

Administration of Groups of Local Government Candidates Policy and Procedure

Version 2.0

Approval



Pat Vidgen

Electoral Commissioner

14 / 2 / 2024

Version history

Version	Notes	Author	Date of Change
1.0	Issued for use	Electoral Commissioner	January 2020
2.0A	Draft	Project Manager, Funding, Disclosure and Compliance	February 2024
2.0	Updated in response to legislative amendments	Project Manager, Funding, Disclosure and Compliance	February 2024

Review

This policy will be reviewed **12 months before every local government quadrennial election**, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary.

Contents

Purpose	4
Rationale	4
Guiding Principles	4
Part 1 – Group campaign activities	5
1. Group campaign activities	5
Part 2 – Registration of groups of candidates	7
2. Applying for registration as a group of candidates	7
3. Assessing an application for registration of a group	9
4. Publishing an application for registration of a group	9
Part 3 – Changing membership of a group	12
5. Applying to change membership of a group	12
6. Assessing an application to change membership of a group	13
7. Publishing an application to change the membership of a group	13
Part 4 – Winding up a group	15
8. Applying to wind up a group	15
9. Assessing an application to wind up a group	15
10. Publishing an application to wind up a group	16
Part 5 – Application of the LGEA	18
11. Application of the LGEA when a candidate joins a group	18
12. Application of the LGEA when a candidate stops being a member of a group	20
13. Application of the LGEA when a group is wound up	21
Delegations	23
Appendix 1 — Definitions	24
Definitions	24
Appendix 2 — Regulatory Framework	26

Purpose

To provide guidance on how the Electoral Commission of Queensland (ECQ) staff will administer the registration, changes to membership, and winding up of groups of local government candidates under the *Local Government Electoral Act 2011* (LGEA). The ECQ's Funding, Disclosure and Compliance team (FDC) is responsible for the administration of local government groups.

Rationale

Part 4, division 2, subdivision 3 of the LGEA contains provisions relating to the maintenance of groups of candidates for local government elections, including how candidates may apply to register as a group for an election (section 42), how to change the membership of a group (section 43), and how to wind up a group (section 43A).

The LGEA also prescribes how certain provisions of the LGEA, such as expenditure caps and disclosure requirements, apply when the membership of a group changes or the group is wound up.

Guiding Principles

The ECQ conducts transparent, fair and democratic elections under the LGEA in accordance with these guiding principles:

1. **Efficiency of administrative procedures.** Administrative mechanisms and procedures, including administrative paperwork, should be efficient, user-friendly, and compliant with legislative requirements.
2. **Collection of personal information.** Ensure collection, storage, use and disclosure of personal information aligns with *the Information Privacy Act 2009*, as well as the privacy provisions in the LGEA.
3. **Public confidence in elections must be preserved.** Election procedures should be open and subject to review so public confidence in the integrity of the electoral system and election outcomes can be maintained.
4. **Neutrality of election officials.** The conduct and administration of elections should not be influenced by political considerations. Persons responsible for conducting elections, including enabling activities, should be politically neutral in their dealings with all election participants.
5. **Right to review other decisions made by the ECQ.** Judicial and administrative review procedures are available to all election participants who wish to query or review a decision made by the ECQ that affects them.

A Human Rights Impact Assessment, in accordance with section 58(5) of the *Human Rights Act 2019*, has been conducted to identify any human rights that may be affected by the actions recommended in this policy. The human rights that were identified are the right to freedom of association with others, and the right to participate in the conduct of public affairs, directly or through freely chosen representatives. Although it places limits in some respect to those rights, it does so overall to enhance public participation in public life and so is compatible with human rights.

Part 1 – Group campaign activities

1. Group campaign activities

- 1.1. Candidates must not engage in group campaign activities for an election unless they are-
- (a) members of the same registered group of candidates for the election,¹ or
 - (b) endorsed by the same registered political party for the election.²
- 1.2. Group campaign activities include any of the following, if carried out in an intentionally coordinated way by 2 or more candidates –
- (a) using a common platform to promote the election of the candidates (e.g., promoting the same political policies)
 - (b) using the same –
 - (i) advertisements (e.g., pamphlets, billboards)
 - (ii) campaign slogans
 - (iii) brands or images
 - (iv) how-to-vote cards
 - (c) participating in the same fundraising activities or events
 - (d) sharing the same resources, including human resources (other than volunteers)
 - (e) sharing gifts or loans.³
- 1.3. If any of the above activities are carried out unintentionally and without any coordination between the candidates, the activities will generally not be considered group campaign activities. For example, the following would not, on their own, be considered group campaign activities –
- (a) candidates independently developing the same or similar policies
 - (b) candidates inadvertently attending the same fundraising events (e.g., those organised by community groups or the local council)
 - (c) candidates independently engaging the same suppliers at full commercial cost
 - (d) candidates maintaining pre-existing friendships or acquaintances (or establishing new ones throughout the course of the election) with other candidates.
- 1.4. When considering whether a group campaign activity has been carried out, the ECQ will examine, among other things –
- (a) the specific circumstances of the matter
 - (b) the overall context of the election

¹ A group of candidates is considered to be ‘registered’ for an election when the group’s notice of membership is published on the ECQ’s website, in accordance with section 42(3) of the LGEA.

