



GOVERNMENT OF  
WESTERN AUSTRALIA

## Local Government Inspector

# GUIDELINE: BREACH COMPLAINTS

A guide to the breach complaints process

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# **Guideline: Breach Complaints**

## *A guide to the breach complaints process*

An important function of the Local Government Inspector (Inspector) is to receive and deal with complaints under Part 8A of the *Local Government Act 1995* (Act).

Breach complaints can be made to the Inspector if a person has reason to believe that a council member has committed a behavioural, conduct or a specified breach. The alleged breach can occur during the period when the individual was a candidate for election, but the complaint must be made while they are a current council member.

The complaint can still be dealt with even if the council member resigns, is disqualified, fails to be re-elected, or otherwise leaves office after the complaint is made.

## **Types of breaches**

Each breach type is defined with its own criteria, helping to distinguish between interpersonal issues, breaches of conduct rules, and other non-compliance with the Act. The type of breach will also guide how it is dealt with.

### **Behavioural breaches**

#### ***Section 8A.2***

A behavioural breach occurs when a council member fails to meet the behavioural standards set out in their local government's adopted code of conduct.

This code must incorporate the model code prescribed in the Local Government (Model Code of Conduct) Regulations 2021 which outlines behavioural expectations in three key areas:

- personal integrity
- relationships with others
- council or committee meetings.

Local governments may also include additional requirements, provided they align with the model code.

## **Conduct breaches and recurrent breaches**

### ***Section 8A.3***

A council member commits a conduct breach if they:

- contravene a rule of conduct in the model code of conduct prescribed in the Local Government (Model Code of Conduct) Regulations 2021.
- violate a local law made under the Act relating to conduct at council or committee meetings.

The rules of conduct include:

- misuse of local government resources
- securing personal advantage or disadvantaging others
- prohibition against involvement in administration
- relationship with local government employees
- disclosure of information
- disclosure of interests
- compliance with plan requirement.

A recurrent breach happens when a council member commits a conduct breach after already being found to have committed two or more previous conduct breaches.

## **Specified breaches**

### ***Section 8A.4***

A council member who commits a specified offence commits a specified breach. A specified offence is:

- an offence under a provision listed in Schedule 8A.1 of the Act.
- an offence under a written law, other than a local law, that is prescribed by regulations as a specified offence.

A list of all specified offences is available on the Inspector's [website](#).

## **Making a breach complaint**

The Inspector determines the manner and form for lodging a breach complaint.

The process below explains how to submit a breach complaint with the approved [Breach Complaint Form](#) and what happens once it is received.

## **Complete and lodge a complaint form**

### ***Section 8A.5***

The Breach Complaint Form can be found on the Inspector's [website](#). The form can be completed online, or a hardcopy form can be lodged by email or post.

When completing the form, the following information must be provided:

- who is making the complaint
- which council member is the subject of the complaint
- what the alleged breach or breaches are.

It is important to include as much relevant information as possible.

Each complainant must lodge their own complaint.

A complaint may include one or more breaches but should relate to a singular incident.

## **Acknowledgment**

### ***Section 8A.6***

A written acknowledgment of the complaint will be provided to the complainant within 14 days of its receipt.

## **Preliminary assessment**

### ***Section 8A.7***

When a breach complaint is received, a preliminary assessment will be conducted to decide which type of breach is alleged and whether the complaint will be accepted.

During this assessment, inquiries may be made, and relevant matters may be examined as necessary. In some cases, a written request may be sent asking someone to attend a meeting or provide specific documents or information.

If the complaint is accepted, both the person who made the complaint and the council member it relates to will be notified<sup>1</sup>, along with the type of breach alleged.

## **Declining a complaint**

### ***Sections 8A.8 and 8A.9***

The Inspector **may** not accept a breach complaint if they are satisfied that:

- it is frivolous, trivial, vexatious, misconceived, or without substance
- there is not enough evidence to proceed

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<sup>1</sup> Section 8A.37(2) of the Act sets out circumstances in which the requirements to notify do not apply.

