



GOVERNMENT OF
WESTERN AUSTRALIA

**Local Government
Inspector**

GUIDELINE: GENERAL COMPLAINTS

A guide to the general complaints process

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Guideline: General Complaints

A guide to the general complaints process

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

General complaints can be made to the Inspector if a person believes that a local government or relevant person has contravened, or is contravening, a provision of the Act or its associated regulations.

General complaints cannot be made about matters which, if found to have occurred, would constitute a behavioural breach, a conduct breach or a specified breach.

Making a general complaint

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

The process below explains how to submit a general complaint with the approved General Complaint Form and what happens once it is received.

Complete and lodge a complaint form

Section 8A.28

The General 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.

General complaints can be made against:

- local governments
- council members
- committee members
- local government employees
- current or previous candidates for election as council members
- people or organisations with a financial or other association.

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

- who is making the complaint
- the local government or person who is subject of the complaint
- what the alleged contravention or contraventions 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 contraventions but should relate to a singular incident.

Acknowledgment

Section 8A.29

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

Preliminary assessment

Section 8A.30

When a general complaint is received, a preliminary assessment will be conducted to decide 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 respondent will be notified¹.

Declining a complaint

Sections 8A.31 and 8A.32

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

- it is frivolous, trivial, vexatious, misconceived, or without substance
- there is not enough evidence to proceed
- dealing with the complaint is not in the public interest or would be a poor use of resources
- the matter has already been the subject of a previous general 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 general complaint if:

- the conduct occurred more than 5 years before it was received

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

- the complaint is received after the time limit for starting proceedings for the alleged offence has expired
- the respondent has been tried by a court for the offence.

If the Electoral Commissioner is responsible for the conduct of an election, the Inspector **must**:

- obtain the written agreement of the Electoral Commissioner before accepting a general complaint about the election, or
- decline to accept the complaint.

The Inspector **must** decline to accept a general complaint if it is an invalidity complaint² made by a person who is dissatisfied with the result of an election or how an election was conducted.

Once a complaint has been accepted, the Inspector **may** stop dealing with it 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 notified³ and provided with the reason.

Certain complaints referred to local government

Section 8A.33

The Inspector may refer a general complaint to the local government concerned if the Inspector is satisfied that it is more appropriate for the local government to deal with the complaint.

If the complaint is about the Chief Executive Officer (CEO), the Inspector can tell the local government how to deal with the complaint. The local government must follow those instructions and report back to the Inspector within the specified time.

The Inspector cannot refer a general complaint if:

- a prosecution has occurred or been commenced
- an infringement notice has been issued.

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

² An invalidity complaint is defined in section 4.80(2) of the Act.

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

Dealing with a general complaint

Section 8A.34

The Inspector can either assign the general complaint to an investigator for investigation and report, or take other actions permitted under the Act.

Monitors

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](#).

Mediation

The Inspector may request both the complainant and the respondent to participate in mediation and, if they agree to the request, the Inspector may defer deciding whether a contravention has occurred until the mediation process is complete.

Investigation

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. If the Inspector believes that a contravention has occurred, the complaint may be dealt with by:

- commencing a prosecution for an offence
- issuing an infringement notice
- issuing a caution
- referring the matter to the local government to take action
- deciding to take no further action.

Additionally, or as an alternative to the above actions, the Inspector may issue a compliance notice to the respondent.

The Inspector may take further actions⁴ if the finding is about the CEO.

⁴ Section 8A.35 of the Act outlines the further actions the Inspector can take.

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 general complaint, or information related to a general complaint, is no longer subject to confidentiality requirements once the complaint has been dealt with or when any of the following occurs:

- the Inspector declines to accept the complaint
- the Inspector decides not to continue dealing with the complaint
- after receiving an investigator's report, the Inspector decides the complaint will not be dealt with any further.



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Local Government Inspector

Contact us



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Inspector enquiries relating to new complaints or
existing matters only

1300 762 511

Local Government Advisory Hotline
for local governments only



Local Government Inspector

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