² Section 183(1) of the LGEA.

³ Section 183(2) of the LGEA.

- (c) the holistic candidate behaviour
- (d) for activities involving election material or advertising –
 - (i) the specific wording of the material
 - (ii) the intended audience.

1.5. The ECQ will refer to its *Compliance and Enforcement Policy for Funding and Disclosure Obligations* when dealing with compliance matters relating to the conduct of group campaign activities.

Part 2 – Registration of groups of candidates

2. Applying for registration as a group of candidates

- 2.1. Candidates who intend to engage in group campaign activities for an election may apply to register as a group of candidates for the election by giving written notice of the group's membership to the ECQ.⁴
- 2.2. An application to register a group may only relate to a single election. If a group wishes to engage in group campaign activities for more than one election, a separate application must be given for each election to be contested.⁵
- 2.3. Timeframe for applying for registration: The LGEA prescribes the period within which a group may apply to register with the ECQ for an election.⁶
 - 2.3.1. An application to register a group for an election must be made before election day for the election.
 - 2.3.2. After a quadrennial election, a group must wait 30 days before they can apply to be registered for another election.
 - 2.3.3. After a by-election or fresh election, a group can apply to be registered for another election the day after the by-election or fresh election.
- 2.4. Application requirements: The LGEA sets out the requirements for an application to register a group for an election.
 - 2.4.1. The application must be made by a member of the group.⁷
 - 2.4.2. The application must be made in the approved form.⁸
 - 2.4.2.1. The ECQ prefers that groups complete and submit the approved form online via the ECQ's Self Service Portal (SSP) (selfserv.elections.qld.gov.au). Groups can also complete the physical version of the approved form (*Form QLG05A – Application to register a group of candidates*) and upload this to SSP or provide it by email, post or in person.
 - 2.4.3. The application must state the name of the proposed group of candidates.⁹
 - 2.4.3.1. The name of the proposed group should not be –

⁴ Under section 42 of the LGEA, a group's notice of membership must be lodged within a certain timeframe and meet prescribed requirements, such as being in the approved form. Accordingly, the ECQ refers to the notice of group membership as an application to register the group, which requires an approval process to be undertaken by the ECQ to ensure that it meets the requirements under the LGEA.

⁵ Section 42(1) of the LGEA states that candidates *in an election* may form a group *for the election* and give notice of its membership to the ECQ. Therefore, the registration of a group of candidates does not carry across to other elections, and the group must apply to be registered separately for each election.

⁶ Section 42(4) of the LGEA.

⁷ Section 42(1) of the LGEA states that candidates who form a group for an election may give the ECQ notice of the group's membership. The LGEA does not state that the notice can be given by any other person.

⁸ Section 42(5)(a) of the LGEA.

⁹ Section 42(5)(b) of the LGEA.

- (a) longer than 40 characters, including spaces
 - (b) obscene or offensive
 - (c) the name, abbreviation or acronym of a registered political party, parliamentary party or prominent public body (or likely to be confused or mistaken for such), or
 - (d) otherwise likely to cause confusion.¹⁰
- 2.4.4. The application must state the name of, and be signed by, each candidate who will be a member of the group.¹¹
- 2.4.5. The application must include the bank account details for the group's dedicated campaign bank account.¹²
- 2.4.5.1. The bank account details are those that are required to be stated on the approved form (e.g. account name, account number and BSB).¹³
- 2.4.6. The application must be accompanied by written notice of the appointment of an agent for the group.¹⁴
- 2.4.6.1. The notice of appointment is incorporated into *Form QLG05A – Application to register a group of candidates*.
- 2.5. Group membership requirements: The LGEA sets out the requirements for membership of groups of candidates.
- 2.5.1. A group must have at least two members.¹⁵
- 2.5.2. All members of the group must be candidates for the same election.¹⁶
- 2.5.2.1. A candidate includes the following, whether or not the person nominates for the election –
- (a) a person who is an elected or appointed councillor at any time during the disclosure period for the election
 - (b) a person who announces or otherwise indicates their intention to be a candidate for the election.¹⁷

¹⁰ The LGEA does not prescribe any requirements for the proposed name of a group of candidates. However, the ECQ considers it necessary to impose restrictions on the name of a group to ensure that the group's name can be printed in full on ballot papers and will not potentially confuse or mislead voters for the election. The ECQ has adopted a position that is substantially reflective of section 75 of the *Electoral Act 1992*, which sets out the requirements for the proposed name of a registered political party.

