

Checklist: Initial Personal Interest Returns – Nominated Officers

Note - Sections 132-136 of the Local Government Act 2020 set out a process for managing personal interests returns. The Act requires a specified person, being a Councillor, a member of a delegated Committee who is not a Councillor, a Chief Executive Officer or a nominated officer, to lodge an initial Personal Interests Return and thereafter a biannual Personal Interests Return (March and September).

For nominated officers, the CEO (delegate is Director Governance) will determine which staff are 'nominated' and therefore required to submit an initial Personal Interests Return. Council staff have 30 days to submit from the day they are advised that their position has been designated as a nominated officer and therefore requires them to submit a Personal Interests Return.

The following checklist has been developed to provide guidance on managing the Personal Interests Return process* for nominated officers, as this is the area that is the most resource intensive to manage, due to position or organisational changes that may occur from time to time.

There is a linkage between the *Local Government Act 2020* and the *Local Government (Governance and Integrity) Regulations 2020* and an organisations staff Code of Conduct and/or terms and conditions of employment. That is because there are penalties for failing to complete and submit a return within the prescribed period and an officer's terms and conditions of employment/staff Code of Conduct, may stipulate that failure to comply with a statutory requirement may also lead to disciplinary action.

For further information, please refer to the guidance material prepared by Local Government Victoria. Prior to commencing the initial or biannual Personal Interests Return process, you should refer to the guidance material in case the guidance has changed.

*It is assumed that the Governance team is managing this process.

Prior to nominated officer commencement or Return period commencing

Step	Action	Completed (Yes / No)	Notes
1	2-4 weeks prior to requesting completion of a personal interests return, confirm the list of Nominated Officers. Nomination is to a position and the person occupying the position may have changed since the last communication.		Section 132 and 133 of the Local Government Act 2020 sets out the definition of a nominated officer and the requirement to lodge an initial and subsequently biannual personal interests return. The Director Governance, as delegate of the CEO, has developed specific criteria, expanding on the legislation, to guide the process of determining which position should be 'nominated'. (EDMS reference 123456789)
2	2-4 weeks prior to requesting completing a personal interests return, ensure the form is consistent with the details provided for in the Regulations.		Refer to Local Government Victoria's website for the template.
3	2-4 weeks prior to requesting completing a personal interests return, review and update (if necessary) the FAQ document for nominated officers to support them in completing their return.		The FAQ document is available on the intranet. (EDMS reference 123456789)
4	Throughout the year, if a new staff member commences and that position is a nominated officer, confirm the start date with either the Executive Assistant of the area or People, Culture and Leadership. See step 5 below.		Arrangements are in place for People, Culture and Leadership to advise Governance of changes to nominated officers.

Commencement of nominated officer or biannual Return period starts

Step	Action	Completed (Yes / No)	Notes
5	Email a link or a copy of the Initial Personal Interest Return on the day the nominated officer commences in the role or has been designated a nominated officer. *refer to sample email A* Or Email a link or a copy of the Initial Personal Interest Return on the first day the Return period.		For example: Email sent to Bob Smith on 1 September 2021 at 9.05am (EDMS reference 123456789)

Day 14, 21 and 28 if required

Step	Action	Completed (Yes / No)	Notes
6	If the Initial Return has not been received by day 14, day 21 or day 28, send a reminder email to the nominated officer with the deadline. *refer to sample email B*		For example: First reminder email sent to Bob Smith on 15 September 2021 at 9.05am (EDMS reference 123456790)

Day 30, if required

Step	Action	Completed (Yes / No)	Notes
7	Contact the nominated officer to remind them that the Initial Personal Interest Return must be completed and submitted by close of business on this day. Follow up with an email. *refer to sample email C*		For example: Final reminder sent to Bob Smith on 30 September 2021 at 9.05am (EDMS reference 123456791)

Upon receipt

Step	Action	Completed (Yes / No)	Notes
8	Send an acknowledgement email to confirm receipt of the Initial Personal Interest Return.		Indicate the Return is being reviewed.
9	Review the Personal Interests Return. <ul style="list-style-type: none"> • Have all fields been completed? • Is the information provided clear? 		<p>Have they entered information into all the fields?</p> <p>If they had nothing to declare, has that been stated?</p> <p>Is the information provide clear? Check for acronyms and obvious issues such as data in the wrong field, information that does not need declaration etc.</p> <p>Has the nominated officer made a note that disclosure would place the personal safety of this person at risk or disclosure would unreasonably expose a business, commercial or financial undertaking to no advantage? If yes, ask the nominated officer to also make a formal request in writing to the CEO, as the CEO needs to consider, based on the application of the Officer, whether to publish the information in the summary</p> <p>*refer to sample letters D and E</p> <p>Has it been signed by the nominated officer?</p> <p><i>Note: It is <u>not</u> the role of the Governance team to verify the property details, company details etc. Your role is to ensure all fields are completed and the information provided makes sense.</i></p>

