

Fact sheet: Personal interests returns

Introduction

Councillors and other relevant people in local government must, by law, declare their personal interests.¹ A summary of these interests must be available on each council's website.

Declaring personal interests is done so the public can see the shareholdings, trusts, business associations or other private interests of the people making decisions at councils. It is one way to ensure councillors and other key people are transparently acting in an impartial manner for the benefit of the community and not for personal gain.

The Local Government Inspectorate can prosecute those who do not declare their personal interests.

Declaring personal interests

The *Local Government Act 2020* states that councillors, members of delegated committees and key council staff **must** submit a record of their personal interests to the councils chief executive officer (CEO).

The first personal interests return must be completed within 30 days after taking the oath of affirmation (for councillors) or appointment (for staff and members of delegated committees). These are known as **initial personal interests returns**.

Further returns must be completed twice a year for the entire time the position is held. These are known as **biannual personal interests returns**. The biannual returns are due each year between:

- 1 March and 31 March
- 1 September and 30 September.

The requirements for councillors and other specified persons to declare personal interests was put in place in the 1989 Act.

In 2020, the Act introduced the requirement for councils to publish a **summary** of the returns of its councillors, key council staff and members of its delegated committees

Why are they needed?

Decision-makers must regularly declare their personal interests and declare a conflict of interest when they have a private interest that may impact on their ability to act impartially.

Declaring and publicising personal interests on a regular basis creates an awareness of the things that may impact a person's decision-making and increases transparency. Being transparent and making the declarations also gives the public greater trust in the integrity of the decision-making process.

“Councillors’ decision making needs to be open, transparent and accountable.”

- council officer, response to an Inspectorate survey

Personal interest declarations – an ongoing issue

In 2019–20, the Independent Broad-based Anti-corruption Commission's Operation Sandon hearings revealed multiple former Casey City councillors had received payments or donations from property developers and then failed to declare conflicts of interest when matters involving the developers came before council.

The City of Casey Municipal Monitor Report released in February 2020 identified a culture of a low-level of understanding and regard for the importance of effectively and transparently managing councillor conflicts of interest. The council was dismissed in February 2020.

In late 2019 to early 2020, we investigated numerous complaints relating to the behaviour of Whittlesea councillors. A Municipal Monitor was appointed in December 2019, and in March 2020, the council was dismissed.

During the investigation of Whittlesea, many inconsistent and missing disclosures were identified in the councillors' interests returns.

This same issue had also been identified in numerous Inspectorate investigations of other councils.

¹ In accordance with the Local Government (Governance and Integrity) Regulations 2020.

What interests must be declared?

The *Local Government (Governance and Integrity) Regulations 2020* set out what interests must be declared.

Each biannual interests return must include interests if they have been **held at any point** during the last six months (or since the last return was submitted), regardless of whether they are still held at the time the return is completed.

You must also include your full name, the name of the council, your position and sign the statement.

The interests you must declare are:

Category	Details
<p>Corporations</p> <p>You must declare if you are a director or member of a governing body.</p>	<p>Examples:</p> <p>You are a director or secretary of a privately owned small proprietary company.</p> <p>You are on the board of a public company, including registered charities.</p> <p>You are on the board of a company that is set up as trustees of a trust.</p> <p>You hold a leadership position with incorporated associations, such as sporting clubs and other community groups should also be declared here.</p>
<p>Unincorporated association</p> <p>You must declare if you have a leadership role.</p>	<p>Includes organised community groups such as sports clubs that are not operating under a formal structure.</p> <p>Note:</p> <p>You do not need to declare if you are only a club member.</p>
<p>Business partnerships or joint ventures</p> <p>You must declare any business operated under these legal structures.</p>	<p>Examples:</p> <p>You own a small business in partnership with your spouse.</p> <p>You have joint ownership of a business with a business partner.</p>
<p>Trusts</p> <p>You must declare where you are a trustee or beneficiary.</p>	<p>This requirement covers all trusts, regardless of their purpose, including self-managed superannuation funds.</p>
<p>Paid employment</p> <p>You must declare paid employment, including contracting and consulting.</p>	<p>You must declare paid employment or any person or body you have contracted or consulted to if you have earned more than \$10,000 in the previous 6 months.</p>
<p>Land owned</p> <p>You must declare land owned in the municipality or adjoining municipality</p>	<p>You must declare any land solely or jointly owned, including land owned through a trust or company that you control.</p> <p>You must also declare property that is still subject to a mortgage.</p>
<p>Significant shareholdings</p> <p>You only need to declare shares if certain thresholds are met.</p>	<p>You must declare significant shareholdings if</p> <ul style="list-style-type: none"> the total share value of the company in which you hold shares does not exceed \$10 million and you hold more than \$10,000 worth of shares in the company. <p>You do not need to declare shares held through an externally managed superannuation fund.</p> <p>Shares held in a self-managed super fund that meet the threshold must be disclosed.</p>

Category	Details
Companies You must declare where you have a controlling interest.	Example: You and your family own 50 per cent of the shares in a small family business.
Personal debt You must declare personal debt of over \$10,000.	Note: You do not need to disclose any debt to immediate family members, banks or the government.
Any other interest You should declare any other interest which may give rise to a conflict of interest.	This covers a range of potential conflicts, such as employment or property held by your spouse, parents, and close associations you have with persons or organisations that do not fall in one of the above categories. Disclosure in this category is optional.