- the matter has already been the subject of a previous breach complaint, and it is not appropriate to consider it again
- the complainant has not complied with a request for information during the preliminary assessment.

The Inspector **must** decline to accept a breach complaint if the complaint is:

- related to a conduct breach and the conduct occurred more than 12 months before it was received
- received after the time limit for starting proceedings for the alleged offence had expired
- alleging a conduct or specified breach and the respondent has already been prosecuted, is being prosecuted, or the matter has been resolved by an infringement notice
- alleging a commissioner has committed a behavioural breach or a conduct breach.

Once a complaint has been accepted, the Inspector **may** stop dealing with it at any time before it is referred or dealt with if the complainant does not provide required information, fails to follow a direction, or otherwise fails to cooperate.

If the Inspector declines to accept a complaint, the complainant will be notified along with the reason.

If an accepted complaint ceases being dealt with, both the complainant and the respondent will be notified<sup>2</sup> and provided with the reason.

Discretionary decisions to decline or not continue dealing with a complaint cannot be reviewed by the State Administrative Tribunal (SAT).

## **Monitors**

### ***Section 8A.10***

The acceptance or handling of a complaint may be deferred if:

- a request for a monitor from the relevant local government is pending
- a monitor has been appointed, and the Inspector is awaiting a report on the outcome of the monitoring assignment.

Further details about monitors are available on the Inspector's [website](#).

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<sup>2</sup> Section 8A.37(2) of the Act sets out circumstances in which the requirements to notify do not apply.

## **Certain complaints referred to local government**

### ***Section 8A.11***

The Inspector may refer a complaint that alleges a conduct breach or a specified breach to the local government concerned if the Inspector is satisfied that it is more appropriate for the local government to deal with the complaint.

The Inspector cannot refer a complaint that alleges a conduct or specified breach if:

- the complaint has been referred to the Principal Adjudicator
- an allegation has been made to the SAT
- the complaint has been dealt with following an investigator's report
- a prosecution has occurred or been commenced
- an infringement notice has been issued
- the complaint must be declined to be accepted.

If the Inspector refers a complaint to the local government, the Inspector will no longer deal with it. The Inspector will notify<sup>3</sup> the complainant and the respondent of the referral and the reason why.

## **Dealing with a breach complaint**

How a breach complaint is dealt with depends on the type of breach the Inspector determines is being alleged. The process below outlines the different ways a behavioural, conduct, recurrent and specified breach is dealt with.

### **Behavioural breach allegation**

#### ***Section 8A.12***

When a behavioural breach complaint is made about a council member, it is usually referred to the relevant local government to be managed under its adopted code of conduct.

However, if the council member has been found to have breached behaviour standards on at least two occasions since 1 January 2026, and the Inspector believes the new complaint should be treated more seriously, it will be referred to the Principal Adjudicator to be dealt with as if it were alleging a conduct breach.

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<sup>3</sup> Section 8A.37(2) of the Act sets out circumstances in which the requirements to notify do not apply.

## **Conduct breach allegation**

### **Referral**

#### ***Section 8A.13***

If the Inspector determines that a breach complaint alleges a conduct breach that is not a recurrent breach, they will refer the complaint to the Principal Adjudicator along with any relevant information or documents.

Principal Adjudicator may handle the complaint themselves or assign it to a Deputy Adjudicator to deal with.

### **Mediation**

#### ***Section 8A.15***

An adjudicator may request both the complainant and the respondent to participate in mediation and, if they agree to the request, the adjudicator may defer making a finding until the mediation process is complete

### **Withdrawal**

#### ***Section 8A.16***

A complainant can withdraw their complaint any time before a finding is made by submitting their withdrawal in writing directly to the adjudicator.

The adjudicator will confirm the withdrawal in writing to the complainant and notify the respondent that the complaint has been withdrawn.

However, if the adjudicator decides the complaint should still be dealt with despite the withdrawal request, they may continue the process as if it was not withdrawn and will notify the complainant of this decision instead.

