

Fact sheet 10 – Definition of gifts and loans

Fact sheet 12 – Definition of electoral expenditure

Facts sheets can be found on the ECQ's website.

ALL ELECTION PARTICIPANTS

Election summary returns

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

COMPLIANCE WARNING

The ECQ issued nearly 100 fines to candidates for failing to lodge an election summary return for the 2020 local government elections.

An elected candidate who does not lodge an election summary return by the due date will be immediately removed from office under section 172 of the *Local Government Act 2009*.

What is an election summary return?

Election summary returns are lodged after election day. They disclose all activity during the disclosure period: all electoral expenditure incurred and all gifts and loans received, if any.

These returns must be given within 15 weeks of election day.

Why must I submit an election summary return?

Disclosure of gifts and money spent during the election period provides transparency to and ensures the integrity of the election process. This is required by the LGEA.

In addition to real-time reporting of gifts, loans, and electoral expenditure, election summary returns are required following the election to provide an overview of all financial activity for the election.

Who needs to give an election summary return?

All election participants must lodge an election summary return. This return must be given even if a participant incurred no electoral expenditure or received no gifts or loans. This includes candidates, groups of candidates, associated entities, registered political parties and third parties.

If an election participant has designated an agent, the agent is responsible for completing and submitting the election summary return.

Election summary returns must be given to the ECQ within 15 weeks after election day.

What do I need to disclose in an election summary return?

The information disclosed in an election summary return depends upon your role during the election. If no gifts or loans were received or electoral expenditure incurred, an election summary return must be submitted stating that fact.

A candidate or group of candidates must disclose:

- total value of all gifts and loans received during the disclosure period
- total number of entities that made those gifts/loans
- total amount of electoral expenditure incurred during the disclosure period
- bank statement from dedicated campaign bank account showing all transactions.

Registered political parties must disclose:

- total amount of electoral expenditure incurred during the disclosure period
- bank statement from dedicated campaign bank account showing all transactions
- audit certificate covering the elections.

Associated entities must disclose:

- total amount of electoral expenditure incurred during the disclosure period
- bank statement from dedicated campaign bank account showing all transactions.

Registered third parties must disclose:

- total value of all gifts received by the third party during the disclosure period
- number of entities that made gifts to the third party
- total value of all gifts given by the third party during the disclosure period
- total amount of electoral expenditure incurred during the disclosure period
- bank statement from dedicated campaign bank account showing all transactions.

Unregistered third parties must disclose:

- total value of all gifts received by third party during disclosure period
- number of entities that made gifts
- total value of all gifts given by third party during disclosure period.

How do I submit an election summary return?

Election summary returns are submitted through the Electronic Disclosure System (EDS).

Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact Sheet 8 for information about record keeping requirements.

Compliance

The ECQ is responsible for administering and enforcing the LGEA, which includes penalties for election participants who breach their obligations.

The compliance framework is available on the ECQ's website.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements

Fact sheets can be found on the ECQ website.

ALL ELECTION PARTICIPANTS

Record keeping requirements

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

All election participants are responsible for keeping full and accurate records relevant to their election funding and disclosure requirements.

Good record keeping practices promote accountability and transparency and increase public confidence in election campaigning in local government. Records help to protect election participants should the integrity of their financial reporting be reviewed during or after an election campaign.

Failure to keep relevant election records is **unlawful** and may result in enforcement action.

What records need to be kept?

Election participants (and their associated entities) must keep complete and accurate records about:

- gifts (donations) made or received
- loans made or received
- electoral expenditure incurred
- other campaign expenses
- dedicated campaign bank accounts
- disclosure returns
- any other matters required to be stated in a disclosure form.

In general terms, the following items should be kept:

- bank statements
- invoices
- receipt books
- deposit books
- cheque books
- general ledgers
- notices
- copies of advertisements or election material.

Records must include any information necessary to demonstrate compliance with the election funding and disclosure obligations under legislation. Legislation has changed for the 2024 local government elections, and some of the new requirements are detailed on the following pages.

If monies have been spent during the election to print, publish or broadcast an advertisement or other election material, the record for this expenditure must include three parts:

- a copy of the advertisement or other material
- the audience
- the name of the election location (whether an entire local government area or a specific ward or division).

An agent of an election participant has a specific responsibility to keep a record of their compliance with agent obligations. Additional information about an agent's obligations can be found in Fact sheet 38 – Funding and disclosure overview for agents.

How do records need to be kept?

All records must be in English, be accurate and be held in a way that allows the ECQ to examine them conveniently and properly for audit or compliance purposes.

Records may be kept in paper or electronic form. It is strongly recommended that paper records are also saved electronically. Copies of all electronic records should be regularly backed up in a separate location.

How long should records be kept?

Records must be kept and made available to the ECQ for inspection for a period of at least **5 years** after the election.

All election participants are subject to ECQ compliance reviews and may be asked to provide evidence to satisfy the ECQ that disclosure requirements have been properly met.

Tips for good record keeping

Good record keeping supports full and accurate disclosure. It is strongly recommended that election participants:

- record receipt of gifts and loans as soon as practical so they are not overlooked or forgotten
- save any paper records electronically to ensure they are not destroyed
- keep comprehensive records in an orderly format for easy and quick retrieval
- regularly back-up electronic records
- ensure their records are up-to-date.

NOTICE

The Local Government Electoral Regulation 2023 has added new requirements for records kept by election participants during local government elections and by-elections.

