



Department of
**Local Government, Sport
and Cultural Industries**



Fact sheet: Local Government Inspector and Monitors

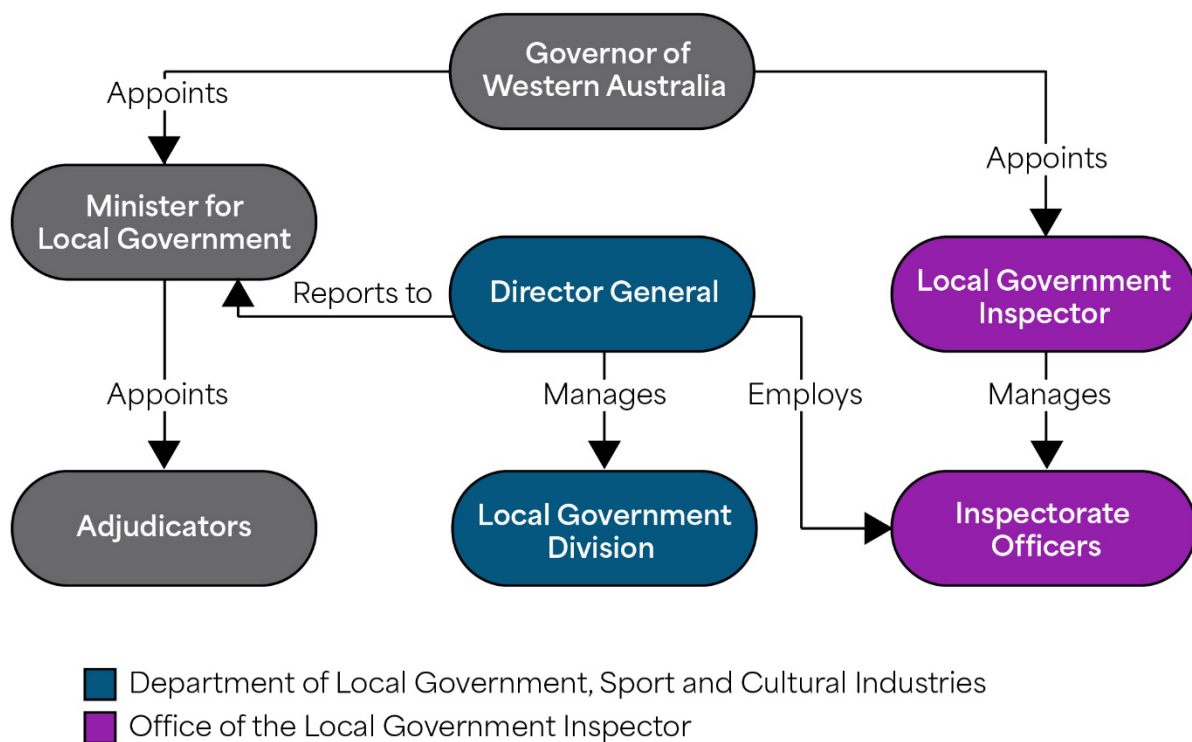
Local Government Amendment Bill 2024

Introduction

The independent Local Government Inspector (the Inspector) will lead the Office of the Local Government Inspector (the Office), which will be separate from the existing Local Government division at the Department of Local Government, Sport and Cultural Industries.

The Office will be comprised of the Inspector, supported by skilled investigators, compliance specialists, complaints handlers and other support staff.

The Inspector will be broadly independent of the direction of the government of the day in the exercise of their powers under the *Local Government Act 1995* (the Act).



Proposed structure and relationships for the Local Government Inspector and adjudicators

Why do we need an Inspector?

The Act outlines how the Western Australian Government may intervene to ensure that local governments are providing good government to their districts. Previous intervention tools have been limited and primarily relied on lengthy and costly local government inquiries.

A dedicated Office focuses on early intervention and compliance to mitigate dysfunction. Where intervention is necessary, stronger penalties and streamlined processes will now be available to ensure integrity is maintained in local governments.

This new system has been designed to provide:

- earlier intervention to enable resolution of potential problems before they escalate
- pathways to support local governments resolve problems without the need for more significant intervention
- greater accountability of local governments
- better decision-making by local governments
- improved public confidence in local governments
- increased community participation in the decisions and affairs of local governments.

Role of the Inspector

The Inspector's role is to:

- monitor the conduct of a local government's operations and affairs
- provide education and information to assist in compliance and conduct
- receive and deal with complaints
- conduct investigations, including those initiated by the Inspector
- if necessary, conduct an Inspector's Inquiry.

