

local government integrity matters



Welcome to our new monthly newsletter, *local government integrity matters*

Having recently returned to the role of Chief Municipal Inspector, I am pleased to release the first of our regular newsletters detailing the important work we do. I am particularly focused on providing greater access to the Inspectorate, disseminating relevant and timely information to the sector and increasing knowledge and understanding of our activities.

As the dedicated integrity agency for local government in Victoria, our primary role is to investigate offences under the Local Government Act 1989 (Act) and to monitor councils governance and compliance with the Act. My office has the responsibility to investigate concerns related to council operations including criminal or corruption offences involving councillors, senior council officers or any person subject to the conflict of interest provisions.

My office also plays an integral role in local council elections, as the primary agency to receive, assess and investigate matters and offences related to electoral provisions of the Act. This may involve candidates and voters alike and in preparation for the 2016 elections and in order to support the democratic election process, the Inspectorate is increasing resources to handle an expected rise in complaints and enquiries.

As part of the integrity framework for Victoria, my office also works collaboratively with the Victorian Electoral Commission, the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Ombudsman. Each agency plays a significant role and one of our key objectives is to provide advice and clarity for local government on those roles.

Lastly, we want this newsletter to be a valuable source of information and guidance for councils, councillors and interested community members, and encourage you to give us feedback and suggestions to help us improve our communications. I encourage you to share this information with your organisation and community. Anyone wishing to receive this publication directly can sign up to this newsletter on our website.

David Wolf
Chief Municipal Inspector



Compliance matters

Making a call on code of conduct

Over the past month, our review of council compliance with councillor code of conduct legislation, published on 15 August, drew significant attention from state and local tiers of government.

The review had found that 13 entire councils and nine individual councillors did not comply with requirements set out in Section 76C(1) of Local Government Act 1989, which required all councils to implement a councillor code of conduct policy by 4 July 2016, with councillors making a separate declaration to abide by the code. Under the legislation at the time, affected councillors would be disqualified as of 1 September 2016.

The State Government responded to our findings by introducing a Bill to repeal Section 76(C) for this council term, which was assented on Wednesday 31 August.

There were broad questions asked about our review, which we have summarised and responded to below.

Q: Why did we conduct this review?

A: We received advice from several councils and were advised of media reports regarding a number of councillors intending to disregard the recently implemented requirements under the Act. A key part of our role is to ensure compliance with the legislative requirements and it was important to understand the extent of non-compliance in this case.

Q: Why was our interpretation of the legislation so 'black and white'?

A: Adopting or endorsing a code of conduct policy was just one of several elements of the new requirements. The requirement for individual declarations by councillors to abide by the new code was a significant element in that a failure to appropriately make the declaration was grounds for disqualification under the Act. We noted that the majority of councils applied the same interpretation of the legislation.

Q: Why was the outcome made public?

A: Though we had not yet released our report or commented publicly on the review, local media had received information from sources outside of the Inspectorate regarding our findings. The circulation of this information was brought to our attention after several journalists contacted our office to seek clarification on what they had been told.

At this point, only those councils with one or more non-compliant councillors, and therefore only councils specifically affected by the outcome of the review, had been notified of our findings verbally.

Our review found that while most instances of non-compliance came from administrative or process issues, there were several incidents of wilful non-compliance by councillors. With absolute liability as set out in the Act, there was no mechanism to fix or consider any extenuating circumstances.

While we would ordinarily follow up in writing, with the Bill being introduced in to Parliament the next day we postponed written notifications on the basis that our finding that non-compliant councillors would be 'considered disqualified' would likely no longer apply.

Q: What if we took more time to seek feedback or failed to conduct a review at all?

A: It was important that we completed this work well before the 1 September deadline as beyond that date, councillors or indeed entire councils may have been operating while disqualified. This would have potentially cast a pall over all decisions made in that period and exposed councils to immeasurable legal, financial and reputational risk.

During the 2016 election period, and as the new council term begins, we will continue monitoring compliance with the code of conduct requirements under the Act.

To view the report and our statement on the review process: <http://www.dpc.vic.gov.au/index.php/local-government/news-and-bulletins/victorian-councillor-code-of-conduct-review>



Council operations during an election period

With the looming election period, a council's election period policy plays a crucial role in providing the community with clarity around the way councils operate during the election period. A good policy also solidifies a council's commitment to upholding a fair and transparent democratic process.

Recent legislative reforms saw the inclusion of section 93B in the Act which set out the requirement for councils to adopt an election period policy according to certain parameters

by 31 March 2016. The Act also required that policies must be displayed on council websites, be available for public inspection at council offices or service centres, and given to all councillors.

We are pleased to report that results of our recent review show a high level of compliance with section 93B across the state. In April 2016 we reviewed each council's election period policy and related procedures against the requirements set out in the new section 93B of the Act.

All but one of Victoria's 79 councils adopted an election period policy within the required time frame and only three councils fell short of the requirement to make their policy available on their website.

We worked with these councils to ensure their websites were updated with the revised policies and provided recommendations for best practice. The full review is available on the Inspectorate website, in the Reports section on the News and bulletins page: <http://www.dpc.vic.gov.au/index.php/local-government/news-and-bulletins>

Events and reminders

Forum on corruption and integrity in Mildura

We joined the Independent Broad-based Anti-corruption Commission (IBAC), Victorian Ombudsman and other integrity leaders in presenting to a public sector forum on corruption and misconduct in Mildura during August.

More than 30 public sector employees attended the forum, which was organised by IBAC and Mildura Rural City Council.

Our presentation focused on strengthening integrity during local government elections and the outcomes of some relevant investigations on council governance matters.

Our staff are available to make similar presentations to educate council staff on governance and compliance issues; please contact us with enquiries: inspectorate@lgici.vic.gov.au

Victorian council election date reminders

15 – 20 September

Candidate nomination period

20 September – 24 October

Election period

19 – 22 October

Media blackout on radio and television advertising

Questions or comments on this newsletter? Please fill out our feedback survey at <http://svy.mk/2ckfkCo> or email media.comms@lgici.vic.gov.au

Should you wish to submit a complaint regarding the upcoming election, visit the 'Make a complaint' page on our website.

For more information about our work: <http://www.dpc.vic.gov.au/index.php/local-government/about-the-inspectorate>

Encouraging higher standards of integrity, accountability and transparency in local government