Some of these new requirements are detailed on the next pages. This fact sheet does not replace the Regulation, and all participants should consider seeking legal advice if they have any questions.

Specific requirements for records of gifts and loans

An election participant who receives a gift or loan must include the information below as part of their record of the gift or loan.

- Relevant details of gift or loan (see Fact sheet 11 – Relevant details of gifts and loans)
- A statement that the person who made the gift or loan is not a prohibited donor
- If the gift is not money, how the value of the gift was determined under section 108 of the LGEA
- If the gift or loan was returned or refunded:
    - The date the return or refund was made
    - If non-monetary, how the value was determined under section 108 of the LGEA
- If electoral expenditure was gifted:
    - How the electoral expenditure benefitted the recipient
    - How section 109C(1)(b) of the LGEA applies to the gift
    - Any consideration provided by the recipient
    - A copy of the invoice (if any)
    - Details of any arrangement between entities that led to the expenditure (if any)

Specific requirements for records of electoral expenditure incurred

Records of incurred electoral expenditure must include specific information:

- The cost of electoral expenditure
- Date amount was paid
- Description of goods or services for which the electoral expenditure was incurred
- Name and business address of the person who supplied the goods or provided the services
- Date the goods or services were supplied or provided
- If section 109E(4) of the LGEA applies, the date the goods were first used for a campaign purpose during a capped expenditure period
- Copy of the invoice or receipt issued to the election participant for the electoral expenditure
- If electoral expenditure benefits another participant, then the following is required:
    - Information detailing how the electoral expenditure benefits the other participant
    - Details of any applicable circumstances under section 109C(1)(b) of the LGEA
    - Details of consideration (if any) that the person received from the participant incurring the expenditure
    - Copy of invoice (if any) issued by the person to the participant for electoral expenditure
    - If expenditure was incurred under an arrangement between election participants, details of the arrangement
- If expenditure for a quadrennial election is incurred under section 123V of the LGEA, details of how it relates to the election
- If expenditure for a quadrennial election is incurred by an unregistered third party that is required to be registered for the election, details of how the expenditure relates to the election

Records for dedicated campaign bank accounts

FOR CANDIDATES OR GROUPS OF CANDIDATES

When amounts are paid **into** the dedicated campaign bank account, the following information must be included in the record of the deposit:

- the amount
- whether the amount deposited is a gift, loan or something else
- all details necessary to show the amount is a gift, loan or something else.

FOR CANDIDATES, GROUPS OF CANDIDATES, REGISTERED POLITICAL PARTIES THAT ENDORSE A CANDIDATE, REGISTERED THIRD PARTIES OR THIRD PARTIES THAT SHOULD BE REGISTERED

For amounts paid **from** the dedicated campaign bank account, the following information must be included in the record of the payment:

- the amount
- if amount is electoral expenditure, the information necessary to show what the electoral expenditure paid for
- if amount is made up of money remaining in a dedicated campaign bank account after an election, the record must include necessary details illustrating the money has been handled correctly e.g.,
    - given to a charity nominated by the election participant
    - given to a political party (if allowed).

What are the penalties for not keeping adequate records?

Failure to keep relevant election records may incur a maximum penalty of 20 penalty units (valued at $3,096 as of 1 July 2023).

RELATED FACT SHEETS

Fact sheet 11 – Relevant details of gifts and loans

Fact sheet 18 – Real-time disclosure of electoral expenditure by candidates, groups of candidates and registered political parties

Fact sheet 20 – Real-time disclosure of gifts and loans by candidates

Fact sheet 25 – Real-time disclosure of gifts and loans by agents of groups of candidates

Fact sheet 34 – Real-time disclosure of electoral expenditure by third parties

Fact sheet 35 – Real-time disclosure of gifts received by third parties

Fact sheet 38 – Funding and disclosure overview for agents

All fact sheets can be found on the ECQ's website.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

ALL ELECTION PARTICIPANTS

Definition of gifts and loans

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to candidates, groups of candidates, registered political parties, associated entities, third parties and donors which make or receive gifts or loans.

Generally, any gifts or loans made to or by these election participants must be disclosed.

It is important for election participants (including donors) to familiarise themselves with the definitions of gifts and loans to ensure they comply with disclosure laws.

What is a gift?

A **gift** is a transfer of money, property or a service given without receiving something of equal or adequate value in return.

A **non-monetary gift** (or gift-in-kind) is a gift of any goods or services other than money.

A gift includes:

- money given to an election participant
- services provided at no or below cost
- electoral expenditure gifted to an election participant
- uncharged interest, or an amount forgiven, on a loan (refer below for further information)
- the part of a fundraising contribution that exceeds $200.

A gift does **not** include:

- property transferred under a will
- a fundraising contribution of $200 or less, or the first $200 of a larger fundraising contribution
- membership fees paid to a registered political party
- a compulsory levy imposed on councillors under their registered political party's constitution
- an amount transferred from an individual's own funds (e.g., from a personal bank account) to the individual's own dedicated campaign bank account
- an amount contributed from an account an individual holds jointly with their spouse (this does **not** include amounts given to the spouse by a prohibited donor) to the individual's own dedicated campaign bank account
- volunteer labour, or incidental or ancillary use of a volunteer's vehicle or equipment
- gifts made in a private capacity for an individual's personal use unless the gift is used for an electoral purpose.

What is a fundraising contribution?

A fundraising contribution is the amount paid as an entry fee or other payment entitling someone to participate in or benefit from a fundraising venture or function.