Powers of the Inspector

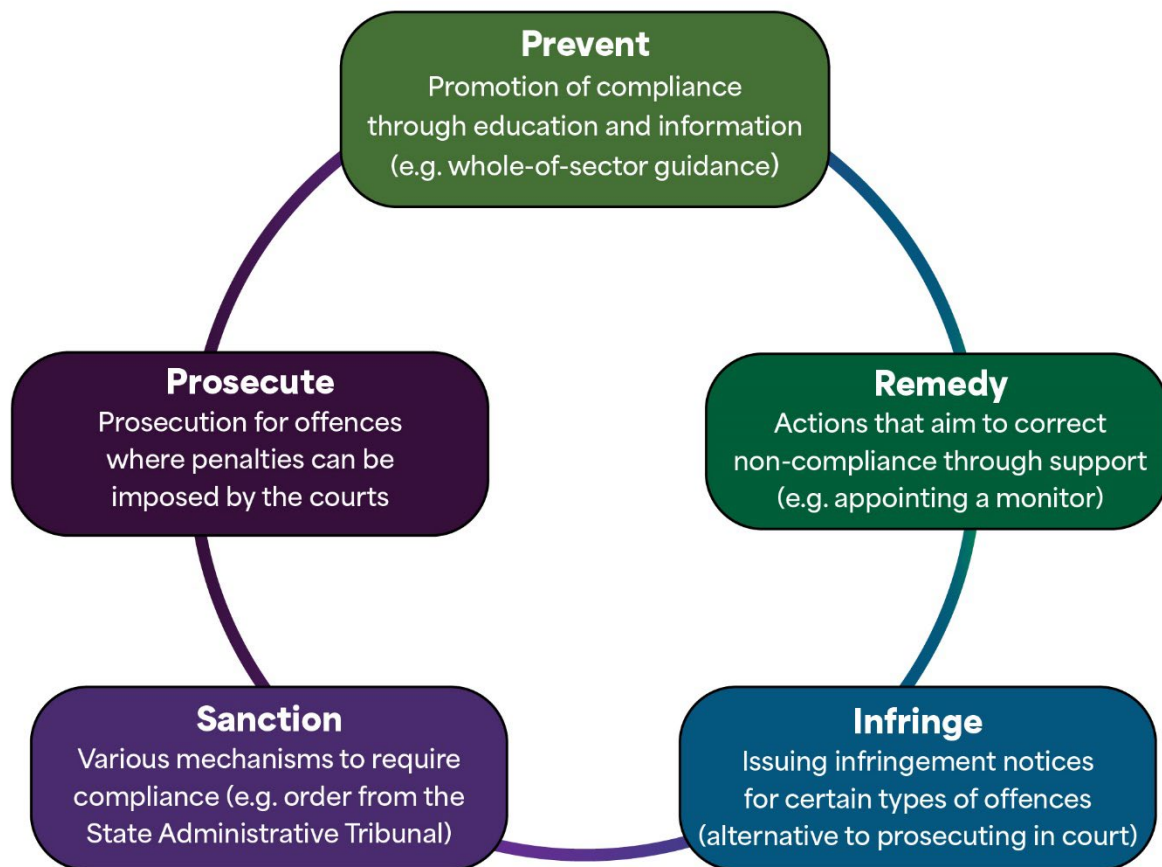
The Inspector will be vested with various powers to investigate complaints that exist under the current Act. These powers include:

- requiring a person to produce information about the local government's affairs
- requiring a person to appear before the Inspector and give evidence
- requiring a person to produce a document, information or property to the Inspector in the person's possession and allow the Inspector access to it
- entry onto local government property without a warrant and obtain a warrant to enter private property
- the ability to obtain the recording of council meetings (including meetings held behind closed doors).

New powers for the Inspector include the ability to:

- obtain business records and data access orders under Parts 6 and 7 of the *Criminal Investigations Act 2006*
- require a local government to compile information for the Inspector (referred to as a "statement of information")
- extend secrecy to some of their notices and directions
- recommend, through an Inspector's Inquiry, the dismissal of a council or council member.

Compliance powers of the Local Government Inspector



Early intervention

The Inspector will focus on early intervention to help local governments resolve issues before they escalate into wider dysfunction.

To achieve this, the Inspector can undertake compliance reviews, system analysis, and consult with and make recommendations to local governments. The Inspector may also appoint a monitor.

Monitors

A monitor may be appointed by the Inspector to assist a local government to address issues. They may also be appointed on request from a council, mayor or president, or a local government CEO.