¹¹ Sections 42(5)(c) and 42(5)(d) of the LGEA.

¹² Section 42(5)(e) of the LGEA.

¹³ Section 127BA(6) of the LGEA.

¹⁴ Section 42(5)(f) of the LGEA.

¹⁵ Section 42(1) of the LGEA states that a group may be formed by 2 or more candidates who propose to engage in group campaign activities. Further, section 43(4) of the LGEA states that a change to the membership of the group of candidates must not result in only 1 candidate being a member of the group.

¹⁶ Section 42(1) of the LGEA states that a group may be formed by 2 or more candidates *in an election* who propose to engage in group campaign activities *for the election*.

¹⁷ Schedule 2 of the LGEA.

- 2.5.3. All members of the group must be candidates for the same local government area.¹⁸
- 2.5.4. A candidate cannot be a member of more than one group for an election.¹⁹
- 2.5.5. A candidate who is a member of a group cannot be endorsed by a registered political party for the election.²⁰
- 2.5.6. Only one member of the group may be a mayoral candidate for the election.²¹

3. Assessing an application for registration of a group

- 3.1. As soon as practicable after receiving an application to register a group of candidates, the ECQ will check that the application –
 - (a) has been submitted within the required timeframe for the election (see section 2.3 above)
 - (b) meets the application requirements (see section 2.4 above), and
 - (c) meets the group membership requirements (see section 2.5 above).
- 3.2. Approval of application: Applications that meet the above requirements will be approved by the ECQ in its Election Management System (EMS).
 - 3.2.1. For applications that are completed using a physical application form (rather than using the online form in SSP), a FDC officer will enter the information provided on the application into EMS. Another FDC officer will check that the information has been entered correctly before approving the application in EMS.
 - 3.2.2. Approval of an application to register a group in EMS does not mean that the group is registered and can engage in group campaign activities (see section 4.3 below).
- 3.3. Non-compliant applications: If an application does not meet the above requirements, the ECQ will notify the applicant in writing as soon as practicable. The notice will identify the requirements that have not been met and advise that the ECQ is unable to accept the application until it is resubmitted in a compliant form.

4. Publishing an application for registration of a group

- 4.1. Publishing copy of application: The LGEA requires the ECQ to publish a copy of an application to register a group of candidates on its website as soon as practicable after it is received.²² The ECQ will only publish the application once it has been approved under

¹⁸ Section 43B(1)(a) of the LGEA.

¹⁹ Section 43B(1)(b) of the LGEA.

²⁰ Section 43B(1)(c) of the LGEA.

²¹ Section 43B(2) of the LGEA.

²² Section 42(2) of the LGEA.

section 3.2 of this Policy.²³ The ECQ may also publish a group's application to register in other ways that it deems appropriate.²⁴

4.2. Information not to be published: The LGEA prohibits the ECQ from publishing certain information from an application to register a group.²⁵ Before publishing a group's application or making it available for public inspection, the ECQ will redact the following information –

- (a) any information about the group's dedicated campaign bank account
- (b) the signatures, addresses and contact details of the group members and the group's agent,²⁶ and
- (c) any other information if the ECQ deems it is not in the public interest to publish the information.²⁷

4.3. Registration of group: A group is only considered to be registered as a group of candidates under the LGEA once the ECQ publishes the group's application to register on its website.²⁸ A group must not engage in group campaign activities until the ECQ publishes the application.²⁹

4.4. Notice of registration: The ECQ will notify the group's agent and each member of the group in writing as soon as practicable after the group's application to register is published on the ECQ's website. The notice will advise that the group is registered and therefore can engage in group campaign activities for the election.

4.5. Agent: The agent is responsible for ensuring the group's election funding and financial disclosure obligations under the LGEA are fulfilled. The ECQ will link the agent's account in SSP to the group's registration, which will provide the agent with the ability to lodge disclosure returns on behalf of the group in the ECQ's Electronic Disclosure System (EDS).

²³ If a group's application to register is published on the ECQ's website, the group may engage in group campaign activities, in accordance with sections 42(3) and 183 of the LGEA. As such, despite section 42(2) of the LGEA, the ECQ will not publish an application to register a group until it has been determined that the application and the group membership requirements under sections 42 and 43B of the LGEA have been met. This ensures that only groups who meet the requirements under the LGEA are able to engage in group campaign activities.

