

Annual Report 2017/18



Local Government Inspectorate Annual Report 2017/18

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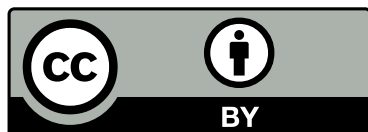
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Foreword

David Wolf, *Chief Municipal Inspector*



The 2017/18 period produced some remarkable outcomes from the Inspectorate team as we finalised complex investigations and completed proactive initiatives to support higher standards of integrity, accountability and transparency across the local government sector. Two major reports were published, one following an investigation into a regional council and the second reporting on activities of 95 candidates who nominated for a metropolitan council in the last general election. In addition, the finalisation of key investigations across the year resulted in the highest number of prosecution cases since the Inspectorate commenced in 2009.

Another key highlight for this office throughout the year was the realisation of the work to improve inter-agency coordination and information sharing across Victoria's integrity system. Joint sector engagement, consultation and coordination of audit activity and seamless referrals have enhanced the understanding of the system across the local government and public sectors.

In addition to our state role, my office is working with academia and the various state agencies across Australia on common integrity and governance themes for councils. As the only dedicated integrity agency for councils in the country, our data, intelligence and outcomes are highly regarded in shaping interstate systems to improve local government performance. Invitations to speak at local and interstate integrity forums have provided my office with further opportunities for information exchange with a local government and public sector audience.

Looking ahead, we expect the growth trend of complaints and enquiries to continue, noting this past year had the highest number of complaints for a non-election year. Contrasting the increase in demand for services, our investigative resources have been reduced, which will ultimately impact on responsiveness and capacity but will not diminish the quality of the work undertaken.

I do take this opportunity to acknowledge the current and past members of the Inspectorate team who have delivered the exceptional results for the 2017/18 period. The commitment and dedication of the team to seek improvements across the local government sector is evident by the quality of the work produced.



20²
prosecutions

417
complaints¹





2
reports

167³
warnings



2017/18
at a
glance

3
newsletters

5
audits/
examinations



39
investigations



21
presentations

Significant events

Inspectorate staff were engaged for a significant part of the year investigating and concluding major cases related to Central Goldfields Shire Council and its CEO, and candidates in the Wyndham City Council elections.

The investigation into Central Goldfields uncovered an inadequate governance framework and mismanagement of key areas of responsibility within the organisation. The investigation resulted in the Inspectorate filing criminal charges against the CEO and publishing a comprehensive report on council governance failures. This report informed the Minister for Local Government and ultimately the dismissal of the council.

In August, the Inspectorate published a comprehensive report into the 2016 Wyndham City Council election following a lengthy investigation. Inspectorate staff interviewed a total of 90 of the 95 candidates who stood for election and found 10 candidates that were considered non-genuine or 'dummies'.

The Inspectorate made several recommendations to reduce the impact of non-genuine candidates on an election and improve electoral integrity for the community's benefit. Several candidates were the subject of investigations for offences under the electoral provisions.

During the year a complex project on campaign donation returns was completed, resulting in the prosecution of 15 candidates from the 2016 elections and warnings being given to 159 candidates. Media releases and newsletter articles on the project helped to educate the sector on the importance of campaign donation returns in protecting the integrity and transparency of the elections.

The Chief Municipal Inspector took part in 21 forums and conferences over the year, speaking to more than 1500 attendees in total.

¹ Complaints are those received and assessed that are within Inspectorate jurisdiction.

² Fifteen of the 20 prosecutions related to candidates failing to submit campaign donation returns.

³ Majority of warnings related to candidates failing to submit campaign donation returns.