Monitors will have specific experience or expertise, relevant to the potential problem they are being assigned to assist a local government resolve. It is expected that monitors may include:

- former mayors, presidents, and councillors
- former local government CEOs or experienced public sector administrators
- independent governance and legal professionals

- experts in organisational and interpersonal fields
- financial and accounting professionals
- other experienced professionals in fields that may relate to a function of a local government.

Monitors work constructively with the council members and staff to resolve issues, but they are not investigators. They promote compliance with laws by building capacity and facilitating resolutions to interpersonal problems where applicable.

A monitor's primary role is to work to identify and resolve a potential problem and report the outcome to the Inspector. If a monitor is not satisfied that they have been able to resolve a significant problem, they may report any areas of concern to the Inspector for further review.

If the monitor's report indicates that further action is required, the Inspector may choose to escalate the handling of the matter using the Inspector's other powers.

Monitors will have powers to inspect local government documents, attend closed meetings and require council members and employees to attend meetings to resolve issues. Monitors can have varied powers depending on the nature of their assignment and their terms of appointment.

Costs related to appointing a monitor will be borne by the local government.

Breaches

A person may complain to the Inspector regarding a behavioural, conduct or specified breach. The Inspector is to determine the type of breach complaint.

The Inspector may request further information from any relevant person regarding the complaint.

The Inspector will have broad powers to refuse to consider a complaint that is trivial, vexatious or misconceived. This system is designed to enable the Inspector to focus on dealing with credible complaints about potentially significant issues.

Read the [new breach system fact sheet](#) for more information.

General complaints

A general complaint is a complaint made by a person to the Inspector that a relevant person or the local government has contravened a provision of the Act or associated regulations.

This could be a breach of an offence provision or other non-compliance with a requirement of the Act. It does not include behavioural breaches, conduct breaches, recurrent or specified breaches.

The Inspector must acknowledge a general complaint within 14 days of receipt. A general complaint must relate to matters that occurred within the last 5 years.

The Inspector may conduct a preliminary assessment to decide whether to accept the complaint.

The Inspector may refer a general complaint to the council of the local government concerned if the Inspector is satisfied that this is more appropriate. The Inspector may issue instructions to a local government on how a general complaint is to be dealt with if the complaint relates to their CEO.

In some cases, the Inspector may refer a general complaint to another public officer or body who has authority or responsibility over matters raised if they believe it is more appropriate for the officer or body to deal with the complaint.

Investigations

Part of the Inspector's role will be to investigate claims that a council member has committed a breach of the Act, or another person has committed an offence under the Act. The Inspector may also investigate non-compliance with the Act by local governments.

The Inspector will have powers to obtain local government documents or business records, conduct voluntary interviews and if necessary, obtain search warrants to investigate such claims.

Inspector's inquiry

Where the Inspector determines there may be severe dysfunction in a local government, the Inspector may initiate an Inspector's inquiry.

During such an inquiry, the Inspector and their staff may require people associated with the local government to attend an interview, answer questions and compel evidence from them.

The Inspector must prepare a report at the end of the inquiry setting out their findings. This report may recommend the council, or a council member, be suspended or dismissed.

The Minister for Local Government will retain the option to establish a panel of inquiry, renamed an 'independent inquiry'. Independent inquiries will continue to have all the powers of a Royal Commission.

Suspension and dismissal

The reforms include stronger penalties for conduct breaches, including possible suspension of office for up to 3 months.

Where the behaviour of a council or individual council members is so serious that it prevents the local government from functioning properly, the Inspector may recommend that the Minister for Local Government suspend the council or council members.

Any council member who is suspended 3 times for a breach will be disqualified from office for 10 years.

Where an Inspector's inquiry finds that a council or its members' actions make them unlikely to be able to provide good government, they may recommend their dismissal.

Enforcement

The Inspector can compel compliance using various tools that are proportionate to the level of non-compliance. The Inspector will have the power to order a local government, council members, a local government CEO, or employees to comply with provisions of the Act and stop contravening the Act.

The Inspector can also deal with certain prescribed offences via an infringement with a modified penalty.

Where an infringement is not appropriate, other breaches that are investigated by the Inspector may employ escalating enforcement mechanisms depending on the nature of the breach, the evidence gathered, and intended outcome.

For example, the Inspector can consider the following options:

- appoint a monitor
- apply to the State Administrative Tribunal to make an order
- initiate prosecution through the court system.

Penalties

Penalties for offences have been revised throughout the Act, with financial penalties roughly doubled. This reflects the effects of inflation since the Act was passed in 1995.

The tier of penalty applied to each offence is based upon several factors including:

- the seriousness of the offence
- the need for an appropriate deterrent
- if the offence should be subject to an infringement scheme
- the penalty for a similar offence under another Act.

