

OFFENCES AND PENALTIES FOR LOCAL GOVERNMENT CANDIDATES AND COUNCILLORS

This fact sheet relates to candidates and groups of candidates contesting local government elections and by-elections.

The Electoral Commission of Queensland (ECQ) is responsible for administering and enforcing the *Local Government Electoral Act 2011* (LGEA), which includes penalties that may apply to local government candidates and sitting councillors who breach their disclosure obligations. Note that councillors and candidates may also be subject to laws enforced by other government agencies. This fact sheet is intended to provide information only in relation to those laws administered by the ECQ.

What happens if a candidate or councillor commits an offence under the LGEA?

A candidate or councillor who commits an offence under the LGEA may be subject to fines or prosecution, depending on the seriousness of the offence.

Further, a sitting councillor will be automatically suspended if they are charged with an integrity offence or a serious integrity offence. Both sitting councillors and candidates will be disqualified from being a councillor for:

- 4 years after being convicted of an integrity offence, or
- 7 years after being convicted of a serious integrity offence.

What are the offences relating to financial disclosure under the LGEA?

Offences under the LGEA that may apply to candidates and councillors who breach their financial disclosure obligations may constitute integrity offences or serious integrity offences.

Offences under the *Local Government Electoral Act 2011*

LGEA Section	Offence	Description	Maximum penalty*
Offences (other than integrity offences)			
122	Failure to notify public about disclosure obligations	<p>A candidate must take reasonable steps to notify the public that the candidate is required to:</p> <ul style="list-style-type: none"> • give a return to the ECQ about a gift or loan they have received, and • state the relevant details for the gift or loan in the return. 	1 penalty unit

More information

For more information relating to Funding, Disclosure and Compliance, please contact the ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.

122A	Failure to notify third party of obligation to give a return	A candidate must notify a third party from whom gifts of \$500 or more are received that states the third party may be required to give a return about the gift.	20 penalty units
127B	Payment of campaign expenses by credit card	A candidate must not: <ul style="list-style-type: none"> • use a credit card to pay an amount for the conduct of their election campaign, or • pay an amount out of their dedicated account to pay a charge incurred using a credit card. Refer to LG Fact sheet 3 - Campaign bank accounts and use of credit cards for more information.	100 penalty units
195(1)	Failure to give a return within the time required	A person must give a return under Part 6 of the LGEA within the time required by the provision.	100 penalty units
195(4)	Knowingly giving another person false or misleading particulars	A person must not give another person information relating to a return that is, to the knowledge of the person, false or misleading.	20 penalty units
195A	Knowingly publishing false or misleading information about a gift	A person must not publish information about a gift that the person knows is false or misleading.	20 penalty units
196	Failure to keep records for the time required	A person must keep records relating to a return for at least 5 years after the conclusion of the election.	20 penalty units
197	Failure to obtain information for a return	A person must take all reasonable steps to obtain the particulars required to complete a return and complete the return to the extent practicable.	20 penalty units
198	Failure to give notice of particulars relating to a return	A person who lodged an incomplete return must notify the ECQ if they obtain particulars relevant to the return within 5 years after the conclusion of the election.	20 penalty units
Integrity offences			
126 and 127	Failure to operate a dedicated account in accordance with the LGEA	A candidate or group of candidates must operate a dedicated account for the election in the ways permitted under sections 126 and 127 of the LGEA. Refer to LG Fact sheet 3 - Campaign bank accounts and use of credit cards for more information.	100 penalty units
194A	Knowingly making or accepting an unlawful political donation	A person must not knowingly do an act or make an omission that is unlawful under the prohibited donor provisions of the LGEA. Refer to Prohibited Donors Scheme for more information.	400 penalty units or 2 years imprisonment

194C	Knowingly providing false or misleading information relating to a determination	A person must not provide information in an application for determination that the person knows is false or misleading.	400 penalty units or 2 years imprisonment
195(2) & 195(3)	Knowingly giving a return that contains false or misleading particulars	A person must not give a return that contains particulars that are, to their knowledge, false or misleading.	100 penalty units
<i>Serious integrity offences</i>			
194B	Knowingly seeking to circumvent the prohibition on political donations	A person must not knowingly participate in a scheme to circumvent a prohibition on political donations. Refer to Prohibited Donors Scheme for more information.	1,500 penalty units or 10 years imprisonment

**As of 1 July 2020, the value of one penalty unit is \$133.45.*

This list of offences is not exhaustive and there may be other offences that apply to candidates and councillors aside from the financial disclosure provisions of the LGEA.

Candidates and councillors should familiarise themselves with the full content of the relevant legislation and seek independent legal advice if required.