

Election 2021 Factsheet: Disclosure of Electoral Gifts



The information provided in this factsheet is a brief guide in understanding the complex issue of election gifts.

The City of Mandurah encourages both candidates and donors to actively inform themselves of the requirements and obligations of local government elections, including gifts. (Refer [Local Government Act 1995](#) ; [Local Government \(Elections\) Regulations 1997](#))

Who is required to disclose?

Both candidates and donors are required to disclose information about any electoral related gifts that are given or promised within the disclosure period (6 months prior to Election day), if:

1. the value of the gift is \$200 or more; or
2. the value of the gift is less than \$200, but the gift is one of two or more gifts, with a total value of \$200 or more, made by one person at any time.

Penalties apply to both candidates and donors for non-disclosure.

What is the disclosure period?

The Elections 2021 disclosure period commences 6 months before election day, e.g. 16 April 2021. (refer r30C – *Local Government (Elections) Regulations 1997 (Elections Regulation)*).

The disclosure period concludes 3 days after election day for unsuccessful candidates or for successful candidates on the start day for financial interest returns. (refer r30C – *Elections Regulations* and s5.74 *Local Government Act 1995* (the Act)).

The start day is the day of the declaration by the Elected Member.

What type of gifts need to be disclosed?

A gift can be a disposition of property or the conferral of any financial benefit made by one person in favour of another. (refer r30A - *Elections Regulations*)

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 \$200 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time

A gift is only relevant if —

- (a) the value of the gift is \$200 or more; or
- (b) the value of the gift is less than \$200, but the gift is one of 2 or more gifts, with a total value of \$200 or more, made by one person at any time during the period set out in reg. 30C *Election Regulations*.

A gift **DOES NOT** include —

- (a) a gift by will; or
- (b) a gift by a relative (as defined in section 5.74(1) of the Act); or
- (c) a gift that does not relate to the candidate's candidature; or
- (d) the provision of volunteer labour.

What to do about gifts from unidentified donors?

A candidate must not receive a gift unless the name and address of each donor are known to the candidate. (Penalty: \$5 000).

A candidate is taken not to have received a gift if as soon as the candidate became aware of the gift the candidate —

(a) takes reasonable steps to —

- (i) return the gift; or
- (ii) deliver the gift to the CEO for disposal; and

(b) discloses to the CEO the gift in the [Disclosure of Gifts form](#).

What are the timeframes and how is a disclosure made?

The period of declaration commences on 16 April 2021.

The disclosure period ends for unsuccessful candidates 3 days after election day.

For successful candidates, the disclosure period concludes on the day the successful candidate makes a declaration in the prescribed form before acting in the office.

Within three days any disclosure must be made by a candidate and donor:

- for any gift received or promised since 16 April 2021; and
- any further gifts received or promised thereafter.

Complete the required [Disclosure of Gifts form](#). Disclosure information includes the name of the candidate, name and address of the donor, date the gift was promised or received, value of the gift, a description of the gift and a signed declaration.

Completed forms are to be provided to the City of Mandurah Chief Executive Officer via elections@mandurah.wa.gov.au or hand deliver to the City's Administration Centre, 3 Peel Street, Mandurah.

What are the penalties for not making a disclosure?

There are penalties that apply to **both** candidates and donors:

A candidate **MUST NOT** receive a gift unless the name and address of each donor are known to the candidate – Penalty \$5,000

A candidate **MUST** disclose to the CEO a promised gift or received gift, and **MUST** make the disclosure during the time period. - Penalty \$5,000

A candidate **MUST** provide the required information relating to the gift, and **MUST** ensure the information is not false or misleading. – Penalty \$5,000

(r30B. Candidates to disclose gifts — s. 4.59)

A donor **MUST** disclose to the CEO a gift to a candidate promised or made during the set period. – Penalty \$5,000

A donor **MUST** disclose the gift(s) to the CEO on the appropriate form and within the appropriate time frame. – Penalty \$5,000

A donor **MUST** provide the required information regarding the gift(s) and **MUST** ensure the information is not false or misleading. – Penalty \$5,000

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(r30CA. Donors to disclose gifts — s. 4.59)

Will the disclosure be publicly available?

Yes. The electoral gift register will be available on the City of Mandurah website and at the City of Mandurah Administration Offices. (refer r 30G(5) and r 30G(6))

The electoral gift register must not include the address of the individual, but will include the town or suburb mentioned in the address.

Further information

Department of Local Government, Sport and Cultural Industries -
<https://www.dlgsc.wa.gov.au/department/contact-us>
Telephone: 6552 7300

Western Australian Electoral Commission - <https://www.elections.wa.gov.au/elections/local>
Telephone: 13 63 06

City of Mandurah - <https://www.mandurah.wa.gov.au/council/about-council/elections>
Email : council@mandurah.wa.gov.au
Telephone: 9550 3782 – Manager Governance, Procurement and Land