

# local government integrity matters



## Message from the Chief Municipal Inspector

Welcome to the first of our newsletters for 2018 which highlights the substantial work of the Inspectorate over recent months and provides helpful guidance to avoid some of the issues my office encounters.

Following the 2016 general council elections, the majority of our resources have been dedicated to wrapping up investigations and compliance activity related to election laws. This work to ensure the integrity of our democratic system has resulted in 16 cases being brought before the courts against individuals alleged to have committed offences under the Local Government Act.

The decision to prosecute a matter is not taken lightly due to considerations such as the impact on people, organisations and expenditure of public funds in delivering justice. However, it is important that those who seek to undermine the democratic system are dealt with and equally important that we use the cases and findings to inform the sector and community of what went wrong and how to minimise offending in the future.

In this issue we focus on the work my office has completed to ensure campaign funding disclosures by candidates were transparent and our work in exposing candidates who either had disregard for the law or sought to deceive the community by falsely nominating for election. We also highlight the importance of interest returns as an integrity tool for local government and the responsibility for council administration to manage public records.

**David Wolf**  
Chief Municipal Inspector

## Transparency and integrity of campaign funding

The Inspectorate has recently completed a review of a sample of campaign donation returns across several councils from candidates who stood for office in the 2016 local government elections.

In line with an increased focus on donation support occurring in local governments across Australia, the Inspectorate aimed to assess a sample of donation returns for what candidates disclosed and the veracity of information submitted.

The Inspectorate reviewed the donation returns of 31 candidates (1.4% of total) from a mix of regional and metropolitan councils.

The findings included:

- About half of the selected candidates declared no disclosable donations (above the \$500 threshold)
- Donations ranged in value from \$500 to \$16,500
- On average, those candidates received about \$5120 to support their campaigns.

The review also revealed a growing trend towards 'group' donations, where a politically aligned group of candidates declared the total amount given to their group, rather than the individual donations they received.

Overall the majority of submissions met legislative requirements, however there were challenges in assessing probity given the financial arrangements candidates employed to receive and distribute funding (such as cash donations, bank transfers or credit card expenditure).

As a result of its review, the Inspectorate detected a significant anomaly which is the subject of a current investigation with potentially serious criminal offences. Further information will be available on this matter when the investigation has concluded.

Investigations and Compliance Manager Ross Millard said: "The lodgement of campaign donation returns by all candidates is a key factor in the transparency and integrity of Victorian council elections."

The proposed legislative reforms for the Local Government Act give the Inspectorate greater oversight of the notification and real-time publication of campaign funding for candidates.

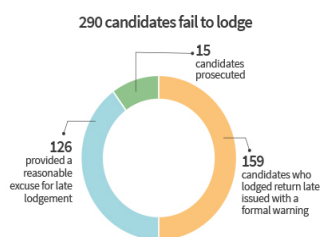


## Prosecutions for failing to submit campaign donation returns

Following the 2016 council elections, the Inspectorate began a comprehensive program to ensure all candidates had submitted campaign donation returns.

Section 62 of the Local Government Act 1989 requires that within 40 days after election day, a person who was a candidate in an election must give an election campaign donation return to the Chief Executive Officer of the council for which they nominated.

After the election, 290 candidates failed to submit returns before the 1 December 2016 deadline – **nearly 15% of the total candidate pool of 2135.**



All candidates charged were also ordered to submit returns. Chief Municipal Inspector David Wolf said: "A key factor in the integrity of local government is ensuring the transparency of who has financially supported candidates and councillors."

In hearings completed so far, Wyndham City Council candidate Helen Fanakopoulou was convicted and fined \$1000 and ordered to pay \$1500 in court costs. Casey Council candidate Faisal Najibi was given a good behaviour bond and ordered to pay \$1000 in costs.

More information on the prosecutions is available on the Inspectorate website, <https://goo.gl/Gdp5H4>

## Conflicts, boards, councillors and integrity



Conflict of interest is a significant issue in local government, given that councillors are drawn from the community and have interests in their local community. With their level of expertise well-developed in this area, Inspectorate staff are regularly called on to present to the sector and address questions on specific issues surrounding conflict of interest.

The Chief Municipal Inspector was invited to speak on conflicts and relevant case studies at the Victorian Water Sector Director Development Program in March (pictured), organised by the Department of Environment, Land, Water and Planning. The attendees, including many councillors who are also water board members, showed particular interest in identifying and managing potential conflicts and improving transparency across the water sector.

David also presented recently to public sector leaders at the IPAA Ethical Leadership forum and the Local Government Victoria Interjurisdictional forum.

In the coming months, David will be presenting at a Rural Councils Victoria forum in Melbourne on 11 April, Towong and Indigo shire councils on 17 April and a Corruption Prevention and Integrity Insights forum with other integrity agencies for public sector leaders in Traralgon on 20 April.

## Importance of interest returns and public records

The Inspectorate's report on its Central Goldfields Shire Council investigation, released in August 2017, has attracted interest from councils regarding the lodgement of primary and ordinary interest returns. That report highlighted issues over retention of these important public records and interest returns process mismanagement.

An interest return is a form that sets out an individual's disclosable interests, as set out in the [Local Government \(General\) Regulations 2015](#), which includes details of an individual's landholdings, family trusts or positions from which they derive a beneficial interest.

Councillors, members of special committees, audit committee members, senior officers and nominated officers (if any) are required to submit interest returns twice yearly to the CEO, as detailed in [section 81 of the Local Government Act](#). The submission of interest returns is the responsibility of the individual and they are liable for any breaches of the legislation.

During its investigation into Central Goldfields, the Inspectorate found individuals had failed to meet their legislated requirements by either:

- not submitting an interest return,
  - submitting incomplete interest returns, or
  - submitting returns witnessed in advance or pre-populated with disclosable information.
- An issue of major concern was the loss of two years of essential public records, which was a significant governance failure.

All individuals required to lodge returns are reminded that twice a year, a fresh declaration of interest is required to be lodged in accordance with the Act. Councils are expected to provide clear guidance on lodgement and have a robust process to record lodgement and retention of data.

## Melbourne Lord Mayor by-election and entitlements

With the looming election for the Lord Mayor of City of Melbourne, it's important for candidates to be aware of the law regarding their entitlement to nominate for office.

In order to be eligible to nominate, a candidate must be enrolled in the municipality they wish to nominate 57 days before the election date, and must also confirm they hold a legitimate entitlement in the municipality.

Chief Municipal Inspector David Wolf said: "Considering this has been an issue in previous elections, we will be looking closely at the entitlement of Lord Mayor candidates. The effect of an unlawful nomination has significant legal, reputational and financial costs to this tier of government."

Following the 2016 elections, the Inspectorate prosecuted two candidates for unlawful nomination relating to an alleged false entitlement and is investigating two additional cases which may result in prosecutions.

## What's on Melbourne by-election dates

**5 April - 10 April 2018**

Nominations open

**11 May 2018**

Election date for Lord Mayor

**20 June 2018**

Campaign donation returns due

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For more information about our work: [www.lgici.vic.gov.au](http://www.lgici.vic.gov.au)



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