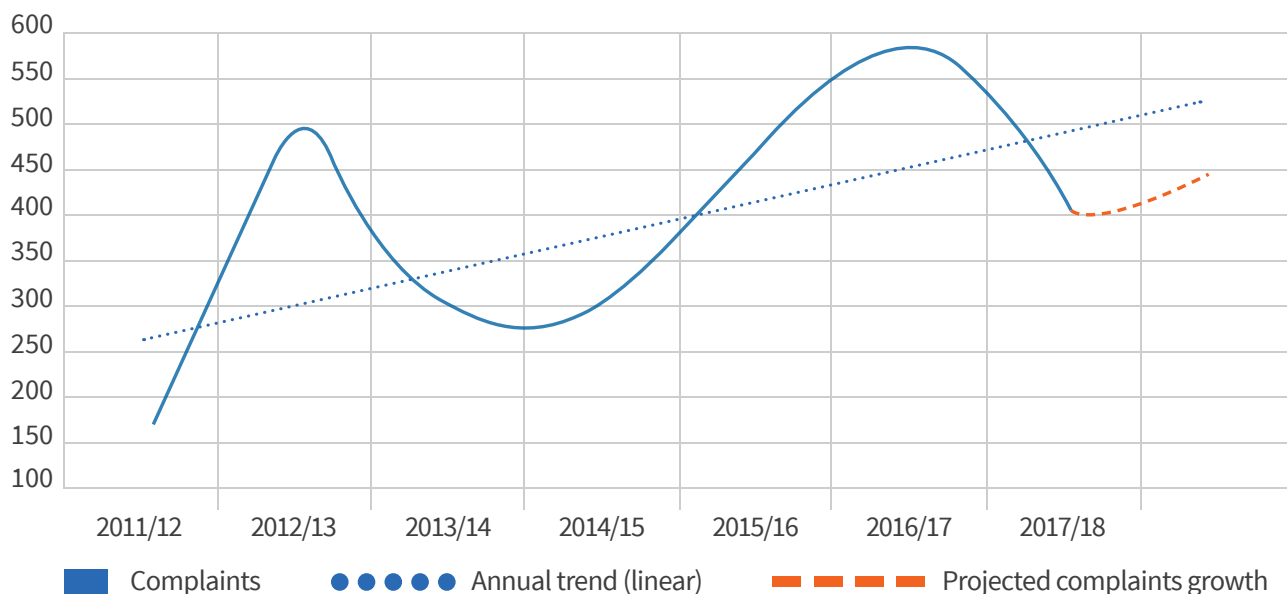
Our work



Complaints

In overall terms, complaints lodged with the Inspectorate continue to increase by approximately 11% per annum, requiring additional resource effort in the assessment and initial action to substantiate complaints.

In addition, the Inspectorate has experienced a significant rise in general contacts from community members, councils and councillors seeking advice or raising issues related to council operations that are found to be outside the Inspectorate’s jurisdiction. While the Inspectorate’s increased profile has contributed to the increased number of general complaints, the vast majority have been generated through referrals from other state agencies and sector representative bodies.



Annual statistics (four-year cycle)

	2014/15	2015/16	2016/17	2017/18
Complaints	283	397	576 ⁴	417
Investigations completed	47	49	56	39

Complaints submitted through the Inspectorate’s online complaint form rose from 54 in 2016/17 to 147 in the past financial year. The Inspectorate continues to encourage the use of the online form as the most effective method for receiving relevant complaint information.

How complaints are received

By hand	0.5%
Email (also includes online form)	54%
Mail	11.5%
Phone	34%



417
complaints
assessed



54%
submitted
by email

⁴ The majority of complaints during the 2016/17 year related to the 2016 general elections. Contacts and enquiries (other than substantiated complaints) were also significantly higher in that period.

Complaints – continued

Is it a conflict of interest?

During the year the Inspectorate received a complaint regarding a councillor participating in a matter before council relating to an entity in which they held a position.

The complaint alleged a conflict of interest but on review, the councillor had been appointed to the position by council as a nominee director, which is exempt under [section 78B\(3\)\(ba\)](#) of the *Local Government Act 1989*.

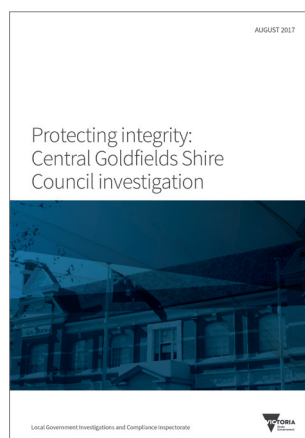
The current conflict of interest provisions in the Local Government Act often enable councillors to participate in matters, accepting that they have broad interests in the community and are able to participate in decisions where the aforementioned exemptions apply.

Whether complaints are substantiated or not, allegations and information submitted by council staff and the public are often valuable in identifying systemic or thematic issues within a council or across the sector. Though the complaints analysis and review process is resource intensive, the process can also help to fulfil one of the Inspectorate's goals in educating the sector and general public about misconceptions or common complaints, particularly those relating to the legislated conflict of interest framework for councils.

Investigations

Investigations are most often initiated following the receipt and assessment of complaints, however investigations may be launched into any matter relating to council operations, council elections or electoral matters. The increasing demand for services, and complaints lodged, resulted in a higher number of matters being assessed as requiring full investigation.

