



## REGISTER OF INTERESTS RETURNS POLICY

Responsible Officer: <b>Manager Business Planning &amp; Systems</b>  Authorising Officer: <b>Director Corporate Services</b>	Document No:	
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### BACKGROUND

Council's operations are founded on values of community leadership, accountability, integrity, respect, trust and excellence. These ideals underpin Council's behaviours and therefore service delivery. To support this, on all occasions, all actions of Administrators, members of Council's special committees and Council employees shall be undertaken in line with the highest ethical standards and probity.

### PURPOSE

The purpose of this policy is to establish the requirements for the lodgement of Primary and Ordinary Returns as required by section 81 of the *Local Government Act 1989* (the Act).

The reason for having to lodge interest returns is to ensure public transparency. It also serves as a reminder about obligations to avoid conflicts of interest.

### SCOPE

This policy applies to:

- a) Administrators;
- b) Audit Advisory Committee members who are not Councillors, unless exempted by Council; and
- c) Nominated officers of Council comprising Senior Officers of Council and any other staff member of Council nominated by the CEO. The CEO must ensure that any staff member who is authorised to exercise a significant delegation is made a nominated officer for the purpose of lodging returns.

This policy does not apply to non-Councillor members of Special Committees established by Council under Section 86 of the Act, unless otherwise determined by Council.

Council should consider the level of authority granted to the relevant committee when deciding whether to grant or maintain exemptions. Committees with significant powers or where there is scope for significant conflicts of interest in terms of money or property should not be granted exemptions.

An exemption from the duty to lodge a return is not an exemption from the responsibility to disclose a conflict of interest.

Council must review any special committee exemptions in force within the period of 12 months after a general election, including non-Councillor members of the Audit Advisory Committee.

A register of persons to whom this policy applies will be maintained by the CEO.

## LEGISLATIVE COMPLIANCE

Legislative requirements are established in:

- Section 81 (Register of interests) of the Act;
- Section 3 (Definitions) of the Act;
- Section 97B (Definition of senior officer remuneration threshold) of the Act; and
- Regulations 6, 7 and 8 of the *Local Government (General) Regulations 2004* (the Regulations).

This policy and supporting processes will ensure adherence to these provisions.

## POLICY

Council acknowledges that people who are Administrators, Council officers or members of Council's special committees must lodge interest returns in which they disclose information about their personal circumstances unless exempted by this policy. This particularly includes information that may give rise to conflicts of interest in certain circumstances.

These requirements will assist with the demonstration of accountability whilst undertaking Council business and will ensure transparency to the community and as a result enhance community trust and confidence in Council.

### Primary and Ordinary Returns

Two types of interest returns are required to be lodged under the Act. These are:

- **Primary returns**, which must be lodged after taking office or commencing in a specified role; and
- **Ordinary returns**, which must be lodged twice yearly while holding office or occupying the role.

### Primary return – disclosures

Section 81(6) of the Act describes the information that must be disclosed in a Primary Return. This is information that is current on the date that the return is lodged.

The return must be provided on the prescribed form shown at Appendix 1.

All questions on the form must be answered. If there is nothing to disclose, indicate that fact by writing “*nil*” or “*nothing to disclose*” in the relevant space.

#### a) Offices

The name of any company or other body in which any office as a director or otherwise is held must be disclosed. This includes:

- Directorships of corporations;
- Positions on boards or committees of charitable or community organisations, and sporting or social organisations;
- Positions on boards or committees to which the person was appointed by the Council; and
- Offices held as an employee of a company, government agency or other body.

For each of the offices held, the name of the company or body must be disclosed.

#### **b) Shares**

The name of any company or body in which a beneficial interest, in shares or in any other form, is held must be disclosed:

- It does not include shareholdings not exceeding \$10,000 in value where the total value of the shares issued by the company exceeds \$10 million;
- It does include interests of any value held in a company or body that has not issued shares or whose total share issue is valued at \$10 million or less, including proprietary companies;
- It does not include shares held by members of the family of the unless they are held in trust and you are the beneficiary; and
- Only the name of the company or body must be disclosed, not the value of the interest.

#### **c) Land**

The address or description of any land in which a beneficial interest is held that is in the municipal district or in an adjoining municipal district:

- This includes land owned by the person;
- It also includes land owned by the person together with anyone else;
- It includes land owned by the person that is mortgaged; and
- It includes land in neighbouring Council areas; but
- It does not include land held as security for a debt.

#### **d) Trusts**

A concise description of any trust where:

- A beneficial interest is held; or
- The person is the trustee for a member of their family who has a beneficial interest (see Definitions).

