



Rights and obligations in campaigning

2015 Local Government Elections - Fact Sheet 5

Rights and obligations of candidates

Are you going to be involved in a local government election? If the answer is “yes” then this fact sheet will outline your rights and obligations as a candidate standing for election.

Candidates are to receive copies of electoral rolls

As a candidate in an election you are entitled to a copy of the electoral roll (hard copy or CD) for that election free of charge. You may be charged for any additional copies. This will depend upon the policy of your local government.

Candidates may be present for the acceptance of nominations

After nominations close, the returning officer must announce the nominations that have been accepted in front of any candidates (and anyone else) then present. This will normally occur shortly after 4.00pm but it could be delayed, for example, if the returning officer has decided to amend a candidate’s profile. You can expect to be advised if there is a delay. You can also be present for the drawing of positions on the ballot paper.

Candidates and donors must disclose electoral gifts

Both candidates and donors are to disclose information about any election related gift with a value of \$200 or more that was given or promised within the six month period prior to the relevant election day. For example, the reporting period for the 17 October 2015 elections commenced from 17 April 2015.

In addition, any gifts from unidentified donors must be disclosed and provided to the CEO of the relevant local government for disposal.

Within three days of nomination, a candidate will need to disclose any gifts received within the relevant period prior to nomination and then disclose any further gifts thereafter. Details about each gift are to be submitted within three days of receiving the gift once a nomination has been made. Donors will also need to disclose any gifts made within the relevant period and candidates should advise donors of their reporting responsibilities.

A “gift” includes a gift of money, a gift which is non-monetary but of value, a gift in kind or where there is inadequate financial consideration such as the receipt of a discount (where the difference or the discount is worth more than \$200). A “gift” could also include a financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.

A “gift” does not include a gift by will, a gift by a relative, a gift that does not relate to the candidate’s candidature, or the provision of volunteer labour.

The disclosure of a gift is to be made to the CEO of the local government. Information to be supplied includes the name of the candidate, the name and address of the donor, the date the gift was promised or received, the value of the gift and a description of the gift.

The disclosure period finishes three days after election day for unsuccessful candidates and on the start day for financial interest returns for successful candidates.

Candidates may observe counting of votes

As a candidate, you may be present at the place the votes are counted, subject to any directions of the returning officer. This place will be identified in the election notice that the local government publishes. If you do not see the notice, you should ask the returning officer for your local government where the votes will be counted.

Candidates must also be given advance written notice of when and where the electors’ certificates for postal voting papers will be checked. They may also be present for the checking of certificates for absent voting papers. However, ballot papers for postal and absent votes will not be checked until after voting closes.

Where a postal election is conducted by the Western Australian Electoral Commissioner, to expedite the count, the returning officer may arrange for the opening of the ballot paper envelopes prior to 6.00pm on polling day. Without examining the ballot paper, the returning officer may remove the ballot paper from the envelope and place it into a sealed ballot box which must remain sealed until the close of voting.

Candidates may be present at the result declaration

After the result of an election is determined, the returning officer must as soon as is practicable declare in the presence of any candidates or other persons, the names of each candidate, the order in which they were elected or excluded, and the terms of office of those declared elected.

Candidates can appoint scrutineers

A scrutineer is a person who observes the conduct of an election on behalf of a candidate. After an election is called and polling places are identified you can appoint your scrutineers. Any number of scrutineers may be appointed but only one of your scrutineers may be actively representing you at any one polling place at any one time.

A scrutineer must be 18 years of age or over to be appointed.

You cannot be appointed to act as a scrutineer for elections at which you are a candidate.

Before acting, each scrutineer must make a declaration on form prescribed by the *Local Government (Elections) Regulations 1997*, before an authorised witness. This may be the returning officer, the returning officer's deputy or a presiding officer. The declaration sets out rights and duties for scrutineers.

Scrutineers must be identifiable as scrutineers at the polling and counting places. They can observe proceedings to see that legal requirements are being met. However, they must not interfere with the process or conduct of an election. This means that they are not to impede work, slow down the checking of votes or interfere with automated processes, nor expect a returning officer to provide them with lists of information such as who has voted.

Only one scrutineer for a candidate can be present at a count. However, a returning officer may permit one scrutineer per candidate for each counting table.

Scrutineers must comply with the directions of the returning officer and with reasonable requests made by an electoral officer.

Rights and obligations of a scrutineer

What a scrutineer may do

As a scrutineer you may:

- attend at a polling place mentioned in your notice of appointment to observe the conduct of the election and to make sure that the *Local Government Act 1995* is being complied with;
- observe the checking of absent and postal votes; and
- be present when ballot boxes are opened, when preferences indicated on ballot papers are recorded electronically and votes are being counted.

What a scrutineer must do

As a scrutineer you must:

- wear identification of your appointment as a scrutineer;
- have your copy of your scrutineer appointment form with you at all times and produce it when requested to do so by the presiding officer at a polling place; and
- comply with all directions given by the returning officer and all reasonable requests made by any other electoral officer.

What a scrutineer must not do

As a scrutineer you must not:

- enter a polling place if another scrutineer appointed by the same candidate is already there (unless one of you is in the polling place just to cast your vote); or
- take part in the conduct of the election; and
- while in or within six metres of a polling place, you must not:
 - canvass for votes;
 - solicit the vote of an elector;
 - induce an elector to vote for a particular candidate;
 - induce an elector not to vote at the election; or
 - record the name of a person who attends a polling place to vote, or record any information given by a person to an electoral officer in order to receive a ballot paper.

Electoral offences

There are a number of other offences set out in the *Local Government Act 1995* (the Act) that you need to be aware of, some of which are as follows.

It is an offence to:

- bribe or exert undue influence to get someone else to commit an electoral offence;
- print, publish or distribute misleading statements or make or publish false or defamatory statements about others;
- not disclose to the CEO of a local government, an election gift received in the period six months before an election;
- publish unfair or inaccurate information derived from an electoral gift register;
- make false statements in your nomination;
- canvass voters, solicit the vote of an elector, or induce an elector not to vote for a particular candidate or not to vote at the election, within six metres of the polling place, unless the presiding officer or returning officer relaxes this requirement;
- forge, deface or destroy a ballot paper;
- fraudulently put a ballot paper in to a ballot box;
- interfere with any ballot box or ballot paper;
- assume the identity of an elector;
- supply a ballot paper or mark a ballot paper without authority;
- communicate with, assist or interfere with an elector while the elector is marking a ballot paper from a postal voting package;
- apply undue influence or pressure on an elector to apply for a postal vote, interfere with an elector while the elector is applying for a postal vote or take custody (or cause any other person who is not the elector to take custody) of an envelope in which there is a postal vote (these offences specifically relate to candidates, or a person expressly authorised to act on behalf of candidates such as a scrutineer);
- not include the name and address of the person authorising electoral (campaign) material to be printed along with the name and business address of the printer.

The offences listed above carry maximum penalties ranging from \$2,000 to \$10,000 or imprisonment for two years.

For a general understanding of electoral offences it is suggested that you peruse sections 4.85 to 4.95 of the Act.

Where can I get more information?

For more information visit the Department of Local Government and Communities website at: www.dlgc.wa.gov.au or contact your local government.

This publication was prepared by:

Department of Local Government and Communities
Gordon Stephenson House, 140 William Street, PERTH WA 6000
GPO Box R1250, PERTH WA 6844
Telephone: (08) 6551 8700
Fax: (08) 6552 1555
Freecall (Country Only): 1800 620 511
Email: info@dlgc.wa.gov.au
Web: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) – Telephone: 13 15 50

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