Step	Action	Completed (Yes / No)	Notes
10	Accept / preliminary: check that all fields have been completed and the content is clear, send an email to the nominated officer to confirm status – if all fields are complete and information is clear, advise submitter that Return has been accepted.		It is the responsibility of the nominated officer to fully complete the form. <i>Note: It is <u>not</u> the role of the Governance team to verify the property details, company details etc. Your role is to ensure all fields are completed and the information provided makes sense.</i>
11	Return / to be completed: if there are fields that have not been completed, return to the nominated officer, with an explanation as to what part(s) of the form need to be completed/updated. Ask that they return this as soon as possible. Review and if okay, then approve.		It is the responsibility of the nominated officer to fully complete the form. <i>Note: It is <u>not</u> the role of the Governance team to verify the property details, company details etc. Your role is to ensure all fields are completed and the information provided makes sense.</i>

Summary

Step	Action	Completed (Yes / No)	Notes
12	Prepare a summary of the information disclosed in the nominated officer's personal interest return, with only the mandatory details that are required to be made public.		You can commence the preparation of the summary as returns are submitted.
13	Forward a copy of the summary to the nominated officer to review prior to publishing. Check and make sure the nominated officer is comfortable with the details that will be published on-line.		Ensure that the nominated officer is aware, at the start of the process, the information that must be disclosed in the summary and there are only limited circumstances where information will not be published. If a nominated officer expresses concerns about the information that will be published, have a conversation with them around the legislative constraints and ask them to apply to the CEO for certain information not to be published.
14	Publish the summary onto the Council website.		Ideally publication should occur within 30 days of the date of submission.

Dear <name>

Personal Interest Returns (Returns) are a requirement under the Local Government Act 2020 (2020 Act).

Under the 2020 Act, Returns must be completed by the CEO, Councillors and Nominated Officers within 30 days of being appointed/nominated and must then be completed biannually. A nominated officer is now defined as a member of Council staff who has a statutory or delegated power, duty or function and is nominated because of the nature of that power, duty or function.

This email is to inform you that you have been designated a nominated officer and the Initial Return must be completed by <insert date>.

New Process

This is a new Return process. A form <is attached> <has been developed via Sharepoint to simplify the process and will enable you to duplicate your details for use in future Returns. Please follow the link below to complete your form online>.

Please note, each question on the form must be completed. If you have nothing to declare, <add a note in the form to state you have nothing to declare> <click the check box in the form via Sharepoint 'nothing to disclose'>. If you have something to declare, complete the fields <and press the 'save' icon in Sharepoint and if you need to add additional lines, please click the '+' button>. For further information on how to complete each section of the form, please refer to the attached FAQ.

Remember to disclose the particulars of any gifts valued at \$500 or over, which you have received directly or indirectly during the return period. Note: receiving complimentary or discounted conference registrations, accommodation and/or airline tickets from a third party constitutes a gift.

The form no longer requires a witness.

Steps

1. Complete the online form, sign and submit.
2. You will receive an email acknowledging receipt of your completed Return.
3. The <name of officer> will review your completed Return.
4. If the <name of officer> is satisfied that the form has been completed correctly, you will receive an email notification with 'approved'. If further details or information is required, you will receive an email with 'declined' and the <name of officer> will contact you to discuss further. You will then be required to update your form and re-submit.
5. The date of receipt of your form will be recorded on the form that will be published on the website.

You are encouraged to complete this form at your earliest convenience to ensure you don't breach your obligation under the Act.

A summary of the personal interest's information disclosed will be made publicly available on the Council website. The details that will be published are shaded in orange in the FAQ. If you are not comfortable with the details that will be published, please let the <name of officer> know. Prior to the summary of the Return being published, a copy will be forwarded to you to review.

Please remember that this is a statutory process and that failure to lodge a return by the due date:

- may result in action under the <name of relevant document>; and
- is a prosecutable offence under the Act and a person may be fined for non-compliance.

If you have any questions or require assistance in completing this form, please contact <name of officer>.

Regards

First reminder email

Dear <name>

A friendly reminder that the Initial Return is to be completed by <date>.

As previously advised, Personal Interest Returns (Returns) is a requirement under the Local Government Act 2020 (2020 Act).

Under the 2020 Act, Returns must be completed by the CEO, Councillors and Nominated Officers within 30 days of being appointed/nominated and must then be completed biannually. A nominated officer is now defined as a member of Council staff who has a statutory or delegated power, duty or function and is nominated because of the nature of that power, duty or function.