²⁴ Section 42(2)(b) of the LGEA.

²⁵ Sections 42(2) and 135B of the LGEA.

²⁶ Sections 42(2) and 135B of the LGEA prohibit the ECQ from publishing the signatures of the group members and the address and contact details of the group's agent. The ECQ also does not publish the signature of the group agent and the addresses and contact details of the group members, as the ECQ considers it is not in the public interest to publish this information.

²⁷ While section 42(2) of the LGEA states that the ECQ must publish a copy of an application to register a group on its website, the ECQ will consider whether it is in the public interest to publish information that is stated on the application but is not specifically required to be stated under section 42(5) of the LGEA. The ECQ will not publish this information if it is deemed to not be in the public interest.

²⁸ Section 42(3) of the LGEA.

²⁹ Section 183 of the LGEA states that 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, or candidates who are endorsed by the same registered political party, for the election. Under section 42(3) of the LGEA, a group becomes a *group of candidates* for the election when the ECQ publishes the notice of group membership (i.e., the application to register the group) on its website.

- 4.6. Previous disclosure returns: The ECQ will check EDS to identify whether any candidates have previously lodged disclosure returns for the election prior to becoming a member of the group. If there are returns that have been lodged, the ECQ will consider the implications this has on the group's disclosure and expenditure cap requirements (see sections 11.2 and 11.4 of this Policy).
- 4.7. Nomination: When a group of candidates is registered for an election, it does not mean that the members of the group are nominated for the election. Each group member will still need to individually nominate for the election and indicate on the nomination form that they are members of the group.

Part 3 – Changing membership of a group

5. Applying to change membership of a group

- 5.1. The agent of a group of candidates that is registered for an election may apply to change the group's membership by giving written notice of the proposed change to the ECQ.³⁰
- 5.2. The group membership changes to which this section apply are –
 - (a) changing the name of the group
 - (b) adding a member to the group
 - (c) removing a member from the group.
- 5.3. For changes to –
 - (a) the group's agent, see the ECQ's *Administration of Agents Policy and Procedure*.
 - (b) the group's dedicated campaign bank account, see section 127BA of the LGEA.
- 5.4. Before applying to change a group's membership, the agent of the group should ensure that they and each member of the group understand how certain provisions of the LGEA may apply as a result of the change (see sections 11 and 12 of this Policy).
- 5.5. Timeframe for applying to change group membership: An application to change the membership of a group can be made at any time before election day for the election.³¹
 - 5.5.1. After close of nominations: If the application is made after the close of nominations for the election, the change will not be reflected on the ballot paper (see sections 11 and 12 of this Policy).
- 5.6. Application requirements: The LGEA sets out the requirements for an application to change the membership of a group for an election.
 - 5.6.1. The application must be made by the agent of the group.³²
 - 5.6.2. The application must be made in the approved form.³³
 - 5.6.2.1. The group's agent will need to complete *Form QLG05B – Application to change group membership* and provide this to the ECQ by email, post or in person.
 - 5.6.3. The application must state the name of the group and each of its existing members.³⁴
 - 5.6.4. The application must state the proposed name of the group (if applicable).³⁵
 - 5.6.4.1. The proposed name should continue to meet the requirements under section 2.4.3.1 of this Policy.

³⁰ Section 43(1) of the LGEA.

³¹ Section 43(1)(a) of the LGEA.

³² Section 43(1)(b) of the LGEA.

³³ Section 43(5)(a) of the LGEA.

³⁴ Section 43(5)(b) and (c) of the LGEA.

³⁵ Section 43(5)(b) of the LGEA.

- 5.6.5. The application must state the names of any members to be added to, or removed from, the group (if applicable).³⁶
- 5.6.6. The application must be signed by all exiting, incoming and continuing members of the group.³⁷

6. Assessing an application to change membership of a group

- 6.1. As soon as practicable after receiving an application to change the membership of a group of candidates, the ECQ will check that the application –
 - (a) has been submitted before election day for the election
 - (b) meets the application requirements (see section 5.6 above), and
 - (c) meets the group membership requirements (see section 2.5 of this Policy).
- 6.2. Approval of application: Applications that meet the above requirements will be actioned and approved by the ECQ in EMS.
 - 6.2.1. A FDC officer will enter the information provided on the application into EMS. Another FDC officer will check that the information has been entered correctly before approving the application in EMS.
 - 6.2.2. Approval of an application to change the membership of a group in EMS does not mean that the change has yet taken effect (see section 7.3 below).
- 6.3. Non-compliant applications: If an application does not meet the above requirements, the ECQ will notify the agent in writing as soon as practicable. The notice will identify the requirements that have not been met and advise that the ECQ is unable to accept the application until it is resubmitted in a compliant form.
 - 6.3.1. If the application does not meet the group membership requirements because it would result in there being only 1 member of the group, the ECQ will advise the agent to apply to wind up the group instead (see section 8 of this Policy).