#### **e) Other interests**

Any other substantial interests, of the person or the person's family (see Definitions) which the person thinks may appear to raise a material conflict between their private interest and their public duty. This may include:

- A recent gift or donation valued at \$200 or more that the person or a member of the person's family has received from a person or organisation that has, or is likely to have, significant dealings with the Council;
- Responsibilities as a partner, agent, consultant, contractor or employee for a person or organisation that has, or is likely to have, significant dealings with the Council; or
- Civil proceedings in which the person is, or has recently been, a party which relates to a matter that is likely to require a Council decision.

#### **f) Signature and Witness**

A primary return must be signed by the person lodging the return and their signature must be witnessed. It should be noted that the witness is witnessing the signature, not attesting to the accuracy of the return.

#### **Ordinary return – disclosures**

Section 81(7) of the Act describes the information that must be disclosed in an ordinary return. It includes information about personal interests during the "return period", which is the period since the last primary or ordinary return. It is important that all relevant interests held during the return period are disclosed, even if they are no longer held.

The return must be provided on the prescribed form shown at Appendix 2.

All questions on the form must be answered. If there is nothing to disclose, indicate that fact by writing "nil" or "nothing to disclose" in the relevant space.

#### **a) Offices**

The name of any company or other body in which any office as a director or otherwise is held must be disclosed. This includes:

- Directorships of corporations;
- Positions on boards or committees of charitable or community organisations, and sporting or social organisations;
- Positions on boards or committees to which the person was appointed by the Council; and
- Offices held as an employee of a company, government agency or other body.

For each of the offices held, the name of the company or body must be disclosed.

#### **b) Shares**

The name of any company or body in which a beneficial interest, in shares or in any other form, is held must be disclosed:

- It does not include shareholdings not exceeding \$10,000 in value where the total value of the shares issued by the company exceeds \$10 million;

- It does include interests of any value held in a company or body that has not issued shares or whose total share issue is valued at \$10 million or less, including proprietary companies;
- It does not include shares held by members of the family of the unless they are held in trust and you are the beneficiary; and
- Only the name of the company or body must be disclosed, not the value of the interest.

**c) Land**

The address or description of any land in which a beneficial interest is held that is in the municipal district or in an adjoining municipal district:

- This includes land owned by the person;
- It also includes land owned by the person together with anyone else;
- It includes land owned by the person that is mortgaged; and
- It includes land in neighbouring Council areas; but
- It does not include land held as security for a debt.

**d) Trusts**

A concise description of any trust where:

- A beneficial interest is held; or
- The person is the trustee for a member of their family who has a beneficial interest (see Definitions).

**e) Gifts**

An ordinary return must include a record of all gifts valued at \$200 or more received directly or indirectly during the disclosure period, but does not include gifts from relatives (see Definitions).

Gifts will include any election campaign donations that have been received during the disclosure period. This is in addition to disclosures of campaign donation returns under section 62 of the Act.

**f) Other interests**

Any other substantial interests, of the person or the person's family (see Definitions) which the person thinks may appear to raise a material conflict between their private interest and their public duty. This may include:

- Responsibilities as a partner, agent, consultant, contractor or employee for a person or organisation that has, or is likely to have, significant dealings with the Council; or
- Civil proceedings in which the person is, or has recently been, a party which relates to a matter that is likely to require a Council decision.

**g) Signature and Witness**

An ordinary return must be signed by the person lodging the return and their signature must be witnessed. It should be noted that the witness is witnessing the signature, not attesting to the accuracy of the return.

### **Lodging Returns**

All returns must be lodged at the proper times. A return must not be lodged before the due date or after the end of the specified period.

The legal responsibility to lodge an accurate return always rests with the relevant Councillor, committee member or nominated officer and not with staff administering the process.

### **Administrators Lodging Returns**

For a Councillor, a **primary return** must be lodged within 30 days after the Election Day.

- If the taking of the oath of office is delayed, a primary return may be lodged within seven days after taking the Oath.
- It is not necessary for a Councillor to lodge a primary return if re-elected for a following term of office, but it is required in the event that a Councillor's terms of office are not contiguous.

An **ordinary return** must be lodged with the CEO two times each year for as long as a person remains a Councillor.

An ordinary return must be lodged each year:

- Between 30 June and 9 August; and
- Between 31 December and 9 February.

### **Audit Advisory Committee Members Lodging Returns**

For an Audit Advisory Committee member, unless exempted by Council, a **primary return** must be lodged within 30 days of becoming a member.