An example of a fundraising contribution includes a raffle ticket or an amount paid for an item at a fundraising auction.

The $200 threshold applies on a per-person, per-event basis.

What is gifted electoral expenditure?

See Fact sheet 12 for the definition of gifted electoral expenditure.

Volunteer labour

Volunteer labour is generally not considered a gift. However, if a person provides a service that they normally provide on a commercial basis at a reduced or no cost, that would be considered a gift.

EXAMPLE

A campaign volunteer, who also operates a printing business, prints 100 flyers and gives them to a candidate at no cost. The flyers would be considered a gift.

Gifts given in a private capacity

Gifts made in a private capacity for an individual's personal use are not gifts for electoral purposes. However, should any part of the gift be used for an electoral purpose, that part will be considered a gift.

Funds from a joint account

A candidate may pay an amount from their personal funds into their own dedicated campaign bank account. This is considered **self-funding** (i.e., not a gift) and does not require disclosure.

Amounts transferred from a **joint bank account** held by an individual and their spouse (which includes a de facto or civil partner) into the individual's dedicated campaign bank account are not considered to be gifts and do not require disclosure.

Candidates who are part of a group of candidates may also transfer amounts from their personal bank accounts (or bank accounts held jointly with their spouse) into the group's dedicated campaign bank account, without needing to disclose the amounts.

NOTICE

Self-funding and joint funds cannot be used to conceal gifts that are otherwise not permitted (e.g., gifts from property developers). Significant penalties apply for circumventing electoral laws.

What is a loan?

A **loan** is any of the following provided by a person or entity, other than a financial institution or by use of a credit card:

- an advance of money
- provision of credit or another form of financial accommodation
- payment of an amount for, on behalf of, or at the request of, an entity, if there is an express or implied obligation to repay the amount
- another transaction that is in effect a loan of money.

If a loan's terms do not include an interest rate of at least the Reserve Bank of Australia's cash rate plus 3%, the difference would be considered a gift-in-kind and may require disclosure.

Anonymous gifts

It is unlawful for a candidate or group of candidates to receive anonymous gifts or loans totalling $500 or more. This includes gifts or loans where the name, address or other relevant details of the donor are not known to the candidate or group.

If an anonymous gift or loan is received, an amount equal to the amount or value of the gift or loan is payable to the State.

Prohibited donors

Property developers and industry organisations representing property developers are prohibited from making a gift or loan for the benefit of a political party, candidate, group of candidates, or other entity in an election.

Significant penalties apply for anyone who makes or receives prohibited donations. Penalties could include fines, prosecution and/or the recovery of those amounts as a debt to the State.

See the ECQ website for further information.

Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact sheet 8 for more information about record keeping requirements.

For further information

This fact sheet mainly refers to part 6 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements
Fact sheet 12 – Definition of electoral expenditure
Fact sheet 20 – Real-time disclosure of gifts and loans by candidates
Fact sheet 25 – Real-time disclosure of gifts and loans by agents of groups of candidates

Fact sheets can be found on the ECQ website.

More information
If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

ALL ELECTION PARTICIPANTS

Definition of electoral expenditure

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to candidates, groups of candidates, registered political parties, associated entities and third parties participating in local elections and by-elections.

The term 'electoral expenditure' has a specific meaning for local elections and by-elections. Electoral participants must disclose all electoral expenditure and ensure they do not exceed their caps on electoral expenditure.

Not all campaign expenses are electoral expenditure. It is important to consider whether a particular campaign expense is electoral expenditure or not.

See Fact sheets 18 and 34 for information about disclosure of electoral expenditure.

See Fact sheets 19, 24, 29 and 36 for information about electoral expenditure caps.

What is electoral expenditure?

Under section 109A of the LGEA, electoral expenditure is expenditure incurred for a campaign purpose and includes GST. It includes:

- costs of designing, producing, printing, broadcasting, or publishing any kind of material for an election including (but not limited to):
  - advertisements broadcast at a cinema, on radio or television or on the internet,
  - direct marketing through the post office or email
  - flyers, billboards, brochures, signs, or how-to-vote cards
- distribution costs for election material such as the cost of postage, couriers, or sending SMS messages
- costs of opinion polling or research
- fees for contracted services related to an activity mentioned above (e.g., payments for experts or consultants, the provision of data, etc.).

Expenditure is incurred for a campaign purpose if it:

- promotes or opposes a political party or group of candidates for an election
- promotes or opposes the election of a candidate
- otherwise influences voting at an election.

For example, expenditure is incurred for one of the above purposes if, in relation to an election, the material produced:

- expressly promotes or opposes:
  - political parties, groups of candidates, or candidates who advocate, or do not advocate, a particular policy or issue
  - political parties, groups of candidates, or candidates who have, or do not have, a specific position on a policy or an issue
  - candidates who express a particular opinion

- expressly or implicitly comments on a political party, a candidate, or a group of candidates participating in the election
- comments on an election in relation to a local government's area or a division of a local government's area
- expresses a particular position on a policy, issue or opinion if the position is publicly associated with a political party, group of candidates or candidate. This applies even if the party, group or candidate is not mentioned.

Expressly urging electors to vote for or against a candidate, group or party is not the sole defining feature of electoral expenditure. Election material using images, branding, slogans or identifying a person as a candidate can serve a campaign purpose and therefore represent electoral expenditure.

The purpose of the election material is the primary concern: does the material promote a candidate, group of candidates or registered political party in relation to a local government election? If the answer is yes, the election material is electoral expenditure.

