

WELCOME to the October edition of the Local Government Investigations and Compliance Inspectorate newsletter.

In this edition: avoid conflict of interest in travel expense claims; we close the chapter on 2012 election campaign donation returns prosecutions; and a councillor is disqualified. [Feedback welcomed at inspectorate@dtpli.vic.gov.au](mailto:inspectorate@dtpli.vic.gov.au)

Donation Returns Prosecutions Completed

Prosecution of 2012 election candidates who failed to submit a Campaign Donation Return in accordance with the Local Government Act 1989 has concluded.

Mr Paul Rumpf, a candidate in the 2012 Melton City Council election, was the 19th person to be prosecuted.

Mr Rumpf pleaded not guilty on 31 March 2014 at Sunshine Magistrates' Court to failing to give a Campaign Donation Return to the CEO of the Melton City Council within 40 days of the election, contrary to section 62(1) of the Act.

Mr Rumpf was found guilty by Magistrate Pithouse, sentenced to a 12-month good behaviour bond and ordered to pay \$500 in costs.

Overall, prosecutions have resulted in 16 findings of guilt, two convictions, \$5,650 in fines, the awarding of \$19,229 in costs, a \$1,000 contribution to the court fund, five good behaviour bonds and one community work order.

Ample information and reminders were provided to candidates about campaign donation return requirements, which aim to ensure the integrity of local government elections and future council decision making.



Councillor disqualified

Former Greater Shepparton City councillor, Milvan Muto, was found guilty of perverting the course of justice in the County Court on 22 May 2014. Mr Muto was sentenced to eight month's imprisonment.

Mr Muto is now disqualified from being a councillor for seven years, in accordance with section 29(2) of the Local Government Act 1989.

A new councillor was elected to fill the extraordinary vacancy at Greater Shepparton City Council after a count back was held on 23 June 2014.

Prior to the matter appearing before the County Court, Mr Muto was disqualified from serving as a councillor for four years by the Victorian Civil and Administrative Tribunal (VCAT) for gross misconduct.

The finding followed an investigation by the Inspectorate that resulted in an application to VCAT under section 81E of the Act.

Mr Muto has appealed the VCAT decision to the Supreme Court.



Inspectorate vs Mornington Peninsula Councillor Graham Pittock

In August 2014, at the Frankston Magistrates Court, Mornington Peninsula Shire Councillor Graham Pittock was found guilty on two counts of conflict of interest for voting on the Southern Peninsula Aquatic Centre while operating his Tonic Centre squash and gym business in Dromana.

The Southern Peninsula Aquatic Centre, which was to be built on the Rosebud Foreshore, was intended to include a gymnasium. Cr Pittock's Tonic Centre was approximately 10 kilometres away in Dromana.

On 19 September 2014, Cr Pittock was fined \$4,000 and ordered to pay costs to the Inspectorate. The decision serves notice to all councillors in Victoria that the courts are not prepared to accept conflicts between their civic duties and their private interests.



Travel expenses: Keeping claims in everyone's best interest

The Local Government Investigations and Compliance Inspectorate (Inspectorate) has recently considered the general question of whether Councillors have a conflict of interest in connection with the consideration and authorisation by Council of expenses for interstate or overseas travel.

Section 75 of the Act provides that a Council must reimburse a Councillor, on written application, for reasonable bona fide out-of-pocket expenses incurred while performing duties as a Councillor, where the duties performed by a Councillor are necessary or appropriate for the purposes of achieving the objectives of a Council.

A Councillor has a direct interest, within the meaning of section 77B of the Act, in connection with any application he or she might make to Council for reimbursement of travel expenses, as a Councillor's circumstances will be directly altered should the Councillor be required to pay for the expenses him or herself. Similarly, a Councillor will have a direct interest in any application for the authorisation of expenses in advance of their expenditure.

Section 75B of the Act requires Councils to adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees. A Council may, accordingly, decide under that policy how it chooses to deal with such expenses.

Should Council decide, under its policy, that all decisions regarding expenses (or particular types of expenses) should be decided by Council, the Councillor seeking such reimbursement will have a direct interest in the decision of Council pertaining to the authorisation of those expenses and should absent him or herself from the decision-making process in accordance with the Act.

However, should the policy allow for the reimbursement of expenses to be authorised in a manner which does not require the matter to come before Council, the Councillor would not be required to declare such an interest. For completeness, section 79C provides that a Councillor is taken to not have a conflict of interest if the matter only relates to the adoption of a policy under section 75B in relation to the reimbursement of expenses.

Where expenses attributable to a Councillor are included in Council's budget, that Councillor has a direct interest in the approval of the budget – insofar as it authorises the expenses pertaining to that Councillor – and that Councillor should declare that interest. Section 79C(2) provides, for example, that a Councillor is taken to not have a conflict of interest in the budget where Council has previously approved the proposed funding of the expenses in the budget and that Councillor had declared a conflict of interest when the decision in respect of the proposed funding of the expenses was previously considered and made.

Going forward, the Inspectorate will be considering such breaches of section 79 of the Act for Prosecution.