- This will normally be within 30 days of the Council decision to establish the Audit Advisory committee or to appoint the person to the committee.
- A primary return is not required when a person is reappointed to the Audit Advisory committee and where the memberships are contiguous.

An **ordinary return** must be lodged with the CEO two times each year for as long as a person remains a member of the Audit Advisory Committee, unless exempted by Council.

An ordinary return must be lodged each year:

- Between 30 June and 9 August; and
- Between 31 December and 9 February.

### **Special Committee Members Lodging Returns**

For a special committee member, unless exempted by Council, a **primary return** must be lodged within 30 days after becoming a member of the relevant committee.

- This will normally be within 30 days of the Council decision to establish the committee or to appoint the person to the committee.
- A primary return is not required when a person is reappointed to a special committee and where the memberships are contiguous.

An **ordinary return** must be lodged with the CEO two times each year for as long as a person remains a member of a special committee, unless exempted by Council.

An ordinary return must be lodged each year:

- Between 30 June and 9 August; and
- Between 31 December and 9 February.

### **Nominated Members of Council Staff Lodging Returns**

For a nominated member of Council staff, a **primary return** must be lodged within 30 days of becoming a nominated officer. This will be within 30 days of whichever of the following applies:

- An appointment or promotion to a senior officer position;
- Becoming a senior officer as a result of a reclassification or increase in remuneration; or
- When the CEO designates the staff member as a “nominated officer” for the purpose of lodging returns.

An **ordinary return** must be lodged with the CEO two times each year for as long as a person remains a nominated officer for the purpose of returns.

An ordinary return must be lodged each year:

- Between 30 June and 9 August; and
- Between 31 December and 9 February.

### **Receipt of returns**

The following arrangements for the receipt and recording of returns apply.

### **Officer Delegated to Receive Returns**

The CEO has delegated the authority to receive returns and undertake the administrative tasks of this policy to the Executive Assistant reporting to the Director allocated responsibility for Council governance matters.

Administrators, committee members (unless exempted) and nominated officers will be advised of this delegation.

### **Register of Persons Required to Lodge Returns**

An up to date register of everyone who is required to lodge returns will be maintained.

All Administrators, committee members (unless exempted) and nominated officers will be sent reminders when returns are due.

## **Dealing with Lodged Returns**

Each return will be dated and initialled upon receipt.

A written record of every return as it is lodged will be kept.

A written receipt will be provided to each person who lodges a return.

## **Managing records**

Records of interest returns must be managed responsibly and in accordance with section 81 of the Act. This involves three stages:

- Including them in the register of interests;
- Retaining them for a designated period; and
- Finally destroying them.

## **Register of Interests**

The CEO must maintain a register of interests. This includes the last three returns lodged by each person.

When a person ceases to be a Councillor, special committee member or nominated officer, their returns are removed from the register.

## **Retention of Returns**

After returns are removed from the register:

- They must be retained for as long as the person remains a Councillor, special committee member or a nominated officer;
- After the person ceases to be a Councillor, special committee member or a nominated officer, the returns must still be retained for a period of three years; and
- After that period of three years has expired the returns must be destroyed.

## **Failure to Lodge Returns**

A failure to lodge a primary or ordinary return, or to make the required disclosures in a return, is an offence that can lead to an investigation by an inspector of municipal administration and possibly to Court action. This may apply to a Councillor, a nominated officer or a member of a special committee.

In addition:

- A Councillor who fails to lodge a correct return may be required to defend his or her actions at a Councillor Conduct Panel or VCAT and may be disqualified or suspended; and
- A member of Council staff who fails to lodge a correct return may be subject to disciplinary action as an employee.

## **Public Access**

The Act provides a process whereby anyone can inspect the register of interests.



A person who wishes to inspect the register must apply to do so, in writing to the CEO indicating which person's records they wish to inspect. The request must be provided on the prescribed form shown at Appendix 3.

The CEO cannot refuse a person who has made a request in the required manner.

An inspection may be made at the Council office during normal office hours and, for practical reasons, may require a prior appointment. A person who inspects the record may make a written record of the details in a return, but there is no entitlement for a person to take a photocopy of a return.

The CEO must keep a record of the names of people who inspect the register and a Councillor, committee member or nominated officer is entitled to inspect the list of names of people who have inspected their personal records.

A person must not publish information derived from the register unless the information is a fair and accurate summary or copy of the information.

A Council employee may not make a record of, divulge or communicate information gained in relation to anyone's interest returns other than in the proper discharge of his or her duties. Failure to comply can result in prosecution.