## **Making a finding and ordering sanctions**

#### ***Section 8A.18***

The adjudicator will decide whether the breach occurred. Before making that finding or issuing any orders, the adjudicator will give the respondent reasonable opportunity to present their own submissions.

The adjudicator's finding must be based on evidence that makes it more likely than not that the breach occurred.

If the adjudicator finds that a conduct breach occurred, they will either order that no sanction be imposed, or order one or more of the following sanctions:

- public censure
- public apology



- counselling
- training
- withholding fees and allowances for up to 3 months
- banning the person from attending committee meetings for up to 3 months
- suspension for up to 3 months.

If the adjudicator orders an apology, counselling, or training, the respondent must notify the Inspector once they have complied. If the respondent is unable to apologise personally, the local government may do so on their behalf and notify the Inspector themselves.

The adjudicator will inform the complainant, the respondent, and the Inspector of the outcome and any sanctions imposed.

## **Reviewing a decision**

### ***Section 8A.22***

Either the person who made the complaint or the respondent can apply to the SAT to review an adjudicator's decision to make an order.

## **Failure to comply with an order**

### ***Section 8A.21***

When a person fails to comply with an order to apologise publicly, undertake counselling or complete training, the Inspector can refer the matter to the SAT.

If the SAT is satisfied that the person did not comply with the order, it may order that no sanction be imposed or treat the non-compliance as if it were a specified breach and order one or more of the following sanctions:

- lose entitlement to fees and allowances for up to 6 months
- be barred from attending council committee meetings for up to 6 months
- suspension for a period of up to 6 months
- disqualification from being a council member for up to 5 years
- disqualification from serving as Mayor or President for the remainder of their term, if that role is filled by council election
- disqualification from serving as Deputy Mayor or Deputy President for the rest of their term.

## **Recurrent breach allegation**

### ***Section 8A.14***

If the Inspector believes a complaint alleges a conduct breach that is a recurrent breach, they will either:

- refer the complaint to be handled as a conduct breach, or
- make an allegation to the SAT that the council member has committed a recurrent breach.

The Inspector will notify<sup>4</sup> both the complainant and the respondent of the action taken. Even if the complainant does not want the matter referred to the SAT, the Inspector can still proceed with making the allegation.

The SAT will determine whether the council member committed a recurrent breach. If the SAT finds that a recurrent breach occurred, it may treat it as a specified breach and either order that no sanction be imposed or impose one or more of the sanctions relevant to a specified breach.

## **Specified breach allegation**

### **Investigation**

#### ***Section 8A.23***

When a complaint involves a specified breach allegation, the Inspector can either assign the complaint to an investigator for investigation and report, or take other actions permitted under the Act.

To assist with an investigation, the Inspector can direct certain people to:

- appear in person before an investigator
- give evidence (including evidence on oath) to an investigator
- produce to an investigator, or enable access to, specified documents, information or property.

The investigator will prepare a report for the Inspector. After receiving the report, the complaint may be dealt with by:

- making an allegation to the SAT
- commencing a prosecution for an offence
- issuing an infringement notice
- issuing a caution

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<sup>4</sup> Section 8A.37(2) of the Act sets out circumstances in which the requirements to notify do not apply.

- deciding to take no further action.

The complainant and the respondent will be notified<sup>5</sup> of any action taken.

## **SAT findings and ordering sanctions**

### **Section 8A.25**

If the SAT finds that a specified breach has been committed, it can order that no sanction be imposed, or order one or more of the following sanctions:

- public censure
- public apology
- counselling
- training
- lose entitlement to fees and allowances for up to 6 months
- be barred from attending council committee meetings for up to 6 months
- suspension for a period of up to 6 months
- disqualification from being a council member for up to 5 years
- disqualification from serving as Mayor or President for the remainder of their term, if that role is filled by council election
- disqualification from serving as Deputy Mayor or Deputy President for the rest of their term.

If the SAT orders an apology, counselling, or training, the person must notify the Inspector once they have complied. If the person is unable to apologise personally, the local government may do so on their behalf and notify the Inspector themselves.

