

## ALL ELECTION PARTICIPANTS

## Offences relating to electoral advertising

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to any person who undertakes advertising as part of a Queensland local government election.

## Offences relating to electoral advertising

Section 182 of the LGEA prohibits any person from:

- distributing anything that is intended or likely to mislead an elector about the ways of voting during an election period
- distributing anything that purports to be a representation of a ballot paper during an election period, if it's likely to induce an elector to cast an informal vote.

Distribution in this instance means via publication, print, broadcast or online. Any such distribution of misleading election materials or how-to-vote cards is an offence under section 182 of the LGEA, which carries a maximum penalty of 40 penalty units (\$6,452 as at 1 July 2024).

Election material that is distributed during an election period must also be properly authorised under section 177 of the LGEA. See [Fact sheet 3 – Authorisation of election material](#) for more information.

The distribution of how-to-vote cards is permitted under the LGEA, provided they meet requirements set out in sections 178 and 179 of the LGEA. It is an offence for a person to distribute a how-to-vote card that was not submitted to and accepted by the ECQ.

Distribution of a how-to-vote card that has not been accepted by the ECQ carries a maximum penalty of 20 penalty units (\$3,226 as at 1 July 2024). See [Fact sheet 5 – How-to-vote cards](#) for more information. Keep in mind that not everything distributed at a polling booth will be a how-to-vote card – it could be ordinary election material which does not require ECQ approval.

## The ECQ's Compliance approach

It is common for the ECQ to receive complaints about electoral advertising which discusses another candidate. However, the ECQ has a limited remit to investigate these matters.

Section 182(2) of the LGEA limits the ECQ to only investigating conduct which involves knowingly publishing (in print or online) a false statement of fact about the personal character or conduct of a candidate, for the purpose of affecting the election of the candidate.

Investigations of this nature can take significant time and are unlikely to be resolved before election day. Further information about how matters such as these are prioritised can be found in the ECQ's [compliance approach](#).

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## More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing [fad@ecq.qld.gov.au](mailto:fad@ecq.qld.gov.au).



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Investigations of this nature will need to establish:

1. The published material contained a false statement of fact (as opposed to an opinion)
2. That the statement of fact was about a candidate's *personal* character or conduct (as opposed to their professional or public character or conduct)
3. The publisher's intent in publishing the material was to affect the election of that candidate (and not for some other purpose)
4. The person who published the material *knew* that it contained a false statement of fact.

It is not sufficient to demonstrate that the statement of fact was incorrect – the motives and knowledge of the publisher must be established to substantiate an offence against section 182 of the LGEA.

## EXAMPLES

### Example A

During a mayoral candidates' debate, two candidates exchange comments about each other's past work performance and resort to name-calling. Another candidate believes the debate was mean-spirited and would like to complain.

#### Outcome

The ECQ has no remit to investigate this complaint, as it does not constitute the publication of a false statement of fact about the personal character or personal conduct of a candidate.

### Example B

A councillor candidate distributes a flyer which has been mocked up to look like a ballot paper and encourages electors to substitute their ballots with this flyer on polling day. An elector is concerned and would like to complain.

#### Outcome

The elector can contact the ECQ to provide evidence of their concern, and the ECQ may choose to investigate further to determine whether this could induce an elector to cast an informal vote.

### Example C

Councillor Candidate A approves the printing of a leaflet which states that Candidate B was convicted of and jailed for fraud in the past. This information is false, and Candidate B has never been convicted of a crime. Candidate A knowingly fabricated this information, and Candidate B has clear evidence of this fabrication from Candidate A's campaign. Candidate B wishes to complain.

#### Outcome

Candidate B can contact the ECQ to provide their evidence, and the ECQ may choose to investigate further.

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## EXAMPLES CONTINUED

### Example D

A councillor candidate places an advertisement about themselves in their local paper, calling themselves the representative for their local division. An elector believes this is incorrect as the candidate has not yet been elected and wishes to complain.

### Outcome

The ECQ has no remit to investigate this complaint, as it does not constitute the publication of a false statement of fact about the personal character or conduct of a candidate.

## Who to contact about misconduct

Electoral participants may also be subject to laws enforced by other government agencies. The ECQ does not regulate:

- issues involving the councillor code of conduct, caretaker conventions, or use of council property during the election period
- decisions of councillors made in their capacity as elected officials
- the behaviour or conduct of candidates or their workers when behaviour does not affect the conduct of the election
- content of political advertising (other than ensuring proper authorisation or the matters addressed above)
- the placement of signs on roads, private property, etc.
- complaints about corrupt conduct.

Any person who wishes to report potential non-compliance (including self-reporting) should contact the relevant authority, including:

Issue	Contact
Disclosure and bank account requirements (including notifications about potential non-compliance)	Electoral Commission of Queensland Funding, Disclosure and Compliance <a href="mailto:fad@ecq.qld.gov.au">fad@ecq.qld.gov.au</a> 1300 881 665
Expenditure caps	
Prohibited donations	
Group campaign activities (including registration of groups)	
Accessing and using the Electronic Disclosure System	

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Issue	Contact
Third-party campaign activity (including registration of third parties)	Electoral Commission of Queensland (per previous page)
Authorisation of election material	
Candidate / candidate worker conduct	<p>If the behaviour involves violence – Queensland Police Service (000 in emergencies)</p> <p>If the behaviour is at a polling venue and is obstructing the free exercise of casting votes or another right or responsibility – the Returning Officer in the first instance</p>
Stolen or damaged election signs	Queensland Police Service
Placement of election signs	<p>On local roads – the local council</p> <p>On a State controlled road – Department of Transport and Main Roads (<a href="http://www.qld.gov.au/transport/safety/signs/election-signs">www.qld.gov.au/transport/safety/signs/election-signs</a>)</p>
Complaints about the conduct of sitting councillors and mayors who are standing for re-election	Office of the Independent Assessor <a href="http://www.oia.qld.gov.au">www.oia.qld.gov.au</a>
Complaints about corrupt conduct	Crime and Corruption Commission <a href="http://www.ccc.qld.gov.au">www.ccc.qld.gov.au</a>
Complaints about online abuse or bullying	eSafety Commissioner <a href="http://www.esafety.gov.au">www.esafety.gov.au</a>

### For further information

This fact sheet mainly refers to section 182 of the LGEA. The LGEA is available in full at [legislation.qld.gov.au](http://legislation.qld.gov.au). Participants in the electoral process should ensure they understand their obligations under the LGEA.



#### RELATED FACT SHEETS

Fact sheet 3 – Authorisation of election material

Fact sheet 5 – How-to-vote cards

Fact sheet 6 – Offences and penalties for candidates

Fact sheets are available on the [ECQ website](http://ecq.qld.gov.au).

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