Overall, this year saw a decrease in the number of active investigations due to three major investigations absorbing significant resources and a reduction in investigations staff. This resulted in reduced capacity to investigate matters with some cases unable to be investigated and delays of up to 12 months before other investigations could commence. Thirty-nine investigations were completed for the year, a reduction of 17 on the previous year.



The report into the Inspectorate's Central Goldfields investigation was well-received by the sector.

Candidates interviewed after Wyndham election

One of the complex investigations launched during the year focused on allegations of unlawful nomination and bribery during the 2016 Wyndham City Council election. With an unusually high number of candidates standing for nomination, the Inspectorate interviewed 90 of the 95 candidates and identified 10 candidates that it considered as 'non-genuine'.

Two candidates interviewed were unaware they had nominated for council: this remains under active investigation.

The Inspectorate considers that the current self-certification by candidates – to acknowledge eligibility criteria is met – works where candidates are highly informed but is open to deliberate deceit or genuine mistake. The production of identification and a police and personal solvency check at the time of nomination would limit corruption and integrity risks and prevent potentially ineligible candidate nominations. The Inspectorate previously raised these issues following the 2012 elections and again following the 2016 elections in

⁵ See the background and recommendations on page 13-15 of the *Protecting integrity: 2016 council elections* report.

Coercive powers

Under the Act, the CMI has powers to require the provision of reasonable assistance and/or for a person to appear for examination. For the 2017/18 period such powers were exercised on 29 occasions. Four people were required to appear for examination in this period. Separately, 10 persons of interest were interviewed voluntarily and under caution as part of investigations into prosecutable offences.

Prosecutions and other enforcement action

Following the investigation process and where allegations of a breach are substantiated, the CMI has a range of options to address the matter. Where matters are deemed to be in the public interest to prosecute, the CMI has powers to initiate proceedings in the various court jurisdictions. In addition the CMI has specific powers relating to councillor conduct that meets the serious or gross misconduct threshold. In accordance with those specific powers, the CMI referred a matter to a Councillor Conduct Panel for a finding of serious misconduct during this period.

There were 20 prosecution cases in 2017/18, with many cases arising from the 2016 elections.

- Fifteen candidates were charged for failing to submit a campaign donation return,
- A regional council CEO was charged with failing to disclose a conflict of interest, obtaining financial advantage by deception and false accounting,
- A candidate was charged with arranging an unlawful nomination,
- A former councillor was charged for misuse of position,
- A current councillor was referred to a conduct panel on three charges of serious misconduct, and
- A current councillor charged in relation to interest return disclosures.

Panel decision serves as warning on confidential information breaches

A Councillor Conduct panel made a finding of serious misconduct against East Gippsland Shire councillor Ben Buckley, suspending the councillor for four months.

Cr Buckley appeared before the panel in June 2017 on three charges of serious misconduct related to releases of confidential information and the [decision was handed down](#) on 28 August 2017. Cr Buckley appealed the decision at the Victorian Civil and Administrative Tribunal (VCAT) and the tribunal made a determination on 23 August 2018 to uphold the decision.

While breaching confidentiality constitutes an offence under [section 77](#) of the Act, the Inspectorate elected in this case to refer Cr Buckley to a councillor conduct panel.

The Act covers various circumstances in which information is confidential, including that the information was provided to the council or a special committee in a closed meeting; or that a resolution of council or committee was made, or the CEO designated the material as confidential. In these situations, the material remains confidential unless council passes a resolution revoking its confidential status.

Campaign donation return prosecutions

During the 2017/18 financial year, the Inspectorate finalised the majority of prosecutions for candidates who failed to submit campaign donation returns following the 2016 general elections.

As a result of the prosecutions, candidates were ordered to pay fines totalling more than \$8,000 and more than \$14,000 in legal costs.

A comprehensive compliance program commenced after the 2016 general elections to ensure all candidates had submitted campaign donation returns according to section 62 of the Act.

All candidates who have been charged have also been ordered to comply with their obligations to submit their returns.



Warnings

Warnings are issued for matters where a breach of the Act is substantiated but an alternative to a prosecution is considered to better serve the public interest. The majority of warnings in 2017/18 were issued to the 159 candidates who failed to submit campaign donation returns, which is an offence under the legislation. Warnings are utilised as an educational tool in making recipients aware of their obligations under the Act and the consequences for further transgressions.