Incidental expenses for minor consumables such as screws/nails, zip ties, washers, etc. are not considered electoral expenditure. Larger items, such as stakes (for displaying signs on roads, etc.) are considered electoral expenditure and must be disclosed under the election participant's disclosure requirements.

What is not electoral expenditure?

Electoral expenditure does not include:

- employing staff for a campaign purpose (excluding consultants depending upon their role)
- campaign materials for the election of members of Parliament (in Queensland or any other jurisdiction) or the election of councillors of a local government in another State
- factual advertising that relates mainly to the administration of a registered political party—for organisational purposes or to select candidates for nomination
- expenses for which a sitting councillor receives (or is entitled to receive) an allowance or entitlement.

When a councillor receives (or is entitled to receive) an allowance or entitlement to produce councillor newsletters, the newsletter produced will not be electoral expenditure if it complies with the council's newsletter requirements.

In any other instance, if the newsletter is for a campaign purpose, it may be electoral expenditure.

How is electoral expenditure determined?

Sometimes the ECQ may need to determine if a particular piece of election material is the product of electoral expenditure. The following factors may be considered in these situations:

- Organiser's intent when producing the materials
- Words and images used
- Timing and placement of the material
- Colours, slogans, logos, etc. used in the material
- Whether the material was required to be authorised under the LGEA

- Any external information which may provide additional context (such as correspondence or contracts between the supplier of the goods and the electoral participant)
- Any other relevant factors

Electoral expenditure incurred by third parties

Monies spent by a third party are electoral expenditure if the dominant purpose for that spending is a campaign purpose.

Third party expenditure is not considered electoral expenditure if the dominant purpose of the expenditure is another purpose, such as educating or raising awareness about a public policy issue. This is true even if the expenditure also (and incidentally) achieves a campaign purpose.

Third parties that spend, or are planning to spend, more than $6,000 in electoral expenditure have additional obligations and must register with the ECQ.

See Fact sheet 31 for more information about third parties and electoral expenditure.

When is electoral expenditure incurred?

Electoral expenditure is incurred when the relevant goods are first used for a campaign purpose during a capped expenditure period for an election.

The date the expenditure is invoiced or paid does not matter.

Under section 109E, electoral expenditure is incurred when the relevant goods or services are supplied or provided. **It does not matter when the expenditure is invoiced or paid.**

For example:

- Expenditure on advertising is incurred when the advertisement is broadcast or published.
- Expenditure on production and distribution of election material, such as flyers, is incurred when the material is distributed.

If electoral expenditure is used to obtain goods for the dominant purpose of being used for a campaign purpose in one or more elections, the electoral expenditure is taken to have been incurred when the goods are first used for a campaign purpose during a capped expenditure period.

When disclosing electoral expenditure for items being re-used from a previous election, the amount of expenditure incurred is the current value of the goods.

The ECQ does not have a standard method of calculating depreciation of goods. Any of the standard accounting or financial methodologies for depreciation will generally be acceptable. (Some examples of standard methodologies can be found on the ATO's website.)

Whichever method is adopted, the candidate or agent must keep sufficient records demonstrating how values were determined. These records must be retained for 5 years.

EXAMPLES

Example A

A potential candidate orders and pays for the design and production of 50 corflutes in May 2023. The corflutes are supplied in July 2023, and the candidate's team puts them up around the council division starting on 10 September 2023. The electoral expenditure is incurred on 10 September 2023.

Example B

In April 2023, a potential candidate commissions the design of flyers to hand out while going door-to-door. The flyers are delivered and paid for in September 2023, but by then, the potential candidate has decided not to contest the election and destroys the flyers. No electoral expenditure has been incurred.

Example C

Councillor Jim has campaigned in several local government elections. He is planning to re-use the signs and corflutes made in 2020 for the 2024 local government elections.

On 23 January 2024, Jim and volunteers distribute signs and corflutes around his local government division.

Even though the goods were paid for and delivered in 2020, the electoral expenditure is incurred on 23 January 2024. This is because 23 January is when the goods are first used for a campaign purpose during a capped expenditure period for the 2024 local government elections.

The amount of electoral expenditure incurred by Councillor Jim is the value of the signs and corflutes as of 23 January 2024.

EXAMPLES CONT

Example D

In early 2023, Councillor Kelly approves the design of new corflutes and orders 25 of them for her upcoming campaign. The corflutes are delivered and paid for in November 2023.

On 15 February 2024, Councillor Kelly and her volunteers put up 12 corflutes around her local government division. The electoral expenditure is incurred on 15 February 2024 when the corflutes are first used for a campaign purpose during the capped expenditure period for the election.

However, because only 12 corflutes were used for a campaign purpose, the amount of electoral expenditure incurred is the value of 12 corflutes.

Incurring electoral expenditure on behalf of another participant

If an election participant (the first participant) incurs electoral expenditure that benefits a second election participant (the recipient), the electoral expenditure is assigned to the first participant.

However, the recipient incurs the electoral expenditure if both the following are satisfied:

- The expenditure is made with the recipient's authority or consent, or if the material produced by the expenditure is accepted by the recipient; and
- The first participant invoices the recipient for payment of the expenditure.

'Gifted' electoral expenditure

If goods or services produced by electoral expenditure are 'gifted' to an election participant, the expenditure is considered to have been incurred by the recipient of the gift.