7. Publishing an application to change the membership of a group

- 7.1. Publishing copy of application: The LGEA requires the ECQ to publish a copy of an application to change the membership of a group of candidates on its website as soon as practicable after receiving the application.³⁸ The ECQ will only publish the application

³⁶ Section 43(5)(d) and (e) of the LGEA.

³⁷ Section 43(5)(f) of the LGEA.

³⁸ Section 43(2) of the LGEA.

once it has been approved under section 6.2 above.³⁹ The ECQ may also publish a group's application to change its membership in other ways that it deems appropriate.⁴⁰

- 7.2. Information not to be published: Before publishing a group's application or making it available for public inspection, the ECQ will redact information in accordance with section 4.2 of this Policy.⁴¹
- 7.3. Change to group membership takes effect: Once the ECQ publishes the group's application on its website, the change will take effect and the group will be taken to be comprised of the candidates in accordance with the change stated in the application.⁴²
- 7.4. Notice of change to group membership: The ECQ will notify the group's agent and any exiting or incoming members of the group in writing as soon as practicable after a group's application to change its membership is published on the ECQ's website. The notice will –
 - (a) advise that the change has taken effect and only candidates who are current members of the group (including any recently added members) can engage in group campaign activities for the election, and
 - (b) summarise how certain provisions of the LGEA may apply as a result of the change (see sections 11 and 12 of this Policy).
- 7.5. Previous disclosure returns: If the membership change results in a candidate being added to the group, the ECQ will perform a check of EDS in accordance with section 4.6 of this Policy.

³⁹ If a group's application to change the membership of the group is published on the ECQ's website, the group, including any new members added to the group, may engage in group campaign activities, in accordance with sections 43(3) and 183 of the LGEA. As such, despite section 43(2) of the LGEA, the ECQ will not publish an application to change the membership of a group until it has been determined that the application and the group membership requirements under sections 43 and 43B of the LGEA have been met. This ensures that only groups who meet the requirements under the LGEA are able to engage in group campaign activities.

⁴⁰ Section 43(2)(b) of the LGEA.

⁴¹ Sections 43(2) and 135B of the LGEA.

⁴² Section 43(3) of the LGEA.

Part 4 – Winding up a group

8. Applying to wind up a group

- 8.1. The agent of a group of candidates that is registered for an election may apply to wind up the group by giving written notice to the ECQ.⁴³
- 8.2. Before applying to wind up a group of candidates, the group's agent should ensure that they and each member of the group understand how certain provisions of the LGEA may apply as a result of the group being wound up (see section 13 of this Policy).
- 8.3. Timeframe for applying to wind up group: An application to wind up a group can be made at any time before election day for the election.⁴⁴
- 8.4. Application requirements: The LGEA sets out the requirements for an application to wind up a group for an election.
 - 8.4.1. The application must be made by the agent of the group.⁴⁵
 - 8.4.2. The application must be made in the approved form.⁴⁶
 - 8.4.2.1. The ECQ prefers that the agent complete and submit the approved form online via the SSP. The agent can also complete the physical version of the approved form (*Form QLG05C – Application to wind up a group of candidates*) and upload this to SSP or provide it by email, post or in person.
 - 8.4.3. The application must state the name of the group of candidates.⁴⁷
 - 8.4.4. The application must state the name of, and be signed by, each candidate who is a member of the group when the notice is given.⁴⁸

9. Assessing an application to wind up a group

- 9.1. As soon as practicable after receiving an application to wind up a group of candidates, the ECQ will check that –
 - (a) the application has been submitted before election day for the election, and
 - (b) the application meets the application requirements (see section 8.4 above).
- 9.2. Approval of application: If the above requirements are met, the application will be actioned and approved by the ECQ in EMS. This will result in the group being 'deregistered' in EMS.
 - 9.2.1. Only the Manager, FDC (or a higher position responsible for the oversight of FDC), may approve an application to wind up a group of candidates.

⁴³ Section 43A(1) of the LGEA.

⁴⁴ Section 43A(1)(a) of the LGEA.

⁴⁵ Section 43A(1)(b) of the LGEA.

⁴⁶ Section 43A(4)(a) of the LGEA.

⁴⁷ Section 43A(4)(b) of the LGEA.

⁴⁸ Sections 43A(4)(c) and 43A(4)(d) of the LGEA.

