

WELCOME to the September 2012 edition of the Local Government Investigations and Compliance Inspectorate (Inspectorate) newsletter.

In this edition you'll find the election feature that will assist councils, councillors and candidates to prepare for the 27 October elections and aims to ensure a fair and transparent democratic process is upheld; we also turn the spotlight on to recent court findings that send a very strong message to the sector about the role of public office and personal gain, read on for full details. We welcome your feedback. [Get in touch at inspectorate@dpcd.vic.gov.au](mailto:inspectorate@dpcd.vic.gov.au)

Inspectorate Status Update

The Inspectorate will provide its important regulatory functions during the upcoming election period and will continue operating until at least the end of 2012. The transfer of the Inspectorate's investigations, audit and education functions, including transitional arrangements, are yet to be determined. Details will be provided to the sector as they are known.

Recent Prosecution Outcomes

After lengthy and complex investigations and a number of hearings, the Inspectorate recently had several matters determined in the courts, sending a strong message about the importance of public office and the responsibilities of those who represent the community in this role.

"The community expects councillors to conduct themselves appropriately and keep their private interests and responsibilities of public office separate," said Chief Municipal Inspector, David Wolf.

"Influencing or voting on council decisions where you stand to gain a personal advantage adversely affects the reputation of all councils; the Act is very clear about personal conflicts of interest.

"These outcomes represent a significant body of work and demonstrate the commitment and expertise of the Inspectorate team.

"We hope these outcomes serve as effective deterrents for those who may misuse public office for their benefit."

Inspectorate vs. Central Goldfields Councillor Ian Robertson



Councillor Ian Robertson failed to disclose a conflict of interest during a meeting of councillors and continued to support a \$2 million road upgrade project that also serviced his rural property. Cr Robertson was found guilty on two counts of conflict of interest and placed on a 12 month good behaviour bond; he was required to make a \$4000 donation to the Maryborough Hospital and ordered to pay \$20,000 in costs. No conviction was recorded. [Read the full story.](#)

Inspectorate vs. former Ararat Rural City Councillor Andrea Marian

Former Councillor Andrea Marian, also the owner of a planning consultancy business, was hired as a consultant to assist her client in a planning permit application to council. When the application was before council for consideration, Cr Marian declared her conflict but remained in the chamber and made a submission contrary to the planning department's recommendation. Cr. Marian ultimately influenced other councillors for a favourable decision on behalf of her client. Cr Marian was found guilty and convicted on three counts of conflict of interest at the Ararat Magistrates Court last year. She was also fined an aggregate of \$10,000 and ordered to pay costs. Cr Marian lodged an appeal against sentence which was recently dismissed by the County Court. Ms Marian was disqualified as a councillor and cannot nominate or act as a councillor for seven years. [Read the full story.](#)

Secretary Department of Planning and Community Development vs. Greater Shepparton City Councillor Milvan Muto

Councillor Milvan Muto was ordered to take a mandatory leave of absence (suspension) under section 29 of the Act until serious criminal matters against him are determined. On receipt of material prepared by the Inspectorate, the Secretary of the Department of Planning and Community Development applied to the Victorian Civil and Administrative Tribunal (VCAT) for this order to be made. This matter is in addition to the application by the Secretary to VCAT for a finding of Gross Misconduct following an Inspectorate investigation earlier this year. The Gross Misconduct case is due to be heard before VCAT on 14 November 2012 where a finding of guilt may result in disqualification for 4 years. Victoria Police are responsible for the separate prosecution of the serious criminal matters. [Read the full story.](#)



Elections 2012

The Inspectorate audit and investigations team are already actively involved with councils leading up to the 27 October general elections.

Chief Municipal Inspector, David Wolf, says the Inspectorate will be conducting audits across the sector to ensure a high level of compliance and transparency, as well as investigating and resolving specific electoral related complaints.

“Our audits will focus on council electoral rolls and candidate nominations in the lead up to the election to ensure validity and accuracy,” Mr Wolf said.

“Our objective is to contribute to fair and transparent elections where the community can be confident when they cast their vote,” he said.

The Inspectorate has already completed an audit of election caretaker policies with the results released last month. Go to <http://www.dpcd.vic.gov.au/localgovernment/Compliance-and-Complaints> for more information.

The Electoral Roll



Maintaining an up-to-date electoral roll is an ongoing challenge for local councils. As residents move in or out of the municipality, or pass away, the electoral roll needs to be updated.

The opportunity for residents to enrol to vote or update their details has closed and so councils should now be preparing the electoral roll for certification on 20 September.

“Prior to the certification date of 20 September, we will be checking with local councils to ensure the legislative process required to collate and certify the roll has been followed and we will be assessing samples of registered voters for validity,” Mr Wolf said.

Election Complaints

The Inspectorate is responsible for investigating any complaint relating to electoral matters. Electoral complaints made to the Victorian Electoral Commission or to the Minister for Local Government will be referred to the Inspectorate for investigation.

Electoral complaints or allegations of a breach of the *Local Government Act 1989* can be made to the Inspectorate via the following methods.

Candidate Nominations

Candidates can nominate for election from Thursday 20 September until Tuesday 25 September and have until 12 noon on Wednesday 26 September to lodge candidate statements.

The Inspectorate will be scrutinising nominations to ensure candidates meet the legislative requirements to nominate.

As part of this process, the Inspectorate will be reviewing candidate statements, assessing candidates against requirements and speaking directly with candidates.

“We will be making sure that those running for council are eligible and have valid nominations. Our aim is to give the community confidence in the democratic process,” Mr Wolf said.

For further candidate information go to www.vec.vic.gov.au



Election Day

The Inspectorate will check in on various attendance voting sites on Election Day to monitor legislative compliance and assist the Victorian Electoral Commission if required.

Why is this important?

It is important to be aware of your obligations as a council, councillor or candidate. The Inspectorate investigates allegations where the electoral provisions of the Act have not been met. Previous prosecutions for breaches have related to:

- Election publications
- Unregistered electoral material
- Campaign donation returns

Phone: 1800 469 359

8am – 5pm weekdays

Email: inspectorate@dpcd.vic.gov.au

Post: Local Government Investigations and Compliance Inspectorate, GPO Box 2392 Melbourne Victoria 3001

It is anticipated that there may be an increase in the number of complaints received by the Inspectorate during this time.