Electoral expenditure is 'gifted' to an election participant if these 3 conditions are met:

- The expenditure benefits the election participant
- The expenditure is incurred with the authority or consent of the recipient, or the election material produced is accepted by the recipient
- The person who originally incurred the expenditure does not receive payment or does not invoice the participant for the amount within 7 days of the events outlined above.

If the electoral expenditure discussed above was incurred through an arrangement with 2 or more election participants, the value of the expenditure is divided by the number of participants to determine the amount of gifted electoral expenditure per participant.

No matter when the expenditure is incurred, the 'gift' of electoral expenditure applies at the completion of the 3 outlined points above.

‘Gifted’ electoral expenditure must be disclosed by the recipient both as a gift and as electoral expenditure. The donor of the gift is also required to disclose the gift in real-time and in an election summary return.

EXAMPLE

Example

In October 2023, Candidate Hal has a professional photographer friend who offers to take some photos of him for use in promotional campaign material. The photographer estimates the value of these shots to be $600 and does not invoice Candidate Hal for the cost.

Candidate Hal must disclose this gifted electoral expenditure as **both** a gift **and** electoral expenditure. Because the value of the gift is more than $500, Candidate Hal must disclose the gift within 7 business days of accepting the photographs. Once the photos are used for a campaign purpose, the electoral expenditure is incurred and must be disclosed within 7 business days.

The photographer also needs to disclose their gift to Candidate Hal both in real-time and in an election summary return.

Electoral expenditure relating to a local government area

If money is spent by a registered political party or a registered third party for advertising or producing other election material that is solely directed at electors in a single local government area, the electoral expenditure is incurred by the registered political party or third party solely in that area.

However, if the advertising or other election material is communicated to electors in multiple local government areas, the electoral expenditure is incurred by the registered political party or third party in each of the local government areas.

If the advertising is communicated to electors in multiple local government areas and the registered political party has only endorsed candidates in one of those local government areas, then the expenditure is incurred by the registered political party only in that local government area.

Record keeping

All election participants must keep records for 5 years. This is required to demonstrate compliance in relation to all electoral expenditure, disclosure, and dedicated campaign bank account requirements. Refer to Fact Sheet 8 for more information about record keeping requirements.

Compliance

The ECQ is responsible for administering and enforcing the LGEA, which includes penalties for election participants who breach their disclosure obligations.

The compliance framework is available on the ECQ's website.

For further information

This fact sheet mainly refers to part 6, division 4 of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 8 – Record keeping requirements
Fact sheet 18 – Real-time disclosure of electoral expenditure for candidates, groups and registered political parties
Fact sheet 19 – Expenditure caps for candidates
Fact sheet 24 – Expenditure caps for groups of candidates
Fact sheet 29 – Expenditure caps for registered political parties and endorsed candidates
Fact sheet 31 – Funding and disclosure overview for third parties
Fact sheet 34 – Real-time disclosure of electoral expenditure by third parties
Fact sheet 36 – Expenditure caps for third parties

Fact sheets can be found on the ECQ website.

ALL ELECTION PARTICIPANTS

Electoral expenditure cap calculations

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet explains how expenditure caps are calculated for election participants in local government elections.

There are limitations (caps) on the amount of electoral expenditure that can be incurred during the capped expenditure period for a local election. For Brisbane City Council, the caps are set by legislation. For all other local government areas, the caps vary on a sliding scale by reference to the number of electors in the local government area. Electoral expenditure caps also vary based on whether the candidate is contesting a mayoral or councillor position.

The calculation and publication of electoral expenditure caps is managed by the ECQ, as set out in *Part 6, Division 4* (*Caps on electoral expenditure*) in the LGEA. The ECQ will publish a notice on its website advising what the expenditure caps are:

- for the 2024 local government elections – expenditure caps were published on 21 July 2023
- for a by-election – at the same time the notice for the election is issued

However, election participants might like to familiarise themselves with the underlying principles of cap calculation to understand how their expenditure cap is reached.

Number of electors

A candidate's expenditure cap is calculated by reference to the number of enrolled electors for an election. For mayoral candidates and councillor candidates in an undivided council, this is the number of people enrolled on the electoral roll for the candidate's council at a particular point in time.

For councillor candidates in a divided council, the number of electors is calculated by:

- taking the total number of electors enrolled in the whole council area
- dividing that number by the number of councillors (excluding mayors) who need to be elected for the council area
- multiplying the result by the number of councillors to be elected for a council's division.

The ECQ will calculate and publish the number of electors at the same time as publishing the expenditure caps.

Individual candidates for mayor

Electoral expenditure caps for individual mayoral candidates (excluding Brisbane City Council) are:

Number of electors	Electoral expenditure cap (E)
30,000 or less	E = $30,000
30,001 – 150,000	E = Number of electors x $1
150,001 – 200,000	E = $150,000 + ($0.50 × (Number of electors – 150,000))
More than 200,000	E = $175,000 + ($0.25 × (Number of electors – 200,000))

All calculated amounts shall be rounded to the nearest $10 (rounding one-half upwards). Endorsed candidates and candidates in a group are also subject to the above calculations, though additional aggregation rules apply. For further details, see Fact Sheet 28 – Expenditure caps for RPPs and endorsed candidates.

Individual candidates for councillor

Electoral expenditure caps for individual councillor candidates (other than mayor) (excluding Brisbane City Council) are:

Number of electors	Electoral expenditure cap (E)
20,000 or less	E = $15,000
20,001 – 39,999	E = Number of electors × $0.75
40,000 or more	E = $30,000

All calculated amounts shall be rounded to the nearest $10 (rounding one-half upwards). Endorsed candidates and candidates in a group are also subject to the above calculations, though additional aggregation rules apply. For further details, see Fact Sheet 28 – Expenditure caps for RPPs and endorsed candidates.