***New Process: enter the rest of the information contained in the original email**

Second / third reminder email

Dear <name>

A <second/third> friendly reminder that the Initial Return is to be completed by <date>.

As previously advised, Personal Interest Returns (Returns) is a requirement under the Local Government Act 2020 (2020 Act).

Under the 2020 Act, Returns must be completed by the CEO, Councillors and Nominated Officers within 30 days of being appointed/nominated and must then be completed biannually. A nominated officer is now defined as a member of Council staff who has a statutory or delegated power, duty or function and is nominated because of the nature of that power, duty or function.

***New Process: enter the rest of the information contained in the original email**

Due today email

Dear <name>

As discussed on the telephone, this is a final reminder that the Initial Return is to be completed by **close of business today**.

As previously advised, Personal Interest Returns (Returns) is a new requirement under the Local Government Act 2020 (2020 Act).

Under the 2020 Act, Returns must be completed by the CEO, Councillors and Nominated Officers within 30 days of being appointed/nominated and must then be completed biannually. A nominated officer is now defined as a member of Council staff who has a statutory or delegated power, duty or function and is nominated because of the nature of that power, duty or function.

***New Process: enter the rest of the information contained in the original email**

Overdue email *if required

Dear <name>

The Initial Return was due to be completed by <date>. I note your return is now overdue.

Failure to complete and submit a Return is both a breach of the Local Government Act and the terms and conditions of your employment and you risk prosecution and/or disciplinary action which may lead to dismissal.

It would be appreciated if this form could be completed **urgently**. If you have any questions or require assistance in completing this form, please contact <name of officer>.

<date>

<name of Chief Executive Officer>

Chief Executive Officer

<address>

Dear <name>

INITIAL PERSONAL INTEREST RETURN

In accordance with the requirements under the *Local Government Act 2020* (Act) and *Local Government (Governance and Integrity) Regulations 2020*, I am writing to request that <all/parts> of the information provided in my initial Personal Interest Return be excluded from the public summary of personal interests, for the reasons outlined below:

<remove the parts that are not relevant>

Part A: Corporate Directorships or memberships of a governing body

Information to be excluded from the public summary:

- Reference to the company names

Reason

○

Part B: Unincorporated associations in which you are a member and perform a leadership role

Information to be excluded from the public summary:

○

Reason

○

Part C: Business partnerships or joint ventures which you are a member

Information to be excluded from the public summary:

○

Reason

○

Part D: Trusts that you are a trustee or a beneficiary of

Information to be excluded from the public summary:

○

Reason

○

Part E: Paid Employment

Information to be excluded from the public summary:

○

Reason

○

Part F: Consultancies, contracts or agents

Information to be excluded from the public summary:

○

Reason

○

Part G: Land you own or have a beneficial interest in

Information to be excluded from the public summary:

○

Reason

○

Part H: Shares you own or have a beneficial interest in

Information to be excluded from the public summary:

○

Reason

○

Part I: Companies you solely or jointly, with family members, hold a controlling interest

Information to be excluded from the public summary:

Reason

Part J: Personal debt

Information to be excluded from the public summary:

Reason

Part K: Gifts Received

Information to be excluded from the public summary:

Reason

Part L: Other interests

Information to be excluded from the public summary:

Reason

Should you wish to seek clarification or discuss any of the above further, please do not hesitate to me on **<contact number>**.

Yours sincerely

<name>

<position>

cc: **<name of officer>**

<date>

<nominated officer>
<position>
<address>

Dear <nominated officer>

INITIAL PERSONAL INTEREST RETURN

I am writing to provide you with the outcome of my decision with respect to your request dated <date> regarding your initial Personal Interest Return.

Having considered your request to exclude <all/parts> of the information provided in the initial Personal Interest Return public summary, I am satisfied that the disclosure of the details you provided in your written request would <reasonably likely place the personal safety of you at risk> or <unreasonably expose a business, commercial or financial undertaking to disadvantage>.

I have instructed <name of officer>, to update the public summary with the aforementioned information.

Yours sincerely

OR

<date>

<nominated officer>
<position>
<address>

Dear <nominated officer>

INITIAL PERSONAL INTEREST RETURN

I am writing to provide you with the outcome of my decision with respect to your request dated <date> regarding your initial Personal Interest Return.

Having considered your request to exclude <all/parts> of the information provided in the initial Personal Interest Return public summary, I do not consider that including the information would <reasonably likely place the personal safety of you at risk> or <unreasonably expose a business, commercial or financial undertaking to disadvantage>.

I have instructed <name of officer>, to update the public summary with the mandatory details provided in your initial Personal Interest Return.

Yours sincerely