Governance examinations/audits

Examinations and audits of council governance arrangements are a key proactive function of the Inspectorate to assess the effectiveness of councils' risk management and governance processes. The objective of this function is to ensure council operating procedures are compliant with relevant legislation and avoid breaches of the Act. Examinations are also conducted which focus on specific issues or themes, either at a council or across councils or relevant persons.

There were three governance examinations conducted during the financial year.

These included:

- Examine a sample group of candidates for the veracity and probity of declared campaign donations.
- Confirm candidate eligibility for the Geelong council election, and
- Confirm candidate eligibility for the Melbourne by-election.

As a result of its review (see case study, right), the Inspectorate detected significant anomalies in the returns lodged by three candidates. These are the subject of an ongoing investigation with potentially serious criminal offences.

Review of campaign donation return disclosures

The Inspectorate reviewed a sample of campaign donation returns across several councils from candidates who stood for office in the 2016 elections.

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

The review assessed 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 \$5,120 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 unregulated financial arrangements candidates employed to receive and distribute funding (such as cash donations, bank transfers or credit card expenditure).

Communications, guidance and education

Reports	2
Newsletters	3
Presentations	21
Tweets from @CMI_Vic account	179
Website – unique views	40,306

Communications

Effective communication with stakeholders requires a multi-pronged approach. When possible, communications are targeted towards specific groups and disseminated via various channels. The Inspectorate maintains a mailing list that is used regularly to communicate with stakeholders on education activities and resources, public statements, news and events.

Newsletter

The Inspectorate has published three newsletters this reporting period. They have been aimed at providing information and updates about pending prosecutions, significant reports, the education program, case studies, events and other relevant information.

Newsletters were sent to more than 2980 subscribers, which included councillors and election candidates, integrity agency and other government staff, ratepayer groups, media and other interested parties. The newsletters had an average open rate of 46.2%, well above the industry average of 24%, and articles were also distributed via Twitter and the Inspectorate website.

General engagement

Inspectorate staff including the CMI are committed to engaging with the sector, agencies and community members as part of the proactive guidance and education function. Interactions range from the provision of general information about the Inspectorate and our work, to specific integrity matters or themes tailored for councils and representative bodies.

During 2016/17, the focus was on direct contact with individual councils to raise general awareness about the Inspectorate in the period following the 2016 council elections. This year the focus has been on coordinated events involving greater numbers of attendees, including the LGPro CEOs forum, VLGA Mayors forum and the IBAC Corruption Prevention and Integrity Conference.

	2016/17	2017/18
Presentations and events	56	21
People present (approx.)	800	1530

Social media

The Inspectorate continues to use its Twitter account (@CMI_Vic) to provide updates and address key issues. Social media presents challenges in terms of expectations and responsiveness to queries but allows the Inspectorate to follow and engage with other integrity agencies, councils and stakeholders, highlight mentions in the media on the Inspectorate and correct errors where relevant, and promote the Inspectorate's investigations work and public appearances at events.

Website

The Inspectorate website is an integral part of operations, in particular the guidance and education function. Another style revamp was introduced in February 2017 to further improve accessibility and navigation.

The website provides access to the secure online complaint form, publications and other education resources and information, news and media releases.

Year	2016/17	2017/18
Page views	28,868	40,306
Top downloads	502 (2016 election report)	1359 (Central Goldfields report)
Complaint form	92 clicks	342 clicks

Source: Google Analytics

Corporate

Our people

The Inspectorate employed 11 full-time equivalent (FTE) staff in 2017/18, a decrease from 16 staff at the commencement of 2016/17. One senior investigator completed a fixed term contract with the Inspectorate as of 30 June 2018, resulting in an ongoing workforce of ten.

Freedom of Information requests

The Inspectorate received and responded to one Freedom of Information (FOI) request in 2017/18. FOI requests are handled in accordance with guidelines and processes set down by the Office of the Victorian Information Commissioner (OVIC).

Gifts and donations

LGI staff did not receive or accept any gifts during this financial year.

Financials

Under the Public Administration Act 2004, the Inspectorate is an administrative office hosted by the Department of Premier and Cabinet (DPC) and the Inspectorate utilises corporate services including finance from DPC. Financial information will be incorporated into the DPC 2017/18 Annual Report.