Individual candidates in Brisbane City Council

Candidates for Brisbane City Council have separate electoral expenditure caps set under the LGEA:

- for mayoral candidates – the expenditure cap is **$1.3 million**
- for councillor candidates – the expenditure cap is **$55,000**.

Endorsed candidates are also subject to the above calculations, though additional aggregation rules apply. For further details, see Fact Sheet 28 – Expenditure caps for RPPs and endorsed candidates.

Groups of candidates, registered political parties and third parties

Electoral expenditure caps for groups of candidates, registered political parties and registered third parties are all based on the calculated amounts for individual candidates and **will require further calculation by the participants involved**.

The electoral expenditure cap for unregistered third parties is $6,000.

For more information, see **Related fact sheets** below.

Maximum amount

A *maximum amount* (cap) on electoral expenditure which may be spent on a particular local government area election applies to groups of candidates and to registered political parties and their endorsed candidates.

The maximum amount for electoral expenditure caps is calculated using this formula which references both mayoral and non-mayoral candidate expenditure cap amounts:

M = (A × B) + (C × D), where:

- M is the maximum amount for the election
- A is the amount of an individual mayoral candidate's expenditure cap for the election
- B is either 1 (if the office of mayor is to be filled in the election), or otherwise, 0
- C is the amount of an individual councillor candidates (other than mayor) expenditure cap for the election
- D is the total number of vacant offices of councillors (other than mayor) to be filled in the election.

The electoral expenditure cap that applies to a particular group or registered political party is the sum of each candidate's individual capped amount (depending on whether they are a mayoral or councillor candidate) up to the maximum amount calculated under the formula above. For more information, see:

- Fact sheet 23 – Expenditure caps for groups of candidates
- Fact sheet 28 – Expenditure caps for registered political parties and endorsed candidates

Note

A group or registered political party's expenditure cap for an election is not always the same as the maximum amount for an election.

The electoral expenditure cap may be less than the maximum amount. It will never be more than the maximum amount.

EXAMPLES

Example A

Group A has 3 councillor candidates and a mayoral candidate in Local Government Area X. In Local Government Area X, there are 5 councillor positions to be elected, and one mayoral candidate position to be elected.

The expenditure cap for a councillor candidate in Local Government Area X is $15,000, while the cap for a mayoral candidate is $30,000.

Applying the formula, the maximum amount for the election is $105,000 as set out below:

M = (A × B) + (C × D)

M = ($30,000 × 1) + ($15,000 × 5)

M = $105,000

The expenditure cap for Group A is the sum of the capped amounts for each of the group members: $75,000 or (1 × $30,000) + (3 × $15,000).

$75,000 is below the maximum amount of $105,000 for the election.

Therefore, the expenditure cap for Group A is $75,000. All 4 candidates in Group A can collectively spend up to $75,000.

Example B

Group B endorses 8 councillor candidates in Local Government Area Y. In Local Government Area Y, there are 5 councillor positions to be elected. The mayoral position (which usually has a cap of $30,000) is not required to be elected in this election.

The expenditure cap for a councillor candidate in Local Government Area Y is $20,000 each.

Applying the formula, the maximum amount for the election is $100,000 as set out below:

M= (A × B) + (C × D)

M= ($30,000 × 0) + ($20,000 × 5)

M= $100,000

The sum of the capped amounts for each of the group members is $160,000 or 8 × $20,000.

However, because there are only 5 councillor positions to be elected in Local Government Area Y, the maximum amount for the group's expenditure cap is $100,000.

Therefore, the 8 candidates in Group B may only collectively spend up to $100,000 for the election.

Cap adjustments for indexation

Electoral expenditure caps are subject to adjustment under the LGEA after each quadrennial election. The purpose of the adjustment is to reflect changes in the consumer price index (CPI), as provided by the Australian Bureau of Statistics. This adjustment is made via the calculation of a *relevant factor.*

Every four years, 30 days after election day for a quadrennial local government election, the relevant factor is adjusted using this formula:

$A = B \times {}^{C}/_{D}$, where:

- A is the new adjusted relevant factor
- B is the relevant factor that applied immediately before this adjustment
- C is the CPI for the last quarter that ended before election day for the most recent quadrennial election
- D is the CPI for the last quarter that ended before the election day for the quadrennial election held prior to the most recent quadrennial election.

The ECQ will publish the updated relevant factor on its website shortly after these calculations are completed.

For further information

This fact sheet mainly refers to Part 6, Division 4 (Caps on electoral expenditure) of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 19 – Expenditure caps for candidates

Fact sheet 23 – Expenditure caps for groups of candidates

Fact sheet 28 – Expenditure caps for registered political parties and endorsed candidates

Fact sheet 35 – Expenditure caps for third parties

Fact sheets are available on the ECQ website.

CANDIDATES

Offences and penalties

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

The ECQ is responsible for administering and enforcing the LGEA which includes enforcing penalties that may apply to local government candidates and sitting councillors who breach their disclosure obligations. Note that councillors and candidates may also be subject to laws enforced by other government agencies. This fact sheet is intended to provide information only in relation to those laws administered by the ECQ.

What happens if a candidate or councillor commits an offence under the LGEA?