- 9.2.2. For applications that are completed using a physical application form (rather than using the online form in SSP), a FDC officer will enter the information provided on the application into EMS. The Manager, FDC, will check that the information has been entered correctly before approving the application in EMS.
- 9.2.3. Approval to wind up a group in EMS does not mean that a group stops being a group of candidates for the election (see section 10.3 below).
- 9.3. Non-compliant applications: If the above requirements are not met, the ECQ will notify the agent in writing as soon as practicable. The notice will advise that the ECQ is unable to accept the application until the requirements identified in the notice have been met.

10. Publishing an application to wind up a group

- 10.1. Publishing copy of application: The LGEA requires the ECQ to publish a copy of an application to wind up a group of candidates on its website as soon as practicable after receiving the application.⁴⁹ The ECQ will only publish the application once it has been approved under section 9.2 above.⁵⁰ The ECQ may also publish a group's application to wind up in other ways that it deems appropriate.⁵¹
- 10.2. Information not to be published: Before publishing a group's application or making it available for public inspection, the ECQ will redact information in accordance with section 4.2 of this Policy.⁵²
- 10.3. Winding up takes effect: Once the ECQ publishes the group's application on its website, the group stops being a group of candidates for the election.⁵³
- 10.4. Notice of winding up of group: The ECQ will notify the group's agent and each member of the group in writing as soon as practicable after a group's application to wind up is published on the ECQ's website. The notice will –
- (a) advise that the group has stopped being a group of candidates for the election and the candidates can no longer engage in group campaign activities for the election, and
 - (b) summarise how certain provisions of the LGEA may apply as a result of the group being wound up (see section 13 of this Policy).
- 10.5. Disclosure returns after winding up: Once a group is deregistered in EMS, the agent will no longer be able to lodge disclosure returns on behalf of the group in EDS. As such, if the agent is required to lodge or amend the group's disclosure returns after the group is wound up, the agent will need to complete a paper form and provide this to the ECQ by

⁴⁹ Section 43A(2) of the LGEA.

⁵⁰ Section 43A(2) of the LGEA states that the ECQ must publish a copy of an application to wind up a group of candidates on its website as soon as practicable after it is received. However, if a group's application is published on the ECQ's website, the group stops being a group of candidates for the election, in accordance with section 43A(3) of the LGEA. As such, the ECQ will not publish an application to wind up a group until it has been determined that it meets the requirements under the LGEA.

⁵¹ Section 43A(2)(b) of the LGEA.

⁵² Sections 43A(2) and 135B of the LGEA.

⁵³ Section 43A(3) of the LGEA.

email, post or in person. The ECQ will then lodge or amend the returns in EDS on the agent's behalf.

Part 5 – Application of the LGEA

11. Application of the LGEA when a candidate joins a group

- 11.1. This section applies if a candidate becomes a member of a group of candidates for an election, either at the time of the group's registration (see part 2 of this Policy) or because a change to the group's membership has taken effect (see part 3 of this Policy). For this section, the candidate becomes a 'new member' of the group.
- 11.2. Real-time disclosure returns: The responsibility for lodging real-time disclosure returns for gifts, loans or electoral expenditure depends on when the amounts were received or incurred by a new member.
- 11.2.1. Amounts received or incurred prior to joining group: If the new member received any gifts or loans, or incurred any electoral expenditure, *prior* to joining the group, the new member will remain responsible for lodging real-time disclosure returns for these amounts.⁵⁴
- 11.2.1.1. Informing the agent: The new member should inform the group's agent about these amounts as soon as practicable after deciding to join the group. The group's agent should encourage the new member to lodge real-time disclosure returns for these amounts in EDS (if required under the LGEA) before the group's registration or change to membership has taken effect.
- 11.2.1.2. Returns already lodged: If the new member has already lodged returns for these amounts in EDS, no further disclosure is required. However, if desired, the returns may be deleted by the new member and relodged by the group's agent. If the agent relodges the returns, the ECQ will consider the day of lodgement to be the day the original returns were lodged by the new member.
- 11.2.2. Amounts received or incurred after joining group: If the new member receives any gifts or loans, or incurs any electoral expenditure, *after* joining the group, the amounts will be taken to have been received or incurred by the group, and the group's agent will be responsible for lodging the relevant returns in EDS.⁵⁵
- 11.3. Dedicated campaign bank account: The new member must use the group's dedicated campaign bank account to receive all gifts and loans, and to pay for all electoral expenditure, for the election.⁵⁶
- 11.3.1. Previous dedicated campaign bank account: If the new member opened a dedicated campaign bank account prior to joining the group, the new member must no longer use this account to receive any gifts or loans or to pay for any electoral expenditure for the election.

