

Declaration and Disputes

results, disputes and improper campaign conduct

The returning officer will publicly declare results as soon as practicable after election day giving the names of the candidates elected. This will usually be by 6 pm on the Saturday for local governments holding a postal vote and 6 pm on Sunday for local governments conducting attendance elections. The declaration of the election may be delayed if the returning officer is required to conduct a re-count.

The returning officer is required under the Local Government Act to give public notice of the result of the election and to notify the Minister.

The Local Government Act allows candidates or any 10 voters (including unenrolled voters) to apply to the Municipal Electoral Tribunal (MET) to conduct an inquiry.

An application can be made when the validity of the election is disputed.

A MET is constituted by a magistrate or acting magistrate. An application to MET must be lodged within 14 days of the declaration of the election.

A candidate may dispute the result of an election and apply for an enquiry by the Municipal Electoral Tribunal. The Returning Officer has full discretion over conducting a recount of votes.

While it is expected that elections will be conducted in a fair and proper manner it is important to note the potential breaches of the Act for improper campaign conduct. There are a number of restrictions on how a candidate conducts him or herself during an election campaign and penalties apply. The majority of these are covered in Sections 52 to 59 of the Local Government Act 1989 and are summarised below.

unlawful nomination-

A person must not nominate if they are 'incapable' or not 'qualified' to become a councillor.

Penalty – (\$2,000)

canvassing near a polling place

For attendance voting – individuals are not allowed to canvass for votes, erect signage for the election, hand out material etc within six meters of a voting centre (or a lesser distance as set by the returning officer).

Penalty – (\$1,000)

interfering with rights

A person cannot hinder or interfere with the exercise of any individual of any political right or duty in relation to an election.

For attendance voting – during the hours of polling individuals are not allowed to conduct any demonstration that has any reference to the election, or use loud speakers/amplifiers/broadcasting intended to affect the result.

Penalty – (\$100)

printing of electoral material (Section 55)

Electoral material must have the name and address of the person who authorised the material.

Penalty – (\$1,000) or (\$2000) (if corporate body)

misleading or deceptive matter

Election material (including a representation of a ballot paper) must not contain matters that are likely to mislead or deceive a person in relation to the casting of their vote.

Penalty – (\$1,000) or \$2000 (if corporate body)

author to be identified

Any election material in a newspaper, circular, pamphlet, letter that is published in the election period must have the author's name and address at the end of the relevant document/article etc.

Penalty – (\$1,000) or \$2000 (if corporate body)

distribution of electoral material

A person is not allowed to distribute anything other than a registered how-to-vote card within 400 metres of a voting centre.

Penalty – (\$1,000)

false of defamatory statements

Must not make or publish any false or defamatory statements in relation to the personal character or personal conduct of another candidate.

Penalty – (\$1,000) or \$5000 if corporate body.

injunction

A candidate can apply to the Supreme Court for an injunction if they believe that another candidate/person has been, is, or is proposing to engage in any of the conduct outlined

bribery, treating or undue influence

You cannot offer any property or benefit of any kind to another in order to influence:

- How a person votes;
- The candidature of a person;
- The support or opposition of a candidate; or
- Any other action intended to influence the preferences set out in the vote.

It is also an offence for a person to ask for property or benefit to undertake the above points.

Penalty – Two years' imprisonment