

# Short Guide to Electoral Gifts

What should I disclose?



# INTRODUCTION

Candidates for local government elections are sometimes offered gifts or benefits. This raises the question: ‘what do I have to do if I am offered a gift in the lead up to an election?’

This short guide attempts to answer these questions and provide an easy reference to this important area. It highlights relevant elements of the *Local Government (Elections) Regulations 1997* which deal with the disclosure of electoral gifts.

Penalties do apply for the non-disclosure of electoral gifts including possible investigation and action from the Corruption and Crime Commission.

### Q1: What is a gift for the purposes of electoral gift disclosure?

According to the *Local Government (Elections) Regulations 1997*, a gift means any disposition of property or the conferral of any financial benefit, made by one person in favour of another.

A gift can include a gift of money, a gift which is non-monetary but of value, a gift in kind, the payment of an inadequate financial consideration or the receipt of a discount (where the difference or discount is more than \$300.00 worth), financial or other contribution to travel, the provision of a service for either nothing or an inadequate amount and a firm promise or agreement to give a gift at some future time.

**Q2: What types of gifts are excluded from the electoral gift disclosure requirements?**

An electoral gift does not include:

- a gift received through a will;
- a gift from a relative (including a parent, grandparent, brother, sister, aunt, uncle, nephew, niece or other lineal descendant. It also includes your spouse or de facto and the spouses or de facto partners of any relative);
- a gift that the candidate would have received notwithstanding his or her candidature; or
- the provision of volunteer labour.

**Q3: What types of gifts are covered by the electoral gift disclosure requirements?**

A gift is only relevant if:

- the value of the electoral gift is \$300.00 or more; or
- the value of the electoral gift is less than \$300.00, but the gift is one or two or more electoral gifts, with a total value of \$300.00 or more, made by one person at any time during the period which begins six months before election day and ends just after election day as outlined below.

**Q4 What happens if I am offered and accept a relevant electoral gift as identified in Q3?**

If a candidate is promised or receives an electoral gift of \$300.00 or more, or two or more electoral gifts worth \$300.00 in total, the candidate must disclose the gift or gifts to the CEO.

A donor or a person giving a gift is also required to disclose the details of the gift or gifts to the CEO.

### Q5: Over what period do relevant electoral gifts need to be disclosed?

The period for disclosing relevant electoral gifts commences six months before election day, and concludes:

- three days after the election day, for unsuccessful candidates; or
- on the start day for financial interest returns for successful candidates.

### Q6: What do I need to disclose?

Candidates will need to disclose the name and address of the relevant gift's donor, the date the gift was promised or received, the value of the gift and provide a description of the gift.

Donors of gifts are also required to disclose certain details about the gift.

### Q7: Who is the actual source or donor of the relevant electoral gift?

The donor of an electoral gift, and the person who needs to be disclosed, is the person who is the original source of the gift.

The donor is not necessarily the person who delivers the gift to you because, sometimes, intermediaries or third parties become involved in the delivery of gifts.

Candidates who are unable to identify the true source of a gift will need to disclose to the CEO that the true source of the gift is unknown.

### Q8: How do I determine the value of an electoral gift?

Valuing gifts can be particularly difficult if you are unfamiliar with the gift. If you believe the value of the electoral gift falls close to \$300.00, which would trigger disclosure, or if you are unsure of an electoral gift's value, an enquiry should be made to accurately identify the value. In this case, you would probably need to ask the donor to identify the value and indicate that the Electoral Regulations require candidates and donors to disclose electoral gifts valued at \$300.00 or more.

**Q9: What happens if I can't provide all of the information I am required to disclose?**

If a candidate or donor is unable to provide some or all of the information required, they should provide as much information as possible, indicate what information has not been provided and set out the reasons for not providing the required information. These reasons must be sufficient and appropriate in the opinion of the CEO.

A candidate providing sufficient and appropriate reasons will not be viewed as committing an offence through the non-provision of all relevant information.

**Q10: When do I need to disclose relevant electoral gifts?**

A disclosure is to be made:

- within three days of the receipt (or promise) of the gift, once you nominate; or
- within three days of nomination, for gifts received (or promised) between the commencement of the six month period and the day of nomination,

unless the CEO is satisfied that the lodging of a disclosure has occurred outside the time periods above due to circumstances beyond the candidate's control.

**Q11: What is the penalty for the non-disclosure of relevant electoral gifts, the non-disclosure of required information about a relevant electoral gift or of disclosure outside of the required timeframes for disclosures?**

There is a penalty of \$5,000.00 in all instances.

### Q12: How do I disclose relevant electoral gifts?

The CEO has electoral gift disclosure forms, or alternatively these forms can be obtained from the City's website. Ask the CEO or Governance Support staff for one of these forms, complete it and return it to the CEO within the required time frame.

### Q13: What happens to my completed electoral gift disclosure form?

Once received, all completed electoral gift disclosure forms are placed on the City's electoral gift register.

### Q14: How long is my disclosure kept in the electoral gifts register?

For unsuccessful candidates, disclosures are removed from the register three days after election day but are retained for a period of at least 2 years by the CEO.

For successful candidates, disclosures will remain on the register until the term of office resulting from that election is completed.

The disclosures will be removed from the register at the conclusion of the term and retained for a period of at least two years by the CEO.

### Q15: Do the public have access to the electoral gift register?

Yes. Any member of the public has access to the register and certain details of the gift register are published on the City's website.

**Q16: Can people who access the electoral gift register publish information within it?**

Yes. However, it is an offence for a person to publish information derived from the electoral gift register if that information is not a fair or accurate summary of information contained in the register and is not published in good faith. It is also an offence for a person to publish comments on the facts contained in an electoral gift register unless that comment is fair and published in good faith.

The penalty for such an offence is \$5,000.00.

**Q17: What does ‘publish’ mean?**

The term ‘publish’ in the Electoral Regulations captures the same acts as those which could lead to a charge of defamation. It includes preparing articles, publishing adverts, making broadcasts, writing letters, oral utterances and the like.

**Q18: Do the normal requirements on Elected Members in relation to gifts continue to apply to those Members who are candidates for a coming election?**

Yes. However, the normal requirements for dealing with gifts, set out in the *Local Government Act 1995*, do not apply to electoral gifts disclosed in accordance with the Electoral Regulations.



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