⁵⁴ Sections 117, 120 and 124 of the LGEA set out the requirements for individual candidates to disclose gifts and loans received, and electoral expenditure incurred, during their disclosure periods for an election.

⁵⁵ Sections 118 and 120 of the LGEA.

⁵⁶ Section 127 of the LGEA.

- 11.3.1.1. Amounts remaining in previous account: Any amounts remaining in the new member's previous dedicated campaign bank account may either be –
- (a) transferred to the group's dedicated campaign bank account,⁵⁷ or
 - (b) dealt with in the ways prescribed under section 126(6) of the LGEA.
- 11.3.1.2. Closing the previous account: The new member may close their previous dedicated campaign bank account provided they have –
- (a) dealt with any remaining amounts in accordance with section 11.3.1.1 above, and
 - (b) obtained a copy of the bank statement for the account that shows all transactions made during their disclosure period.
- 11.3.1.3. Providing bank statement: The new member should provide a copy of the bank statement for their previous dedicated campaign bank account to the group's agent as soon as practicable after joining the group.
- 11.4. Electoral expenditure caps: Any electoral expenditure previously incurred during the capped expenditure period by the new member before they joined the group will count towards the group's electoral expenditure cap.⁵⁸
- 11.4.1. If the new member joined the group because of a change to the group's membership, the group will need to recalculate its electoral expenditure cap under section 123I of the LGEA to include the new member's individual capped amount.
- 11.5. Ballot papers: If the new member joins the group after the close of nominations for the election, the group's name will not appear next to the new member's name on the ballot paper. This will not affect the validity of the ballot paper.⁵⁹
- 11.6. Election summary return: When lodging the group's election summary return, the agent of the group should include a copy of the bank statement for the new member's previous dedicated campaign bank account (if applicable). This is in addition to providing a copy of the bank statement for the group's dedicated campaign bank account.⁶⁰
- 11.6.1. Election summary return for new member: If the new member incurred any electoral expenditure or received any gifts or loans for the election prior to joining the group, they do not need to give a separate election summary return as an individual candidate.

⁵⁷ These amounts can be placed in the group's dedicated campaign bank account in accordance with section 127(3) of the LGEA.

⁵⁸ Section 123J of the LGEA.

⁵⁹ Section 43D of the LGEA.

⁶⁰ Section 125(4) of the LGEA.

12. Application of the LGEA when a candidate stops being a member of a group

12.1. This section applies if a candidate stops being a member of a group of candidates, either because a change to the group's membership has taken effect (see part 3 of this Policy) or because the group has been wound up (see part 4 of this Policy). The candidate becomes a 'former member' of the group.

12.2. Real-time disclosure returns: Any gifts or loans received, or any electoral expenditure incurred, by the former member while they were a member of the group are taken to have been received or incurred by the group.⁶¹ The agent of the group is responsible for lodging real-time disclosure returns for these amounts in EDS (if required under the LGEA).

12.2.1. Disclosure requirements for former member: The former member (or their agent if one has been appointed) will be responsible for lodging real-time disclosure returns for any gifts or loans they receive or any electoral expenditure they incur *after* they stop being a member of the group.⁶²

12.3. Dedicated campaign bank account: The former member must no longer use the group's dedicated campaign bank account to receive any amounts or to pay for any electoral expenditure for the election. Any amounts previously deposited by the former member into the group's dedicated campaign bank account must not be removed.

12.3.1. New dedicated campaign bank account: If the former member still intends to contest the election as an individual candidate, they must establish their own dedicated campaign bank account for the election.⁶³ The former member (or their agent if one has been appointed) must notify the ECQ of the bank account details for their new account within 5 business days after they stop being a member of the group.⁶⁴

12.4. Electoral expenditure caps: Any electoral expenditure incurred during the capped expenditure period by the former member while they were a member of the group will count towards the group's electoral expenditure cap.⁶⁵ The group will need to recalculate its expenditure cap using the formula set out under section 123K(4) of the LGEA.

12.4.1. Expenditure cap for former member: Any electoral expenditure incurred by the former member during the capped expenditure period *after* they stop being a member of the group will count towards their own electoral expenditure cap. The former member will need to recalculate their electoral expenditure cap using the formula set out under section 123K(7) of the LGEA.

⁶¹ Sections 43E and 43F of the LGEA.

⁶² The former member will have disclosure obligations as a candidate under part 6 of the LGEA.

⁶³ The former member will be required to operate a dedicated campaign bank account as a candidate under section 126 of the LGEA.

⁶⁴ Section 127BA of the LGEA.

⁶⁵ Section 123K of the LGEA.