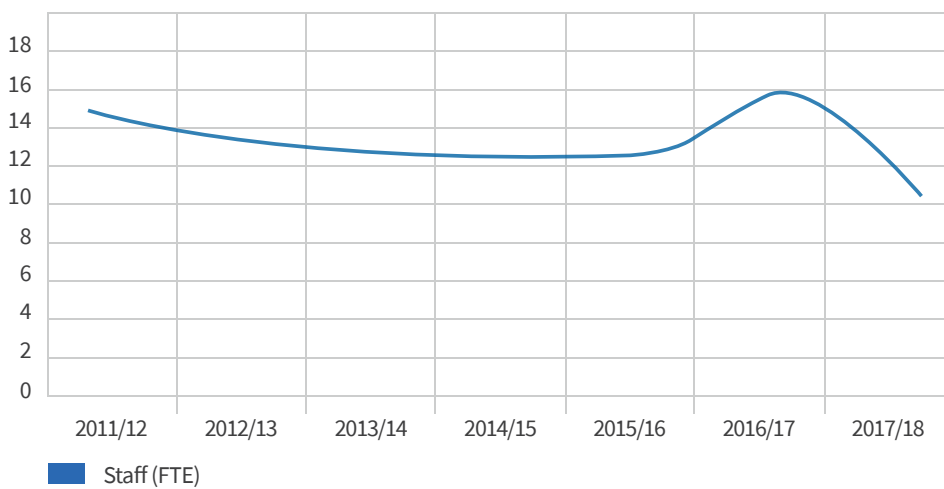
Challenges and opportunities

As approaches to this office increase and the need for investigations rises, the Inspectorate expects that the annual upward trend in complaints and enquiries will continue to increase by 10-11% in the coming period. The Inspectorate will advocate for additional funding to meet current and future demands.

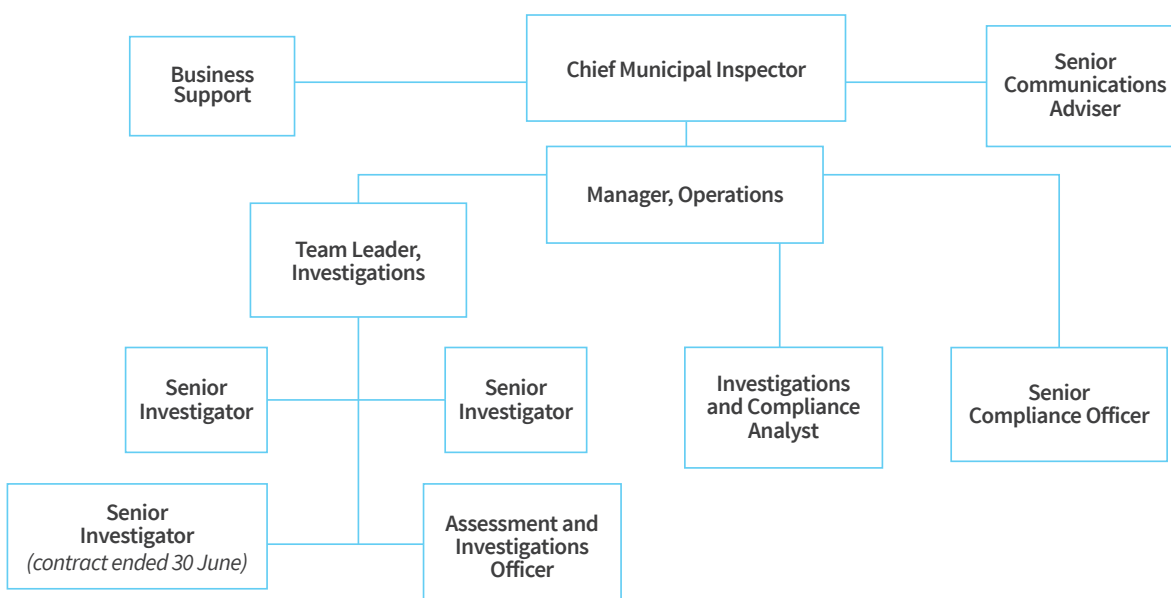
As part of our role in strengthening the integrity, accountability and transparency of the sector, the Inspectorate will continue to provide evidence to support of legislative reforms in areas such as campaign donations and probity checks for candidates.

Finally, the Inspectorate is also in a unique position to collate information and intelligence around future governance and integrity risks for councils. Our objective is to work more closely with council governance groups to mitigate risks including those of data security, the digitising of services and contract management, which were recently identified by councils as their primary concerns.

Inspectorate staff from 2011-2018



Organisational structure





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

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