## **Failure to comply with an order**

### **Section 8A.27**

When a person fails to comply with an order to apologise publicly, undertake counselling or complete training, the Inspector can refer the matter to the SAT.

If the SAT is satisfied that the person did not comply with the order, it may order that no sanction be imposed or treat the non-compliance as if it were a specified breach and order one or more of the following sanctions:

- lose entitlement to fees and allowances for up to 6 months
- be barred from attending council committee meetings for up to 6 months

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<sup>5</sup> Section 8A.37(2) of the Act sets out circumstances in which the requirements to notify do not apply.

- suspension for a period of up to 6 months
- disqualification from being a council member for up to 5 years
- disqualification from serving as Mayor or President for the remainder of their term, if that role is filled by council election
- disqualification from serving as Deputy Mayor or Deputy President for the rest of their term.

## **False or misleading information**

### ***Section 8A.38***

A person is committing an offence if they knowingly provide information that is consequently false or misleading in any of the following situations:

- making a complaint
- giving information for investigation purposes
- providing information to the Inspector or an adjudicator for the purposes of dealing with a complaint.

The maximum penalty for providing false or misleading information is a fine of \$10,000.

## **Confidentiality of complaints**

### ***Section 8A.36***

A complainant, respondent or any other person who becomes aware of details relating to a complaint, must not disclose or use that information. Unauthorised disclosure or use is an offence and may result in a maximum penalty of \$10,000.

Confidentiality requirements do not apply to complaint information that is already public or is presented in a statistical form that does not identify any individual.

There are limited circumstances where disclosure or use of complaint information is permitted while a complaint is being considered. These include:

- carrying out functions under the Act
- the Minister for Local Government performing a function in relation to a local government
- as required under a written law
- obtaining or providing legal advice or representation

- legal proceedings under the Act
- where the Inspector directs that disclosure is in the public interest.

A breach complaint, or information related to a breach complaint, is no longer subject to confidentiality requirements once any of the following occurs:

- the complaint is dismissed or withdrawn under the local government's adopted code of conduct
- a finding is made under the local government's code of conduct as to whether the alleged breach occurred
- a sanction is imposed under a local government's code of conduct, by an adjudicator, or by the SAT
- the Inspector declines to accept the complaint
- the Inspector decides not to continue dealing with the complaint
- an adjudicator accepts withdrawal of the complaint
- the Inspector publishes findings, orders, or censures relating to the complaint
- the SAT refuses to find that a specified breach was committed

## **Inspector publication of decisions**

The Inspector is required to publish certain information on their website in relation to complaint outcomes.

### **Adjudicator decisions**

#### ***Section 8A.20***

The Inspector publishes on their website:

- any finding by an adjudicator as to whether or not a conduct breach has occurred
- any order made by an adjudicator to impose a sanction or impose no sanction
- the terms of any censure ordered by an adjudicator.

The information will be kept on the Inspector's website for the period of 12 years from publication.

If an application is made for a review of a decision to make an order, the Inspector must also publish the following on the Inspector's website:

- a note that the application has been made
- a note of the outcome of the application.

The published note must be kept on the Inspector's website with the published order.

## **SAT decisions**

### ***Section 8A.26***

The Inspector publishes on their website:

- any finding or order made by the SAT relating to a recurrent breach, specified breach or failure to comply with certain orders made by an adjudicator or the SAT.
- the terms of any censure ordered by the SAT.

The Inspector will not publish any part of a finding or order if:

- it contains protected matter (as defined in the *State Administrative Tribunal Act 2004*), or
- the SAT has directed that the order, or parts of it, must not be published.

A finding or order will be published within 14 days of being provided to the Inspector. If the finding or order is under appeal, the publication will include a note stating that it is subject to appeal. The Inspector must update the publication with the outcome of the appeal as soon as practicable.

The information will be kept on the Inspector's website for the period of 12 years from publication.



## Local Government Inspector

### Contact us



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Inspector enquiries relating to new complaints or  
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Local Government Advisory Hotline  
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