- 12.5. Ballot papers: If the former member stops being a member of the group after the close of nominations for the election, the group's name will still appear next to the former member's name on the ballot paper. This will not affect the validity of the ballot paper.⁶⁶
- 12.6. Election summary return: The agent of the group must ensure that the group's election summary return includes all gifts and loans received, and all electoral expenditure incurred, by the former member while they were a member of the group (including amounts below the threshold).
- 12.6.1. Election summary return for former member: The former member (or their agent if one has been appointed) must give a separate election summary return for the election, which must include any gifts or loans received, and any electoral expenditure incurred, by the former member *after* they stopped being a member of the group.⁶⁷
- 12.7. CEO letter: If the former member is successful in the election, the ECQ must give a copy of the election summary returns of both the former member and the group to –
- (a) the chief executive officer of the local government area for which the election was held,
 - (b) the former member, and
 - (c) each successful candidate who was a member of the group at any time for the election.⁶⁸
- 12.8. Joining another group: If the former member joins another group of candidates for the election, only gifts or loans received, or electoral expenditure incurred, by the former member *after* they stopped being a member of the previous group will be taken to have been received or incurred by the new group (see section 11 of this Policy).⁶⁹

13. Application of the LGEA when a group is wound up

- 13.1. This section applies if a group of candidates is wound up for an election (see part 4 of this Policy). The group becomes a 'former group'. The candidates who were members of the group become 'former members' (see section 12 above for how the LGEA applies to the former members of the group).
- 13.2. Real-time disclosure returns: The agent remains responsible for lodging real-time disclosure returns on behalf of the former group.⁷⁰
- 13.3. Dedicated campaign bank account: The former group's dedicated campaign bank account must no longer be used to receive any amounts or to pay for any electoral expenditure for the election. Any amounts remaining in the account at the end of the

⁶⁶ Section 43D of the LGEA.

⁶⁷ The former member will be required to lodge an election summary return as a candidate for the election under sections 117, 120 and 125 of the LGEA.

⁶⁸ Section 43E(2)(b) of the LGEA.

⁶⁹ Section 123J(3) of the LGEA.

⁷⁰ Section 43F of the LGEA.

former group's disclosure period may only be dealt with in the ways prescribed under section 127(6) of the LGEA.

- 13.4. Election summary return: The agent remains responsible for lodging the former group's election summary return.⁷¹

⁷¹ Section 43F of the LGEA.

Delegations

1. Any FDC officer may approve an application to register or change the membership of a group of candidates.
2. The Manager, FDC (or a higher position responsible for the oversight of FDC), may approve an application to wind up a group of candidates.

Appendix 1 — Definitions

Definitions

Term	Definition	Reference (if applic.)
Agent	A person appointed by a group of candidates under the LGEA who is responsible for fulfilling the group's election funding and financial disclosure obligations.	Part 6, division 2 of the LGEA
Candidate	A person whose nomination as a candidate for an election has been certified by the returning officer and, for part 4, division 2, subdivision 3 and parts 6 and 9 of the LGEA, includes another person who — <ul style="list-style-type: none"> (i) is an elected or appointed councillor (ii) has announced or otherwise publicly indicated an intention to be a candidate in the election; or (iii) has otherwise indicated the person's intention to be a candidate in the election. 	Schedule 2 of the LGEA
Dedicated campaign bank account	A separate bank account with a financial institution into which all gifts and loans must be received, and all electoral expenditure must be paid, for an election.	Section 127 of the LGEA
Election	Means a local government election.	Schedule 2 of the LGEA
Election summary return	A return required to be given by the agent of a group of candidates after an election, which summarises the group's total gifts, loans and electoral expenditure for the election.	Sections 118, 120 and 125 of the LGEA.
Group of candidates	A group of 2 or more candidates in an election whose application to register as a group for the election has been published on the ECQ's website.	Section 42(3) of the LGEA
Group campaign activities	See part 1 of this Policy.	Section 183(2) of the LGEA
Parliamentary party	A political party of which at least 1 member is a member of an Australian parliament	Schedule 1 of the <i>Electoral Act 1992</i>

Term	Definition	Reference (if applic.)
Real-time disclosure return	A return for a gift or loan received, or electoral expenditure incurred, which is required to be lodged with the ECQ within 7 business days (or 24 hours if received/incurred in the 7 business days before election day).	Sections 118, 120 and 124 of the LGEA.
Registered political party	A political party that is registered with the ECQ in its register of political parties.	Schedule 1 of the <i>Electoral Act 1992</i>

Appendix 2 — Regulatory Framework

- *Electoral Act 1992*
- *Human Rights Act 2019*
- *Local Government Electoral Act 2011*