A candidate or councillor who commits an offence under the LGEA may be subject to fines or prosecution in court, depending on the seriousness of the offence.

Further, a sitting councillor will be automatically suspended if they are charged with an integrity offence or a serious integrity offence as specified under either the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

Any person including a sitting councillor or candidate will be disqualified from being or becoming a councillor for:

- 4 years after being convicted of an integrity offence

or

- 7 years after being convicted of a serious integrity offence.

A finding of guilt or acceptance of a plea of guilty will lead to disqualification from being a councillor. A conviction does not need to be recorded for disqualification.

What are the integrity offences relating to election activity under the LGEA?

See the next page for a list of offences relating to election activity under the LGEA. This list is not exhaustive and there are other penalties that apply outside of these integrity offences. Election participants should all familiarise themselves with the full content of the relevant legislation and seek independent legal advice if required.

Integrity offences under the Local Government Electoral Act 2011

LGEA Section	Offence	Description	Maximum penalty*
Serious integrity offences			
123N(2)	Knowingly incurring electoral expenditure exceeding a participant's expenditure cap	A person must not incur electoral expenditure during the capped expenditure period that exceeds a participant's electoral expenditure cap, or where the person knows or ought reasonably to know the expenditure would, when added to other relevant electoral expenditure, result in the cap being exceeded. This offence is a crime.	1,500 penalty units or 10 years imprisonment
169(1)	Knowingly giving false or misleading information	A person must not give information under the LGEA to a returning officer or the electoral commission that a person knows is false or misleading in a material particular.	7 years imprisonment
170	Bribery	A person must not ask for, receive or offer a benefit of any kind to influence or affect the person's election conduct. A person must not, in order to influence another person's election conduct, give or offer to give a benefit of any kind to anyone.	7 years imprisonment
175	Forged election papers	A person must not forge an election paper or knowingly use a forged election paper.	10 years imprisonment
194B	Knowingly seeking to circumvent the prohibition on political donations or electoral expenditure	A person must not knowingly participate in a scheme to circumvent a prohibition on political donations or the caps on electoral expenditure. This offence is a crime.	1,500 penalty units or 10 years imprisonment

Integrity offences			
116G	Agent's obligation to ensure compliance	The agent of an election participant must take all reasonable steps to inform the participant about obligations that apply and the agent must take all reasonable steps to establish and maintain systems to support the participant in complying with the obligations.	100 penalty units
123O	Knowingly exceeding the expenditure cap of an unregistered third party	An unregistered third party must not incur electoral expenditure during the capped expenditure period that exceeds the third party's expenditure cap, or where the third party knows or ought reasonably to know the expenditure would, when added to other relevant electoral expenditure, result in the cap being exceeded.	200 penalty units or twice the amount exceeding the cap, whichever is greater
126, 127, 127AA, and 127AB	Failure to operate a dedicated account in accordance with the LGEA	An election participant must operate a dedicated account for the election in the ways permitted under sections 126, 127, 127AA and 127AB of the LGEA.	100 penalty units
127V	Must assist appointed auditor	An election participant must give an appointed auditor assistance including full and free access at all reasonable times to all accounts, records and documents that the auditor reasonably requires.	200 penalty units
135E	Auditor to give notice of contravention	If while carrying out an audit, an auditor becomes aware of a matter that is reasonably likely to constitute a convention of Part 6 or Part 9, division 5, the auditor must, within 7 days after becoming aware of the matter, give the ECQ written notice of the matter.	100 penalty units
171	Assisting illegal payments	A person must not knowingly give an amount which assists in the making of a bribery payment or benefit.	2 years imprisonment
183	Engaging in group campaign activities	A person must not engage in a group campaign activity for an election unless the activity relates to candidates who are members of the same group of candidates for the election or candidates who are	100 penalty units

		endorsed by the same registered political party for the election.	
186	Influencing voting by violence or intimidation	A person must not, by violence or intimidation, influence a person's vote at an election.	2 years imprisonment
189	Voting if not entitled	A person must not, at an election, vote in someone else's name, vote more than once, cast a vote that the person knows they are not entitled to cast or assist another person who is not entitled to vote.	3 years imprisonment
194A	Knowingly making or accepting an unlawful political donation	A person must not knowingly do an act or make an omission that is unlawful under the prohibited donor provisions of the LGEA. This offence is a misdemeanour. Refer to Prohibited Donors Scheme for more information.	400 penalty units or 2 years imprisonment
194C	Knowingly providing false or misleading information relating to a determination	A person must not provide information in an application for determination that the person knows is false or misleading. This offence is a misdemeanour. Refer to Prohibited Donors Scheme for more information.	400 penalty units or 2 years imprisonment
195(2) & 195(3)	Knowingly giving a return that contains false or misleading particulars	A person must not give a return that contains particulars that are, to their knowledge, false or misleading.	100 penalty units

**As of 1 July 2023, the value of one penalty unit is $154.80.*

ALL ELECTION PARTICIPANTS

Offences relating to electoral advertising

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to any person who undertakes advertising as part of a Queensland local government election.

Offences relating to electoral advertising

Section 182 of the LGEA prohibits any person from:

- distributing anything that is intended or likely to mislead an elector about the ways of voting during an election period
- distributing anything that purports to be a representation of a ballot paper during an election period, if it's likely to induce an elector to cast an informal vote.

Distribution in this instance means via publication, print, broadcast or online. Any such distribution of misleading election materials or how-to-vote cards is an offence under section 182 of the LGEA, which carries a maximum penalty of 40 penalty units ($6,192 as at 1 July 2023).

