

WELCOME to the fourth edition of the **Local Government Investigations and Compliance Inspectorate (Inspectorate) newsletter**. In this issue we update you on what happened in 2010, take a closer look at a case study of Ballarat City Council who took part in our audit process, and review the recently completed Councillor conduct case regarding Milvan Muto. We hope you find this informative, engaging, and welcome your feedback on the current content and future topics via inspectorate@dpcd.vic.gov.au

Looking back at 2010

In our first full year of operation the Inspectorate has worked tirelessly in both the complaint investigation and compliance audit functions, providing assistance to councils to deal with issues they may be experiencing.

The Inspectorate received 254 complaints in 2010. These complaints led to 96 completed investigations with 10 of those cases referred to the Victorian Government Solicitors Office for prosecution.

However this was not the end result of the 96 investigations. Many of the cases identified issues where councils could take action to avoid future complaints. A total of 34 recommendations were provided and accepted by the various municipalities.

A common theme for many of these recommendations related to the Register of Interests, specifically the submission and recording of the returns. A great way for councils to avoid problems with the Register of Interests is to have a robust process and ensure it is followed.

Also in 2010 our compliance team undertook two topic-based audits covering budgets and CEO appointment processes for all 79 municipalities. The team also visited 14 councils and completed comprehensive field audits on site. This was an impressive effort for our small team, and resulted in the provision of recommendations to achieve compliance and considerations that may improve practices.

In 2011 we're looking forward to continuing our work and developing closer relationships with councils as we all work together. I encourage all councils who are unsure of whether they are compliant, or would like advice on efficient transparency measures to contact us. We're always willing and eager to help!

David Wolf, Chief Municipal Inspector

A Council Case Study: Ballarat Council

An audit can often be seen as a daunting process by many local councils. However it can be a constructive, informative and useful process to help councils improve a broad range of business areas, particularly in being compliant with the Local Government Act 1989.

The relationship built between Ballarat City Council and the Inspectorate has been an excellent example of working together towards a common goal. The Inspectorate team worked with Ballarat to complete the audit mid 2010. Ballarat was eager to ensure that all business areas of the council were compliant with the relevant guidelines.

Ballarat City Council was very pleased with the process, with CEO Anthony Schinck saying 'The audit process provided us with

the opportunity for experienced, independent advice regarding processes and compliance with the Local Government Act. The outcomes of the audit provided us an impetus for improvement and review of current processes'.

The council also remarked that the inspectors were easy to work with and open to general discussion regarding interpretation of the legislation.

'As with all audit processes they are an excellent opportunity for objective review of compliance activities,' said Mr Schinck.

Overall the process resulted in practical results for the council, helping it to work on areas of its business to ensure compliance into the future.



New Councillor Conduct Provisions Tested Cr Milvan Muto suspended; apologises over his misconduct at Shepparton Council

After an extensive legal process Cr Milvan Muto has admitted to engaging in 13 incidents of misconduct at the City of Greater Shepparton Council during 2009-2010. These include assaulting a council staff member, calling a council officer 'a dog' and making personally offensive comments during a council meeting.

The Inspectorate has secured a significant outcome, with Cr Muto being made to take leave of absence from council, and forced to make a public apology for his actions. Significantly, Cr Muto also gave an undertaking to the Victorian Civil and Administrative Tribunal (VCAT) that he would participate in limited duties as a councillor for a further five months after the completion of his leave of absence.

This case, the first of its kind under new and untested provisions in the Local Government Act 1989 (Act) relating to councillor conduct, was lodged at VCAT in July 2010.

An agreement made by both parties to resolve the matter was approved by order of VCAT President, Justice Ian Ross, on 4 March 2011. The order included that:

- Cr Muto be reprimanded by the Tribunal for councillor misconduct.
- Cr Muto must make a public apology at the first public council meeting he attends.
- Cr Muto must take a leave of absence for a period of one month (4 March 2011 – 3 April 2011).

In addition to these penalties Cr Muto gave an undertaking to VCAT that:

- For a period of five months, commencing 5 April 2011, Cr Muto will not perform any duties as a councillor with the exception of attendance at the monthly public council meetings, a brief meeting with council CEO prior to the monthly council meeting to discuss the agenda items, and to attend meetings of the 'Shepp Show Me' committee.

The Inspectorate Chief Municipal Inspector David Wolf says this is a constructive outcome which reinforces the importance of the *Councillor Code of Conduct*.

'This is a good outcome for the Inspectorate and for local councils across Victoria.'

'It reinforces that councillors must at all times follow principles of good conduct and act in a way that secures and preserves confidence of the community in the office of councillor,' Mr Wolf said.

The investigation by the Inspectorate was thorough and extensive. The fact that the case involved new legislation which was untested and required the matter to be brought before VCAT resulted in it taking a number of months to complete.

The timeline of the Muto case gives an insight into the investigation and subsequent VCAT proceedings.

The agreement reached between the two parties has resulted in the first breach of the Councillor Code of Conduct under the Act to be decided by VCAT.

The Inspectorate believes that the outcome delivers an appropriate deterrence for councillors who engage in unacceptable behaviour.

Click here for a timeline of the Muto Case



New Information Line for Complaints 1800 469 359

Dial 1800 469 359 to register your complaint with the Inspectorate. We are pleased to announce the launch of our new information line. This new service will make it even easier to lodge a complaint with the The Inspectorate. You may still lodge a complaint anonymously and criteria for making a complaint remains the same. You may also be required to mail in supporting evidence for your complaint. This new 1800 number will be open between 8am and 5pm on weekdays (a message bank will operate outside these hours). For information on how to make a complaint to the Inspectorate please see www.dpcd.vic.gov.au/localgovernment/about/inspectorate