

PRIMARY RETURN INFORMATION SHEET

PRIMARY RETURNS DUE WITHIN 3 MONTHS OF APPOINTMENT

The *Local Government Act 1995* sets out the parameters that must be adhered to when elected members and staff have a conflict between their public duty and private interests.

The Act also requires Elected Members and certain staff to submit primary and annual returns.

The review team examined the most recent annual returns and identified a number of annual returns that had been completed incorrectly.

Returns must be completed in **full**. Blank spaces are not acceptable.

Where a person's information has not changed from year to year, it is acceptable to enter "No Change" in the relevant field.

Applicable Extracts from the Local Government Act 1995

5.79. Real property

(1) A relevant person is to disclose in a primary return and an annual return —

(a) the address of each parcel of real property, located in the district or in an adjoining district, in which the person had an interest —

(i) in the case of a primary return, on the start day; and

(ii) in the case of an annual return, at any time during the return period;

and

(b) the nature of the interest in each parcel of real property to which paragraph (a) applies.

(2) Nothing in this Subdivision requires a relevant person to disclose in a return an interest in a parcel of real property to which subsection (1) applies if the person had the interest only —

(a) in the capacity of executor or administrator of the estate of a deceased person and the person was not a beneficiary under the will or did not have an entitlement under the intestacy;

(b) in the capacity of trustee and the person acquired the interest in the ordinary course of an occupation of the person which is not related to his or her duties as a council member or employee; or

(c) by way of security for a debt.

(3) In this section — **interest means** any estate, interest, right or power whatever, whether at law or in equity, in or over real property.

5.80. Source of income

(1) A relevant person is to disclose —

(a) in a primary return, each source from which the person reasonably expects to receive income in the period commencing on the start day and ending on the next 30 June; and

(b) in an annual return, each source from which income was received by the person at any time during the return period.

(2) A reference in subsection (1) to each source from which income was received, or is reasonably expected to be received; by a person is a reference to —

(a) in relation to income from an occupation of the person —

(i) a description of the occupation;
 (ii) if the person is employed or the holder of an office, the name and address of his or her employer or a description of the office; and

- (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted;
 - (b) in relation to income from a trust, the name and address of the settlor and the trustee; and
 - (c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
- (3) Nothing in this Subdivision requires a relevant person to disclose in a return the source of any income if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed the prescribed amount, or is not reasonably expected to exceed the prescribed amount.
- (4) In this section — income means assessable income within the meaning of the *Income Tax Assessment Act 1936* of the Commonwealth, but does not include fees, reimbursement of expenses or allowances referred to in Division 8.

5.81. Trusts

A relevant person is to disclose in a primary return and in an annual return the name and address of the settlor and the trustee of any trust in which the person held a beneficial interest, or of any discretionary trust of which the person was a trustee or object, other than a trust to which section 5.80(2)(b) applies, in the case of —

- (a) a primary return, on the start day; and
- (b) an annual return, at any time during the return period.

5.84. Interests and positions in corporations

(1) A relevant person is to disclose in a primary return and in an annual return —

- (a) the name of each corporation of which the person was a member or in which he or she otherwise had an interest or held any position (whether remunerated or not) in the case of —
 - (i) a primary return, on the start day; and
 - (ii) an annual return, at any time during the return period;
- (b) the nature of the interest, or the description of the position held, in each corporation to which paragraph (a) applies; and
- (c) for each corporation to which paragraph (a) applies, other than corporations whose shares are quoted on a prescribed financial market in Australia —
 - (i) its address; and
 - (ii) a description of its principal business.

(2) In this section — **interest means** a relevant interest (within the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth) in any securities (within the meaning given by section 92 of that Act) issued or made available by the corporation; prescribed financial market has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth.

5.85. Debts

(1) A relevant person is to disclose in a primary return and an annual return the name and address of each person to whom the relevant person was liable to pay any debt —

- (a) in the case of a primary return, on the start day; or
- (b) in the case of an annual return, at any time during the return period,

whether or not the amount, or any part of the amount, to be paid was due and payable on the start day or at any time during the return period, as the case may be.

(2) Nothing in this Subdivision requires a relevant person to disclose in a return a liability to pay a debt if —

- (a) the amount to be paid did not exceed the prescribed amount on the start day or at any time during the return period, as the case may be, unless —
 - (i) the debt was one of 2 or more debts which the person was liable to pay to one person on the start day or at any time during the return period, as the case may be; and
 - (ii) the sum of the amounts to be paid exceeded the prescribed amount;
- (b) the person was liable to pay the debt to a relative;
- (c) in the case of a debt arising from a loan of money, the person was liable to pay the debt to an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth or other person whose ordinary business includes the lending of money and the loan was made in the ordinary course of business of the lender; or

(d) in the case of a debt arising from the supply of goods or services —

(i) the goods or services were supplied in the period of 18 months immediately preceding the start day or were supplied during the return period, as the case may be; or

(ii) the goods or services were supplied in the ordinary course of an occupation of the person which is not related to his or her duties as a council member or employee.

(3) In subsections (1) and (2) — **debt means** a debt arising from —

- (a) a loan of money; or
- (b) the supply of goods or services.

5.87. Discretionary disclosures generally

A relevant person may, at his or her discretion, disclose in any return any direct or indirect benefits, advantages or liabilities, whether financial or not —

- (a) which are not required to be disclosed by any other provision of this Subdivision; and
- (b) which the person considers might appear to raise a conflict between the person's private interests and the person's duty as a council member or a designated employee or which he or she otherwise desires to disclose.