## DEFINITIONS

<b>the Act</b>	<i>Local Government Act 1989.</i>
<b>Chief Executive Officer (CEO)</b>	Chief Executive Officer of the Rural City of Wangaratta.
<b>Conflict of Interest</b>	Means any private or personal interest, which could prejudicially influence, or be perceived to influence, a person in the performance of his or her public or professional duties (refer <i>Local Government Act, 1989</i> for a comprehensive definition).
<b>Council</b>	Section 5(1) of the <i>Local Government Act 1989</i> defines a council in the following way: "A Council consists of its Administrators, who are the representatives, elected in accordance with this Act, of persons who are residents in the Council's municipal district or ratepayers of the Council." In this case Council refers to the Rural City of Wangaratta.
<b>Council employee</b>	Any person employed directly by Council, including the Chief Executive Officer, and any person engaged as a short term employee or a contractor undertaking duties on behalf of Council.
<b>Councillor</b>	Means an elected person who holds the office of member of the Council.

**Family**

For the purpose of primary and ordinary returns, a member or the person's "family" is defined to include:

- The person's spouse or domestic partner; and
- Any child of the person under 18 years of age who normally resides with the person.

**Gift**

Means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including:

- The provision of a service (other than volunteer labour); and
- The payment of an amount in respect of a guarantee; and
- The making of a payment or contribution at a fundraising function.

For the purposes of this policy, this definition includes:

- Generally all goods or services intended for a specific person;
- Hospitality, including meals, entertainment and accommodation other than attendance in an official capacity on behalf of Council;
- Travel;
- Items which can be regarded as mementoes, such as ties, cuff-links, pens, stationery and the like;
- Campaign donations;
- Tickets to functions or events that invite a named person;
- 'Season' tickets or a book of tickets that may or may not be used in full;
- Transfer or gift of money or vouchers;
- The transfer of property of a presentational or charitable nature or otherwise;
- The provision of services or goods free of charge or at a reduced or discounted rate not generally publicly available;
- Loans of money in capacity of Council employee or Councillor; and
- The sale of virtual property with a sale price below proper valuation.

**Hospitality**

The provision of food or beverages, travel, accommodation or entertainment offered to convey goodwill on behalf of the giver.

**Register of Interest Returns**

These are completed by nominated officers, Administrators, and members of special committees to declare any interests they may have (e.g. property owned, gifts over \$500 received) as required by the *Local Government Act 1989*. The Primary return is completed initially, followed by Ordinary returns twice yearly.

**Relative**

Relative” is defined in the Act for conflict of interest purposes. It includes a person who is a direct relative or a person who is a direct relative of a direct relative.

A “direct relative”, is defined to be a person who is a person’s:

- Mother or father;
- Brother or sister;
- Son or daughter; or
- Spouse or domestic partner.

In very broad terms, a person is a “relative” for the purpose of an ordinary return if they are once or twice removed from a person by blood or marriage.

**the Regulations**

*Local Government (General) Regulations 2004*

**Senior Officer**

Means:

- a) The Chief Executive Officer;
- b) A member of Council Staff who has management responsibilities and reports directly to the Chief Executive Officer; and
- c) Any other member of Council staff whose total remuneration exceeds \$130,000 or a higher threshold amount specified by the Minister in accordance with section 97B of the Act.

**Special Committee**

A special committee of the Council with delegated Council powers, duties or functions under the Local Government Act or any other Act, including the Planning and Environment Act 1987.

**REFERENCES**

*Local Government Act 1989*

*Local Government (General) Regulations 2004*

Register of Interests Guide - Primary and Ordinary Returns - Local Government Victoria 2009

**REVIEW**

This policy will be reviewed every three years.

REGISTER OF INTERESTS

Local Government Act 1989, Sections 81 (2) and 81 (4)

Local Government (General) Regulations 2004, Regulation 6

**Primary Return**

Notes - Please Read:

- (1) Interests which you are required to register are prescribed in Section 81(6) of the **Local Government Act 1989**.
- (2) If there is not sufficient space on this form for all of the information you are required to register, you may attach additional papers for that purpose. Each paper is to be signed, dated and witnessed in the same manner as this return.
- (3) Answer all questions and ensure your answers are clear and legible.

**PERSON COMPLETING RETURN**

.....  
 (Family name) (Given names)

Name of Council: .....

Name of Ward (if applicable): .....

Position Held: .....

Details of Registrable Interests you have held as at the date of this return:

- 1. The name of any company or other body in which you hold any office whether as director or otherwise.

.....  
 .....

- 2. The name or description of any company or body in which you hold a beneficial interest unless the total value of the interest does not exceed \$10,000 and the total value of issued shares of the company or body exceeds \$10 million.

.....  
 .....

