



Policy Brief

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Policy Brief Nr 27, November 2011

IMPLEMENTING FINANCIAL DISCLOSURE IN LOCAL GOVERNMENT

Content, scope and standardisation

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This policy brief is the first of a four-part series designed to assist municipal staff and elected councillors in South Africa to manage and detect conflicts of interests in public life. The purpose of the series is to support the effective implementation of financial disclosure regulations by reflecting on institutional good practice and lessons learnt, and providing practical advice and recommendations. The four-part series will address the following topics:

- The scope and standardisation of financial disclosure records
- Promoting public access to financial disclosure records
- Compliance by councillors
- Monitoring and oversight

This policy brief addresses the scope, content and standardisation of financial disclosure records. Its objective is to provide guidelines to ensure that councillors are able to comply with requirements by providing full and accurate information, that records are comprehensive and easy to read, and that they adhere to a minimum standard to ensure uniformity.

SCOPE OF DISCLOSURE

Sound disclosure regulations are founded on the premise that an elected official should be required to declare a wide range of financial and other interests. The more varied and accurate the contents, the more transparency and accountability will be extended to any disclosure regime.

What does the law require councillors to disclose?

Compared to other countries, South Africa asks its elected councillors to declare a wide range of assets and interests. The Municipal Systems Act outlines the requirements as follows:

MUNICIPAL SYSTEMS ACT 2000:

Chapter 12, Schedule 1

The Municipal Systems Act 2000 indicates that an elected or appointed official must declare, within 60 days of taking up office, the following interests:

Shares and securities in a company; membership of any close corporation; interest in any trust; directorships; partnerships; other financial interests in any business undertaking; employment and remuneration; interest in property; pension; and subsidies, grants and sponsorships provided by any organisation. In addition, gifts received above a prescribed amount must also be disclosed.

For the information to be useful, it is important that each type of item disclosed includes all the relevant details. For instance, a gift should include its monetary value and the relevant name of the person or institution from which it was received. Shares and other financial interests should list the company name or entity and the monetary value.

COMPLETE AND COMPREHENSIVE DISCLOSURE RECORDS

Oversight and accountability rely on comprehensive disclosure records. Therefore, the information disclosed must be of high quality. To assess comprehensiveness, a physical assessment of forms across municipalities shows that many disclosure records are poorly completed, are incomplete or omit important information, or are not dated. The use of handwriting in particular makes records difficult to decipher. If the information disclosed is unclear or incomplete and not easily understood, it will reduce the effectiveness of financial disclosure as a tool to manage conflicts of interest. Without complete and accurate

records, the ability of institutions and the public to exercise oversight and detect potential conflicts of interest is diminished.

Accountability depends on the full and accurate declaration of interests.

In addition, satisfactory compliance partly relies on comprehensive disclosure records. Incomplete records open the way to higher levels of non-compliance. Without the ability to know what is on the form, people will not be able to decide if it contains important information. In some cases, one cannot tell if information is correct or if something has been left out.

STANDARDISATION OF DISCLOSURE RECORDS

Municipalities generally design their own financial disclosure templates. This creates a situation where there is very little uniformity across and within municipalities in terms of the content categories and layout of templates. The lack of a standardised approach to disclosure 'content' presents opportunities for elected councillors to omit important information and makes any comparative monitoring exercise difficult, with significant implications for accountability. Sometimes it is difficult to establish whether councillors are hiding interests deliberately or as a result of poorly designed forms. An unstandardised approach has generated the following challenges:

- Insufficient space provided to fully complete the record
- The omission of categories required by legislation – common omissions include gifts and trusts
- The acceptance of e-mails and poorly handwritten forms as declarations

Greater standardisation with respect to the content categories of these important documents is highly recommended.

RECOMMENDATIONS: WHAT PRACTICAL STEPS CAN STAFF AND COUNCILLORS TAKE?

Suggestions to assist with effective implementation follow. These suggestions draw on research, best practice and lessons learnt from South African institutions.

✓ **Ensure complete and accurate submissions**

In the interests of monitoring and accountability, it is vital that records are complete, consistent and regularly submitted. A complete register is an effective register.

✓ **Standardise submissions**

Greater standardisation will enhance public accessibility to the information and improve monitoring and oversight. Standardisation also ensures that all elected councillors are subject to a similar sets of ethical requirements. A suggested example of a comprehensive template that includes all of the categories required by legislation is available on the back page of this policy brief. The template is electronically available online at www.ipocafrika.org.

✓ **Electronic submission**

Municipalities are encouraged to consider introducing an online submission facility for councillors. Not only would an online, electronic service enhance public access and monitoring, but it would also introduce uniformity across democratic institutions. It would also make the submission process more user-friendly for elected officials, thus encouraging compliance. Electronic submissions would also address the problematic issues of illegible handwriting and insufficient space.

If municipalities feel that electronic submissions may lead to unethical behaviour, templates can be completed electronically, printed, and then signed by the councillor in the presence of the official accepting/collecting the forms, so as to avoid any fraudulent behaviour.

✓ **Training and awareness workshops for councillors**

Municipalities are encouraged to provide ethics training for councillors to raise awareness about the need for the full and complete disclosure of financial and other interests. Remember that disclosure protects the public interest, but also that of councillors.

✓ **Written guidelines for councillors**

Municipalities are encouraged to provide clear guidelines to councillors about the processes to be followed when completing annual disclosure records and how to correctly update a disclosure record in mid-year.

SUGGESTED TEMPLATE

Name:		Year:	
Shares and securities in a company			
Name of company	Number of shares	Nominal value	Nature
Membership of CC			
Name of CC		Size of interest	
Directorships			
Name of entity	Type of activity		Nature and value
Partnerships			
Name of entity	Type of activity		Nature and value
Outside employment and remuneration			
Name of employer	Type of business activity		Type of employment
Interest in trusts			
Name of trust		Nature of interest	

Other financial interests in any business activity		
Name of company	Extent of interest	
Interest in property		
Description of property	Ownership of property	
Pension		
Name of pension fund		
Subsidies and grants		
Name of grant/subsidy provider	Nature of grant/subsidy	
Sponsorships (including travel sponsorships)		
Name of sponsor	Type of sponsorship	
Gifts		
Source	Description of gift	Value