

Complaints Protocol for Council Elections

1. PURPOSE

The Complaints Protocol for Council Elections establishes the standards which the Electoral Commissioner requires for formal complaints under the *Local Government (Elections) Act 1999* (the 'Act') to be considered; and establishes the standards which individuals and organisations may expect to receive in their dealings with the Electoral Commission of South Australia (ECSA).

2. LODGING A COMPLAINT

Any individual or organisation may make a complaint about an electoral offence under the Act. The complaint must be in writing and establish the facts and provide evidence of the alleged electoral offence.

All complaints should be addressed and sent to:

mail : Electoral Commissioner
Electoral Commission SA
GPO Box 646
ADELAIDE SA 5001

email : electoral.commissioner@sa.gov.au

fax : 08 7424 7477

3. CONSIDERATION OF COMPLAINTS

The Electoral Commissioner will consider all formal complaints on merit and the provision of evidence is essential in enabling this consideration.

The Electoral Commissioner will determine, based on the complaint, whether a potential breach has occurred. If no breach is apparent, the complainant will be advised accordingly. However, if the Electoral Commissioner believes a potential offence may have been committed, he/she will contact the alleged offender and allow them an opportunity to make a submission. The Electoral Commissioner may then make a determination based on the information and evidence received (such as seeking a withdrawal of offending material or a retraction of statements); seek further information from either of the parties; issue a warning; or commence prosecution action.

Should a person or organisation who has been accused of committing an electoral offence be contacted for further information they should furnish the Electoral Commissioner with the information requested as soon as possible. Such cooperation will be taken into consideration by the Electoral Commissioner in determining whether to prosecute alleged offenders.

4. CONFIDENTIAL TREATMENT OF COMPLAINTS

The Electoral Commissioner treats complaints confidentially, and does not identify the complainant to the alleged offender. In rare circumstances, the Electoral Commissioner may disclose the identities involved to both parties. Such circumstances typically occur

where there exists a likelihood of conflicting evidence relied upon; or where one or more of the parties involved, publicise the matter.

Where the parties involved in a complaint have publicised the matter, the Electoral Commissioner may confirm the existence of a complaint with the media, but will not discuss the details of the complaint.

The Electoral Commissioner may make public comments (eg to the media) following a successful prosecution or Court of Disputed Returns, in order to ensure electors are aware of a situation and/or have accurate information.

5. TIMEFRAMES

Complaints may be received at any time, however the Electoral Commissioner may take into account the electoral cycle and the likelihood of an incident affecting an election in making his/her determinations. Typically, the majority of complaints the Electoral Commissioner receives, are during the election period.

When a complaint is received in writing, ECSA will acknowledge the complaint as being received and aims to do this within 48 hours. All complaints regarding electoral offences are handled as expeditiously as possible. To ensure this, the Electoral Commissioner may provide deadlines for responses when seeking information from parties involved.

ECSA aims to resolve most issues within a reasonable timeframe. In cases where conflicting evidence and counter submissions occur, matters may take some weeks to resolve. Where there is the likelihood of prosecution action, this may extend the resolution for some months.

Election periods are limited and have strict legislative timeframes so time is of the essence when handling complaints regarding electoral offences. There may be the potential for an offence to have an effect on the election results, particularly misleading advertising. However, the Electoral Commissioner is committed to ensuring that any effect is minimised and may seek a withdrawal or retraction of offending material.

6. HISTORY

This policy is based on the Complaints Protocol for State Elections.