Our role

The Local Government Inspectorate is the lead integrity agency for Victorian councils. We are an independent agency that ensures Victoria's councils adhere to the Act.

The Chief Municipal Inspector leads the Inspectorate and has the power to examine, investigate and prosecute any matter relating to council operations or breaches of the Act.

Penalties for non-compliance

The Inspectorate can prosecute relevant persons if they fail to comply with personal interests requirements. The maximum penalty is 60 penalty units or \$10,904.40 (from 1 July 2021).

“Councillors can be a little blasé about the completion of their returns and perhaps don't take it as seriously as they should.”

(council officer)

Former Wyndham councillor charged

In 2017, the Inspectorate charged former Wyndham City councillor Intaj Khan for failing to submit ordinary interests returns and for the non-disclosure of various interests on those returns between February 2016 and February 2017. Mr Khan was charged with three counts of failing to disclose companies in which he held office during the return period; three counts of failing to disclose companies in which he held a financial interest; two counts of failing to submit ordinary returns; and one count of failing to disclose property holdings, in breach of the interest provisions of the 1989 Act.

Mr Khan pleaded guilty to eight charges. On 16 July 2018, Mr Khan was convicted in the Sunshine Magistrates Court on the eight charges and was fined \$26,000. This was \$8,000 related to the two counts of failing to submit an

ordinary return, and \$18,000 for the remaining six charges. Mr Khan was also ordered to pay \$15,000 in legal costs. While he subsequently appealed the matter in the County Court, Mr Khan dropped the appeal partway through proceedings and the decision stood.

Magistrate Therese McCarthy said Mr Khan had received training from Wyndham Council and a previous warning from the Inspectorate over a failure to submit an interests return, which she considered was an essential tool for good governance.

The conviction and penalty imposed against Mr Khan illustrates the importance of councillors complying with the interest provisions of the 1989 Act and 2020 Act, for the promotion of transparency and integrity.

Summaries of personal interests

The CEO of each council must publish a summary of personal interests from the councillors, key staff and members of delegated committees. This summary of personal interests must then be published on the council's website. They must also be available for inspection at the council offices.

This requirement was introduced under the *Local Government Act 2020*. The summary must include the most recently submitted returns and excludes:

- the monetary value of income, shares, debt and other beneficial interests
- the number and street address of the place of residence (but it must include the suburb)
- information the CEO considers could cause a risk to personal safety.

Councils must be transparent by making these summaries publicly available and accessible. A good example is Northern Grampians Shire Council which lists the Initial and Biannual Personal Interests Returns on its [Public Registers' page](#). The information is easy to find and can be ordered by person, position and date.

The Inspectorate recommends that councils maintain all summaries for the four-year council term on their website.

Getting help with your return

Councillors, key staff and members of delegated committees can seek assistance completing their personal interest return from:

- council governance staff
- the CEO
- Local Government Victoria
- a personal or independent lawyer
- a personal or independent accountant.

Governance officers may be a good first point of contact but are limited in the nature of advice they can provide. Advice about your personal interests may be better sought from a lawyer or accountant.

Peak bodies such as LG Professionals provide training sessions and guides on rules and requirements for personal interests, while Local Government Victoria also has some [guidance material about personal interest returns](#) on its website.

Improving our system

The Inspectorate and other integrity agencies previously found that non-compliant personal interests returns are an ongoing issue in Victorian councils.

As a result, we reviewed councillor interest returns for the 2016–20 council term and surveyed councillors and staff.

Our review of 4,600 personal interests returns for 650 councillors from 78 councils found that 51 per cent of councillors were not strictly compliant. We published a report and made 14 recommendations to improve compliance.

Read the full report [Personal interests returns: Encouraging disclosure and increasing transparency](#) or a summary on our website.

Where councils can get help

In our report, Melbourne City Council kindly provided sample emails and a checklist which can be used by governance staff as part of the process of collecting personal interests returns. The emails and checklist are available to download from our Resources for councils webpage [Resources for councils](#).

Governance staff can also contact their peak bodies and get in touch with other councils to support them with this process.