Election material that is distributed during an election period must also be properly authorised under section 177 of the LGEA. See Fact sheet 3 – Authorisation of election material for more information.

The distribution of how-to-vote cards is permitted under the LGEA, provided they meet requirements set out in sections 178 and 179 of the LGEA. It is an offence for a person to distribute a how-to-vote card that was not submitted to and accepted by the ECQ.

Distribution of a how-to-vote card that has not been accepted by the ECQ carries a maximum penalty of 20 penalty units ($3,096 as at 1 July 2023). See Fact sheet 5 – How-to-vote cards for more information. Keep in mind that not everything distributed at a polling booth will be a how-to-vote card – it could be ordinary election material which does not require ECQ approval.

The ECQ's Compliance approach

It is common for the ECQ to receive complaints about electoral advertising which discusses another candidate. However, the ECQ has a limited remit to investigate these matters.

Section 182(2) of the LGEA limits the ECQ to only investigating conduct which involves knowingly publishing (in print or online) a false statement of fact about the personal character or conduct of a candidate, for the purpose of affecting the election of the candidate.

Investigations of this nature can take significant time and are unlikely to be resolved before election day. Further information about how matters such as these are prioritised can be found in the ECQ's compliance approach.

Investigations of this nature will need to establish:

1. The published material contained a false statement of fact (as opposed to an opinion)
2. That the statement of fact was about a candidate's *personal* character or conduct (as opposed to their professional or public character or conduct)

3. The publisher's intent in publishing the material was to affect the election of that candidate (and not for some other purpose)
4. The person who published the material *knew* that it contained a false statement of fact.

It is not sufficient to demonstrate that the statement of fact was incorrect – the motives and knowledge of the publisher must be established to substantiate an offence against section 182 of the LGEA.

EXAMPLES

Example A

During a mayoral candidates' debate, two candidates exchange comments about each other's past work performance and resort to name-calling. Another candidate believes the debate was mean-spirited and would like to complain.

Outcome

The ECQ has no remit to investigate this complaint, as it does not constitute the publication of a false statement of fact about the personal character or personal conduct of a candidate.

Example B

A councillor candidate distributes a flyer which has been mocked up to look like a ballot paper and encourages electors to substitute their ballots with this flyer on polling day. An elector is concerned and would like to complain.

Outcome

The elector can contact the ECQ to provide evidence of their concern, and the ECQ may choose to investigate further to determine whether this could induce an elector to cast an informal vote.

Example C

Councillor Candidate A approves the printing of a leaflet which states that Candidate B was convicted of and jailed for fraud in the past. This information is false, and Candidate B has never been convicted of a crime. Candidate A knowingly fabricated this information, and Candidate B has clear evidence of this fabrication from Candidate A's campaign. Candidate B wishes to complain.

Outcome

Candidate B can contact the ECQ to provide their evidence, and the ECQ may choose to investigate further.

EXAMPLES CONTINUED

Example D

A councillor candidate places an advertisement about themselves in their local paper, calling themselves the representative for their local division. An elector believes this is incorrect as the candidate has not yet been elected and wishes to complain.

Outcome

The ECQ has no remit to investigate this complaint, as it does not constitute the publication of a false statement of fact about the personal character or conduct of a candidate.

Who to contact about misconduct

Electoral participants may also be subject to laws enforced by other government agencies. The ECQ does not regulate:

- issues involving the councillor code of conduct, caretaker conventions, or use of council property during the election period
- decisions of councillors made in their capacity as elected officials
- the behaviour or conduct of candidates or their workers when behaviour does not affect the conduct of the election
- content of political advertising (other than ensuring proper authorisation or the matters addressed above)
- the placement of signs on roads, private property, etc.
- complaints about corrupt conduct.

Any person who wishes to report potential non-compliance (including self-reporting) should contact the relevant authority, including:

Issue	Contact
Disclosure and bank account requirements (including notifications about potential non-compliance)	Electoral Commission of Queensland Funding, Disclosure and Compliance fad@ecq.qld.gov.au 1300 881 665
Expenditure caps	
Prohibited donations	
Group campaign activities (including registration of groups)	
Accessing and using the Electronic Disclosure System	

More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

Issue	Contact
Third-party campaign activity (including registration of third parties)	Electoral Commission of Queensland (per previous page)
Authorisation of election material	
Candidate / candidate worker conduct	If the behaviour involves violence – Queensland Police Service (000 in emergencies) If the behaviour is at a polling venue and is obstructing the free exercise of casting votes or another right or responsibility – the Returning Officer in the first instance
Stolen or damaged election signs	Queensland Police Service
Placement of election signs	On local roads – the local council On a State controlled road – Department of Transport and Main Roads (www.qld.gov.au/transport/safety/signs/election-signs)
Complaints about the conduct of sitting councillors and mayors who are standing for re-election	Office of the Independent Assessor www.oia.qld.gov.au
Complaints about corrupt conduct	Crime and Corruption Commission www.ccc.qld.gov.au
Complaints about online abuse or bullying	eSafety Commissioner www.esafety.gov.au

For further information

This fact sheet mainly refers to section 182 of the LGEA. The LGEA is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.

RELATED FACT SHEETS

Fact sheet 3 – Authorisation of election material

Fact sheet 5 – How-to-vote cards

Fact sheet 6 – Offences and penalties for candidates

Fact sheets are available on the ECQ website.