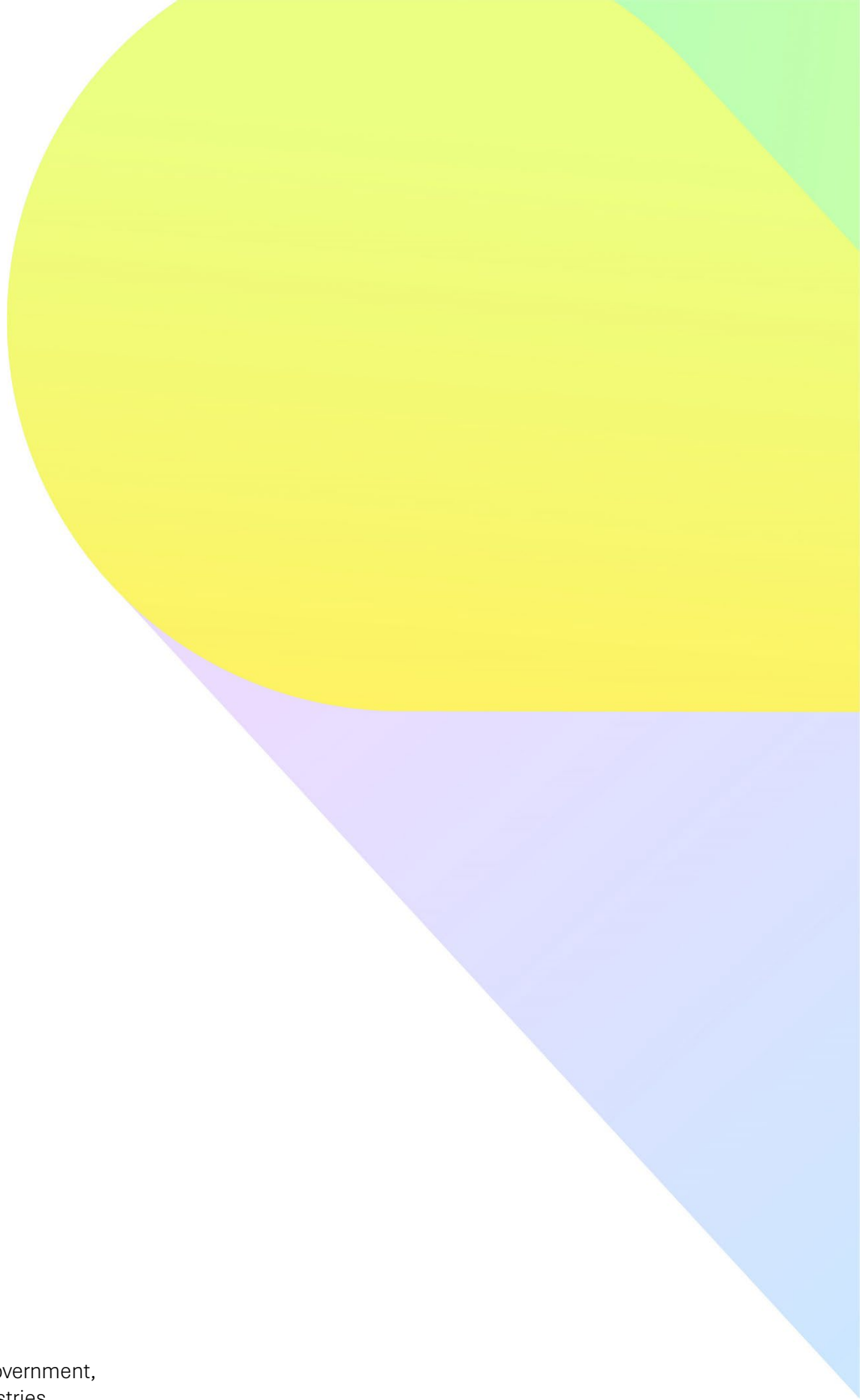
The Office will be able to deal with certain prescribed offences by way of an infringement notice with modified penalties, ensuring greater compliance with the Act.

Summary of new penalty tiers

Tier	Maximum fine	Imprisonment
1	\$5,000	Not applicable
2	\$10,000	Not applicable
3	\$12,000	12 months
4	\$24,000	24 months

Questions?

Get in touch with DLGSC via email to actreview@dlgsc.wa.gov.au



Department of Local Government,
Sport and Cultural Industries
PO BOX 8349
Perth Business Centre WA 6849
Email: communications@dlgsc.wa.gov.au
Website: www.dlgsc.wa.gov.au