- 3. The address or description of any land in the municipal district of the Council or in a municipal district which adjoins that municipal district in which you have any beneficial interest other than by way of security for any debt.

.....  
 .....

4. A concise description of any trust in which you hold a beneficial interest or of which you are a trustee and a member of your family\* holds a beneficial interest.

.....  
.....

5. Any other substantial interest (whether of a pecuniary nature or not) held by you or a member of your family of which you are aware and which you consider might appear to raise a material conflict between your private interest and your public duty as a Councillor, member of a special committee or nominated officer.

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.....

Signature of Person making return: .....

Signature of Witness:..... Date: .....

\* A reference to **family** has the same meaning as **family member** has in Section 78 of the Act.

.....  
CHIEF EXECUTIVE OFFICER

.....  
DATE

REGISTER OF INTERESTS

Local Government Act 1989, Section 81(5)

Local Government (General) Regulations 2004, Regulation 7

Ordinary Return

Notes - Please Read:

- (1) Interests which you are required to register are prescribed in Section 81(7) of the **Local Government Act 1989**.
- (2) If there is not sufficient space on this form for all of the information you are required to register, you may attach additional papers for that purpose. Each paper is to be signed, dated and witnessed in the same manner as this return.
- (3) Answer all questions and ensure your answers are clear and legible.

PERSON COMPLETING RETURN

.....

(Family name) (Given names)

Name of Council: .....

Name of Ward (if applicable): .....

Position Held: .....

Details of Registrable Interests held during the return period \*:

- 1. The name of any company or other body corporate or unincorporate in which you held an office as director or otherwise.

.....

.....

- 2. The name or description of any company or body in which you hold or have held a beneficial interest unless the total value of the interest does or did not exceed \$10,000 and the total value of issued shares of the company or body exceeds \$10 million.

.....

.....

- 3. The address or description of any land in the municipal district of the Council or in a municipal district which adjoins that municipal district in which you held any beneficial interest other than by way of security for any debt.

.....

.....

4. A concise description of any trust in which you held a beneficial interest or of which you are a trustee and in which a member of your family\*\* held a beneficial interest.

.....  
.....

5. Particulars of any gift of or above the amount of value of \$500 received by you, either directly or indirectly, other than:

- a gift received from a person who is a relative \*\*\* of yours; or
- a gift received as hospitality at an event or function you attended in an official capacity as - the Mayor, a Councillor, or a member of Council staff or a member of a special committee.

.....  
.....

6. Any other substantial interest (whether of a pecuniary nature or not) held by you or a member of your family of which you are aware and which you consider might appear to raise a material conflict between your private interest and your public duty as a Councillor, member of a special committee or nominated officer.

.....  
.....  
.....

Signature of Person making return: ..... Date: .....

Signature of Witness..... Name of Witness: .....

\* A reference to **return period** has the same meaning as **return period** has in section 81 of the Act.

\*\* A reference to **family** has the same meaning as **family member** has in Section 78 of the Act.

\*\*\* A reference to **relative** has the same meaning as **relative** has in Section 78 of the Act.

.....  
CHIEF EXECUTIVE OFFICER

.....  
DATE

APPLICATION TO INSPECT REGISTER OF INTERESTS

Local Government Act 1989, Section 81(10)

Local Government (General) Regulations 2004, Regulation 8

Notes - Please Read:

- (1) A person who wishes to inspect the register must apply to do so, in writing to the CEO indicating which person's records they wish to inspect.
- (2) An inspection may be made at the Council office during normal office hours and, for practical reasons, may require a prior appointment.
- (3) A person who inspects the record may make a written record of the details in a return, but there is no entitlement for a person to take a photocopy of a return.
- (4) The CEO must keep a record of the names of people who inspect the register and a Councillor, committee member or nominated officer is entitled to inspect the list of names of people who have inspected their personal records.
- (5) A person must not publish information derived from the register unless the information is a fair and accurate summary or copy of the information.
- (6) If there is not sufficient space on this form for all of the information you are required to supply, you may attach additional papers for that purpose.
- (7) Answer all questions and ensure your answers are clear and legible.

**PERSON APPLYING TO INSPECT REGISTER OF INTERESTS**

.....  
 (Family name) (Given names)

.....  
 (Address)

.....  
 (Telephone number - for contact)

I, the undersigned, apply under section 81(10) of the Local Government Act 1989 to the

Name of Council: .....

to inspect the register of interests maintained under section 81 of the Act relating to:

.....  
 (Name(s) of person(s) whose return(s) is/are to be inspected)

.....  
 (Signature of applicant) (Date)